



# Oregon

Tina Kotek, Governor

State Board of Towing  
DMV HQ - 1905 Lana Ave, NE  
Salem, OR 97314

Email Address: [info@towboard.oregon.gov](mailto:info@towboard.oregon.gov)  
Web Site: [www.oregon.gov/sbot](http://www.oregon.gov/sbot)

## OREGON STATE BOARD OF TOWING Board Work Session Agenda June 11, 2024

Meeting Space for June 11, 2024 is very limited  
RSVP in-person attendance is required for members of the public.

Submit written public comments or testimony at any time to:  
Email: [info@towboard.oregon.gov](mailto:info@towboard.oregon.gov)  
Subject: PUBLIC COMMENT – *Your Specific Topic*  
Mail: State Board of Towing, ICO DMV HQ – Program Services,  
1905 Lana Avenue, NE, Salem, OR 97314  
*Comments received by 3:00 p.m. June 10, 2024 will be reviewed by the Board during the Board Meeting.*

AGENDA ITEM	PRESENTER
<b>1. Call Meeting to Order</b>	Chair
<b>2. Welcome &amp; Introductions</b> <i>(Board Member, Staff, and the Public)</i>	All
<b>3. Approve Agenda</b>	Board
Board Vote*: ____Anderson ____Baker ____Coughlin ____Iwai ____Lindland ____McClellan ____Shaner ____Hanson ____Riley	
<b>4. Approve Minutes of February 13, 2024 Board Meeting</b>	Board
Board Vote*: ____Anderson ____Baker ____Coughlin ____Iwai ____Lindland ____McClellan ____Shaner ____Hanson ____Riley	
<b>5. Approve Minutes of March 19, 2024 Work Session</b>	Board
Board Vote*: ____Anderson ____Baker ____Coughlin ____Iwai ____Lindland ____McClellan ____Shaner ____Hanson ____Riley	
<b>6. Approve Minutes of April 23, 2024 Work Session</b>	Board
Board Vote*: ____Anderson ____Baker ____Coughlin ____Iwai ____Lindland ____McClellan ____Shaner ____Hanson ____Riley	
<b>7. Approve Minutes of May 14, 2024 Work Session</b>	Board
Board Vote*: ____Anderson ____Baker ____Coughlin ____Iwai ____Lindland ____McClellan ____Shaner ____Hanson ____Riley	
<b>8. Reports</b>	
a. Administrator Report - <i>report on Board Operations</i>	McCullough
<ul style="list-style-type: none"><li>Financial Report</li><li>Update on current projects</li></ul>	

*The Oregon State Board of Towing is responsible for protection of the safety and well-being of the public through the regulation of the towing industry by administering and enforcing the laws and rules of the State of Oregon, setting professional standards and expectations of the towing industry, and ensuring fairness and continuity of towing services provided by Oregon's towing industry.*

<ul style="list-style-type: none"> <li>Update on board terms and positions</li> <li>Case Management System/Database Update</li> </ul>	
b. Compliance Report - <i>report on compliance activities</i>	McCullough
<ul style="list-style-type: none"> <li>July 23, 2024 Special Meeting</li> </ul>	
c. Other Updates and Reports	All
<b>9. Public Comments and Correspondence – related to Reports and Updates.</b>	Public
<b>10. Board Vote: Case Management System</b>	
Board Vote*: _____Anderson _____Baker _____Coughlin _____Iwai _____Lindland _____McClellan _____Shaner _____Hanson _____Riley	
<b>11. Board Vote: Bylaws</b>	
Board Vote*: _____Anderson _____Baker _____Coughlin _____Iwai _____Lindland _____McClellan _____Shaner _____Hanson _____Riley	
<b>12. Work Session: PPI Objectives and Policy Expectations</b>	Approx Start Time: 1:30
<b>13. Public Comments</b> ( <i>Comments related to work session item; 2 minute time limit</i> )	Public
<b>14. Board Final Comments: PPI Policy and Next Steps</b>	Approx Start Time: 2:30
<b>15. Board Nominations and Elections</b>	Board
a. Chair	
b. Vice Chair	
<b>16. Next Steps</b>	Board
a. Review Work Assignments and Direction to Staff	
b. Announcements	
c. OTTA Quarterly Meeting June 22, 2024 in Bend	
d. Next Board Meeting: July 23, 2024 Complaint Review	
<b>17. Adjourn Board Meeting***</b>	Chair
Board Vote*: _____Anderson _____Baker _____Coughlin _____Iwai _____Lindland _____McClellan _____Shaner _____Hanson _____Riley	

\*Board vote during the meeting may be either consensus or roll call vote, at the discretion of the Chair.

ORS 822.255 (4) voting protocol:

- Anderson, McClellan
- Baker, Shaner

\*\*\*All times listed are estimates. The Board meeting will adjourn at the conclusion of Board business.



**June 11, 2024 Board Meeting  
Meeting Materials  
Minutes and Notes for Review**



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## **OREGON STATE BOARD OF TOWING** **Board Meeting Minutes** **February 13, 2024**

### ***Work Session Location:***

Oregon DMV HQ  
1905 Lana Avenue  
Salem, OR 97314

### ***Attending Board Member:***

Chuck Riley, Chair  
Bruce Anderson  
Kevin Baker  
Chris Coughlin  
Trent Hanson, Vice Chair  
Chief Michael Iwai  
Lt. Jason Lindland  
Gary McClellan  
Jason Shaner

### ***Board and DMV Staff:***

Torey McCullough, Board Administrator  
Linda Beukens, DMV Program Services Mgr

### ***Guests and members of the public:***

*In person: Donny Callahan, Gerlock Equipment NW*

*Remotely: Mike Wagner, Santiam Enterprises; Chelsea Kemp, OTTA; Tim Moore and Csilla Wischner, Portland Bureau of Transportation.*

### ***Meeting Called to Order:***

Chair Riley called the meeting to order at 1:05 p.m.  
Self-introductions were made. All members present.

Agenda approved by consensus.

### ***Executive Session:***

The Board adjourned to Executive Session pursuant to ORS 192.660 to discuss confidential information and documentation under ORS 192.355

***Public Session Reconvened at 2:00 p.m.***

***November 14, 2023 Board Meeting Minutes***

Anderson moved to approve the November 14, 2023, Board Meeting minutes, Lindland seconded the motion. Minutes approved with no objections.

***January 11, 2024 Board Meeting Minutes***

Shaner moved to approve the January 11, 2024, Work Session minutes, Iwai Lindland seconded the motion. Minutes approved with no objections.

***Administrator Report.***

- The information on the attached Administrator Report was reviewed.
- Financial information was not provided by the time of the meeting; the \$100 certificate fee was implemented on January 1, 2024.
- The “What to Do When You Get Towed” document included with the report will be posted on the website as a resource for consumers.
- The contact list of cities, towns, and other agencies will be updated and posted on the website.
- Long term - Board staff will work with DMV Staff to create similar resources for consumers with information on buying and selling vehicles, the importance of title transfers, the legal definition of “ownership” related to towing and retrieving personal items, the potential risks and liabilities of not transferring a title, and who to contact to resolve title issues.

***Compliance Report.***

- The information on the attached Compliance Report was reviewed.
- The Board discussed the importance of law enforcement support and understanding in some of the tow-related issues. The Board will explore outreach and education opportunities for law enforcement once the Board establishes its expectations, processes, rules and policies.
- The Board and partners discussed the “limbo” created when there is an absence of chain of ownership of a vehicle due to failure of the new owners failing to transfer the title, and a possible partnership with DMV to help resolve the issue in statute.
- Compliance Process update:
  - When staff review finds that the actions or violations belong under the jurisdiction of another authority, staff will immediately direct complainants to the authority, or forward the complaint to the authority, whichever is appropriate.
  - The Board will continue to review all complaints submitted to the Board, regardless of jurisdiction, authority, or absent violations.
  - Staff will use the Case Tracking Data to track filed complaints and phone inquiries, as best as possible.

- January completed complaints meeting the Board's Complaint criteria will move forward into investigation.
- Complainants with Incomplete Complaints will be contacted a second time to provide information. The Complaints will remain incomplete until either (a) the complainant provides the information necessary to continue with Board review or until the next Board meeting for further discussion and Board process confirmation.

### ***Work Session Topics***

- The Board reviewed the Work Session Topic documents prepared by staff.
- The Board discussed the need for Board Committees to address the concerns raised in complaints and in Board meetings, e.g.,
  - (a) creating rules or policies to clarify or define statute requirements;
  - (b) address inconsistencies or clarify statute requirements; and
  - (c) other tasks and research required for the Board's work and success.
- Committee requirements, authority and processes will be incorporated into the Board's Bylaws for transparency, ease of public access to the information, and to ensure consistency in the Committee process.
- The March meeting will be focused on reviewing, modifying, and adopting Bylaws for the Board.

### ***Mission Statement***

The following Mission Statement has been adopted by the Board:

*The Oregon State Board of Towing is responsible for protection of the safety and well-being of the public through the regulation of the towing industry by administering and enforcing the laws and rules of the State of Oregon, setting professional standards and expectations of the towing industry, and ensuring fairness and continuity of towing services provided by Oregon's towing industry.*

### ***Next Meetings***

- March 19, 2024: Work Session focused on Bylaws.
- October 2024: First Annual Business Meeting of the Board. Staff will forward a poll to determine the best date amongst Board members.

### ***Adjourned:***

There being no further business before the Board, and no public comments, Chair Riley adjourned the meeting at 2:50 p.m.

### ***Documents Considered by the Board***

- Agenda

- Administrator Report and attachments
- Compliance Report and attachments
- Work Session Materials

*Minutes prepared by Torey McCullough*  
*Minutes APPROVED by Board vote:*

DRAFT



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## **OREGON STATE BOARD OF TOWING** **Board Work Session Notes** **March 19, 2024**

### ***Work Session Location:***

Oregon DMV HQ  
1905 Lana Avenue  
Salem, OR 97314

### ***Attending Board Member:***

Chuck Riley, Chair  
Trent Hanson, Vice Chair  
Bruce Anderson  
Kevin Baker  
Chris Coughlin  
Chief Michael Iwai  
Lt. Jason Lindland  
Gary McClellan  
Jason Shaner

### ***Board Staff:***

Torey McCullough, Board Administrator

### ***Meeting Called to Order:***

Chair Riley called the meeting to order at 1:03 p.m.  
Self-introductions were made.

Agenda approved by consensus.

### ***Board Bylaws***

The Board reviewed a draft of the Board Bylaws, discussed the draft provisions, and made edits and amendments.

The Board reached the following consensus:

1. Board elections will be held in June of each year.
2. The Board will create policies addressing the expectations of public comments during meetings and work sessions, including the expectation that the Board may not respond to or address the questions or comments made during public session.



3. Board members resigning from the Board prior to the expiration of the appointed term will submit a resignation to the Governor's office, the Chair, and the Board Administrator.
4. The Board's monthly revenue and expense budget will be forwarded to the Board Vice Chair to ensure expenditures align with the Board's vision. The Board will review the revenue and expense reports at regularly scheduled board meetings.

The draft Bylaws will be edited and presented to the Board at the April Board Meeting.

***April Board Work Session***

The Board will meet April 23, 2024, to review and discuss the first quarter complaints, begin defining the meaning and intent of the ORSs, and address the most common compliance issues found in the complaints.

***Adjourned:***

There being no further business before the Board, and no public comments, Chair Riley adjourned the meeting at 2:55 p.m.

***Documents Considered by the Board***

- Agenda
- Draft Bylaws

*Minutes prepared by Torey McCullough*  
*Minutes APPROVED by Board vote:*



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## OREGON STATE BOARD OF TOWING Board Work Session Notes April 23, 2024

### ***Work Session Location:***

Oregon DMV HQ  
1905 Lana Avenue  
Salem, OR 97314

### ***Attending Board Member:***

Chuck Riley, Chair  
Bruce Anderson  
Kevin Baker  
Chris Coughlin  
Chief Michael Iwai  
Lt. Jason Lindland  
Gary McClellan  
Jason Shaner

### ***Board Staff:***

Torey McCullough, Board Administrator

### ***Absent:***

Trent Hanson, Vice Chair

### ***Meeting Called to Order:***

Chair Riley called the meeting to order at 1:07 p.m.  
Self-introductions were made.

Agenda approved by consensus.

### ***Business Updates:***

#### ***Bylaws***

The Board reviewed Bylaws incorporating the comments and amendments from the March work session. Jason Shaner moved to accept the Bylaws; Bylaws adopted by consensus of the Board members.

#### ***Case Management System***

McCullough is working with the Dept. of Administrative Services and ODOT/DMV IT to approve a case management system through IT. McCullough is

working with a software vendor to get DAS and ODOT the information they need. Cost per year is \$1188. McCullough will update the Board as the request moves forward.

***Complaint Review:***

The Board reviewed approximately 70 complaints from the first quarter with the following trends:

- Approximately 20% of complaints were incomplete.
- Approximately 20% of complaints were not under the jurisdiction of the Board.
- Approximately 30% of complaints were Private Property Impounds with reasonable grounds for investigation for violation of ORS 98.853 and 98.854.
- Common themes in the complaints were:
  1. Towing rates, fees, and billing practices and
  2. Lawful ownership and general access to personal belongings in a towed vehicle.

The Board found:

1. The substantiated Private Property Impound (PPI) complaints were against a small number of towers, less than 1% of the known tow companies.
2. Current law requires a signature authorization for each tow, obtained at the time of tow.
3. Towers are not to tow vehicles without authorization; there is no intent or provision in the law allowing towers to determine if a vehicle should be towed or not.
4. Towers cannot confirm if either a tenant or parking facility owner has violated or complied with the requirements of ORS 90.485 and cannot tow a vehicle without confirmation from the parking facility owner or their agent.
5. A parking facility owner or their agent (i.e., employees, managers, or a hired third-party) must verify the vehicle is to be towed; as towers are prohibited from acting as the owner's agent when authorizing or towing a vehicle, the tower or its employees cannot independently authorize a tow.
6. The signed PPI authorization must include the name, legible printed name, time, date, reason for tow and vehicle description. The photographs must show where the vehicle was parked prior to the tow, and how the vehicle violated the parking facility rules.
7. As the towers do not know the number of rented units and parking spaces in a residential unit, do not have access to tenant lease or rental agreements, and cannot independently verify if a vehicle is in violation or a lease, rental, or parking agreement, no vehicle can be towed from a residential parking facility without authorization from the property owner or their agent with personal

knowledge of if the vehicle is in violation of the parking facility rules at the time of tow.

8. Removing towers as the decision makers authorizing a tow protects the tower from risk and liability of towing a vehicle that is not in violation of the parking facility rules, and provides the public with clearer options for resolution and recourse.
9. The Board discussed creating templates and forms for towers to use; these forms and templates may be adapted by a tower for use, but must contain the required information on a signed authorization as defined in the Board's policy.
10. Signed authorizations can be signed in person, electronically, or within an email as long as the email includes the required authorization information, identifies the sender and receiver, and has a date and time stamp.
11. Due to the lack of a date and time stamp, authorizations by phone or text cannot be used for the purpose of authorizing a PPI tow.
12. Copies of pre-signed authorizations are not acceptable.
13. Towers may not rely on Tow Contract Agreements for authorization; each tow must be authorized at the time of tow.
14. Initials are not acceptable as a signed authorization for a PPI tow.
15. Illegible names, or missing, incomplete or ineligible information will result in the authorization being invalid for the purposes of PPIs.
16. The parking facility owner is responsible for designating who may act as their agent for the purpose of authorizing PPIs and ensuring that the tower has the information on file.
17. The authorized signature and tow request may be collected by dispatch or by the tow operator; however, a tow operator may not hook up to a vehicle for a PPI tow until the signed authorization is received.
18. For the purposes of PPI tows: a tow operator may not hook up a vehicle if a person is in the vehicle.
19. Hook ups and PPIs:
  - a. For passenger vehicles, a tower must stop hook up and release the vehicle if the driver owner or operator are present and can move the vehicle so it is in compliance with the parking facility requirements.
  - b. A tower cannot begin to hook up a vehicle for a PPI tow if the vehicle owner or driver arrives at the vehicle and can move the vehicle so it is in compliance with the parking facility requirements.
  - c. The Board will hold discussions and further define "complete hook up" in the upcoming months.
  - d. Discussions defining when a big rig, rv, or other large vehicle should be released without charge, and when a tower may be able to charge for time and effort prior to full hook up of a big rig is tabled as a separate discussion.

20. Discussions related to rates, fees, and billing practices is tabled while the Board continues to collect complaints, invoices, and billing statements over the next few months to provide more data and documentation for the Board to consider.

### **Public Comments**

Ash Le' Penn introduced herself to the Board, asking questions regarding:

*Suggestion: The Board should consider increasing tow requirements.*

*Response: While the Board continues to discuss possible requirements for tow companies and tow lots, legislative changes to statutes is required before the Board has the authority to pursue additional requirements.*

*Question: What is the jurisdiction when a vehicle is towed from a city address but outside the city limits.*

*Response: Jurisdiction for the tow requirements is determined on if the vehicle is within the city limits or outside the city limits; if within the city limits, the city has jurisdiction. If outside the city limits, the county has jurisdiction.*

*Suggestion: the Board awarding damages and costs to Complainants.*

*Response: The Board's authority is limited to what is authorized to do in statute. The Board has the authority to assess civil penalties under ORS 822.995; the Board does not have the authority to represent individual consumers in complaints or actions against a tower, and does not have the authority to require towers to reimburse or pay damages to consumers in a disciplinary action.*

*Question: Why is complaint and investigation information not available to the public.*

*Response: Complaint and investigation information is kept confidential until the Board reviews and votes to pursue a disciplinary action. When a Board votes for disciplinary actions, the information relevant to the complaint and investigation is included in the disciplinary documents and is made available to the public.*

*The Board is working with DOJ to ensure the personal and confidential information of all parties are kept appropriately confidential, as well as to protect towers from false allegations made by disgruntled consumers or from a complainant's misunderstanding or misapplication of Oregon's laws, rules, and requirements.*

### **May Work Session**

The Board will meet May 14, 2024

- To review and discuss an Initial Concept Summary draft identifying the topics discussed at the April work session.

- Accept public comments.
- Begin drafting the official Board policy related to PPI authorizations.

***Adjourned:***

There being no further business before the Board, and no public comments, Chair Riley adjourned the meeting at 2:55 p.m.

***Documents Considered by the Board***

- Agenda
- Memo re: Case Management System
- Bylaws: Final Draft
- Tow Certificate Registration Information
- First Quarter Complaint Summary
- Initial Concept Summary Template
- Work Session Worksheet (discussion of intent of ORS 98.853 and 98.854)
- ORS 90.485

*Minutes prepared by Torey McCullough*

*Minutes APPROVED by Board vote:*



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**OREGON STATE BOARD OF TOWING**  
**Board Work Session Notes**  
**May 14, 2024**

***Work Session Location:***

Oregon DMV HQ  
1905 Lana Avenue  
Salem, OR 97314

***Attending Board Member:***

Chuck Riley, Chair  
Bruce Anderson  
Kevin Baker  
Chris Coughlin  
Chief Michael Iwai  
Lt. Jason Lindland  
Gary McClellan  
Jason Shaner

***Board Staff:***

Torey McCullough, Board Administrator

***Absent:***

Trent Hanson, Vice Chair

***Meeting Called to Order:***

Chair Riley called the meeting to order at 1:00 p.m.  
Self-introductions were made.

Agenda approved by consensus.

***Concept Discussion – OAR 98.853 and 98.854:***

The Board discussed the provisions of the first draft of the Initial Concept Summary related to ORS 98.853 and 98.854 as it specifically relates to the requirement of a property owner's authorization prior to the tow from private parking lot facilities.

The Board discussed:

1. Some of the possible private property impound (PPI) compliance issues demonstrated in complaints submitted to the Board:

- No authorized signature from the owner or owner's agent prior to PPI tow.
  - Tow operator, dispatch, or another employee of the tower acting as the owner's agent in identifying or authorizing a vehicle to be towed.
  - No photograph clearly showing the towed vehicle parked in violation of the parking facility rules prior to hook up.
  - Failure to stop or cease hook up procedures when the vehicle owner or operator is present at the time of the tow.
2. Per statute:
- Towers are prohibited from acting as an owner's agent in PPI tows.
  - Towers do not have the legal authority to authorize tows under any statute.
  - Towers can only tow vehicles when the tow is requested or authorized from a person granted the legal authority to do so in statute.
3. For the purposes of ORS 98.854 (2) – (4)
- The tower must obtain an authorized signature from the parking facility owner, or owner's agent, affirming and verifying that the authorization to tow the vehicle is in compliance with the parking facility rules and Oregon's laws and regulations.
  - The parking facility owner, or its agent, has the responsibility and accountability to confirm authorized tows are conducted in compliance with the parking facility rules and Oregon's laws and regulations.
  - A tow company, its employees, affiliates, or any person or business associated with the tower cannot act as an owner's agent to authorize a tow when there exists an actual or potential financial benefit to the tower, its principals, affiliate, its employees, or family members when the authorization creates an actual or potential conflict of interest for the tower.
4. The Board's different roles in:
- Adopting public policy and rules to define the requirements of the laws the Board is charged with administering.
  - Adopting recommended best practices as options, tools, and resources for towers to address and mitigate potential complaints not under the jurisdiction of the Board.
  - Educating the general public on the responsibilities, expectations, and recourse of parking in a private parking facility.
5. Public outreach and opportunities for public and industry comments.
- Coughlin and McCullough will coordinate outreach to additional advocates.
  - McCullough will contact rental owner and property management advocates across the state.



- McCullough will work with the tow truck association (on 06/22/2024 in Bend) and the Portland Tow Advisory Committee and the possibility of having a public comment and input session on the Initial Concept Summary and public policy, during upcoming regular meetings for both organizations.
- The Board is creating a separate email distribution list for complainants and other individuals interested in the Board's public policy and administrative rules process.

The email distribution list will be used to update subscribers on current drafts of the Board's proposed policies and provide information on public comment opportunities.

Anyone interested in

***Adjourned:***

Chair Riley adjourned the meeting at 2:30 p.m.

***Documents Considered by the Board***

- Agenda
- First Draft: Initial Concept Summary
- First Quarter PPI Complaints
- ORS 90.485
- ORS SB 117 (2017)
- April 23, 2024 Work Session Notes
- Work Session Objectives

*Minutes prepared by Torey McCullough*

*Minutes APPROVED by Board vote:*

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# State Board of Towing

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## Administrator's Report

To: SBOT Board Members

From: Torey McCullough, Board Administrator

Date: June 11, 2024

### 1. Financial Report:

- *The Board's expense and revenue report should be available from DMV Fiscal Services by the time of the board meeting.*
- The Board will discuss its budget and financial goals at the October Annual Meeting.
- June 1, 2024 tow business certificates issued:
  - 2150 active tow business certificates
  - 820 unique owner names
  - 762 Unique addresses
  - 836 unique owner names and addresses

### 2. Summary of Board work since February 13, 2024 Meeting:

- March 19, 2024: Work Session focused on the review of Board Bylaws
- April 23, 2024: Work Session focused on high-level review of complaints  
The Board identified Private property impounds (PPIs) as its first objective for interpretation and definition of the laws due to:
  - The high percentage of both valid and invalid PPI tow complaints.
  - Requests by the towing industry to define the ORS requirements.
  - The demonstrated financial harm caused by unlawful or improper PPI tows.
  - The need to extract the towing companies from the authorization and decision-making process for PPI tows to comply with Oregon's laws.
  - The need to educate the private property owners, tenants, and the public on the legal requirements and rights regarding PPI tows, including the responsibilities and accountability of the property owners, tenants, and the public in using private property parking facilities.
  - An identified need to provide information and possible resources for PPI vehicle owners.
- May 14, 2024: Work Session focused on Concept Summary and definitions for PPI towing.
- DRAFT minutes and notes are attached to the Board packet.

### 3. Board member terms and positions

- The first terms for two board positions end on June 30, 2024.
- Both of the current board members have submitted application for reappointment.
- As of Friday, June 7<sup>th</sup>, there have been several inquiries about available board positions and how to apply to become a board member, but no completed applications have been submitted, other than the two applications for reappointment.

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- 
- The Governor’s team should have applications reviewed and appointments made by the end of June.

#### 4. Other Projects:

##### Bylaws

Final draft version incorporating changes and preliminarily approved at the April 23 work session.

##### Database/Case Management and Tracking System:

- FileVine has been identified as a robust off-the-shelf solution for the Board’s case management system.
- More information attached.
- Cost:  
Annual license and support: \$3229.80  
One time implementation: \$4350.00
- Board approval required for expenditure.

##### Private Property Impounds:

The Initial Concept Summary packet is included in Board materials and is being discussed at today’s meeting.

##### Outreach:

- Four tenant advisory groups and 20 property management/owner associations and organizations have been contacted regarding the Board’s PPI progress.
- The tower focus group and Board Policy and Rule Advisory Group have been provided with the current PPI documents for review.
- The PPI packet for the June 11 meeting has been forwarded to local governments for review and comment.

##### Next Steps:

1. Once the final questions and clarifications are made by the Board, the public policy phase begins.
2. Staff will draft initial public policy for Board review and discussion.
3. The Board will continue to seek public comments and input on the public policy.
4. Once adopted, the Board can use the public policy to:
  - Educate and towers of the PPI requirements
  - Better assess submitted complaints and probably resolution
  - Evaluate the effectiveness and enforceability of the public policy with the ability to consider adjustments and modifications before adopting the administrative rules.
  - Develop proposed administrative rules; est. hearing date: October-November 2024
  - Develop a civil penalty schedule specific to PPI violations

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### Public Policy and Administrative Rules Advisory Groups:

- An email distribution list has been created inviting members of the public who have submitted complaints or expressed interest in the Board's public policy and administrative rules advisory group.
- Currently there are 23 individuals on the distribution list; I am anticipating adding more individuals as cases are uploaded into the case management system.
- An email distribution list of 211 incorporated cities and towns, and 36 counties has been created to:
  1. Introduce the Board and create a policy and advisory distribution list.
  2. Confirm the contact information for a consumer to request a tow hearing.
  3. Current links to other local towing information: ordinances, registration requirements, and other information.
  4. Offer of assistance for towing issues, including possible disciplinary actions at the state level under ORS 822.285 and 822.230.

### Board Website

- Website has been updated with Bylaws, board position information, and advisory group information.
- FAQs and the tow hearing directory will be updated within the next few weeks.
- Implementation of the case management system will allow more user-friendly online complaint submission and submitting questions to the Board.

### Upcoming Events:

- June 22, 2024 – OTTA meeting in Bend, Oregon
- October 29, 2024 - First Annual Board Meeting
- 2025 Legislative Calendar
- Office Closures:
  - June 19 – 21: Office closed
  - July 4-5: Office closed



# Oregon

Tina Kotek, Governor

## State Board of Towing

ICO DMV HQ – Program Services

1905 Lana Ave, NE

Salem, OR 97314

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## MEMORANDUM

Dt: June 11, 2024

To: Board Members

Fm: Torey McCullough

Re: FileVine Case Management System

Greetings,

As the Board is aware, the Legislature did not provide the Board with initial funding or adequate infrastructure resources for the Board to conduct its business.

One of the largest resource deficiencies currently faced by the Board is the lack of a database or case monitoring system that allows tracking of several data points:

1. Tow Company ownership and contact information
2. Case and Complaint Tracking
3. Identifying nature and categories of complaints and correspondence
4. Locations of Tow Companies and lots
5. Management of data and tracking capabilities to allow the Board to track trends and identify issues

Currently, the Board is “housed within” ODOT for infrastructure and support. While the relationship with ODOT is providing significant support for many areas, there are limitations in the resources provided by ODOT that are not meeting the needs of the Board.

1. The Board is not a division of ODOT, and the Board Members are not employees of ODOT. The result is the Board does not have access to a secure transfer of information through state email or SharePoint.
2. Even if ODOT could provide the Board with access to OLIVR, DMV’s current data management system, the system was not designed to include many of the

information and compliance fields required for the Board to conduct its business. Adding Board access, and adding the information and data fields, is not practical or feasible from a time or financial perspective.

3. Information available in ODOT/DMV reporting does not meet the needs of the Board. For instance, while the TW Certificate Application is a DMV form and process:
  - The application does not ask pertinent questions necessary for the Board such as physical tow facility locations, email addresses, and phone numbers.
  - TW Certificates are issued based on VIN of the tow truck; there is no historical data of how long a tow company may have operated in Oregon.
  - There is no County information, a data point used to track trends and metrics.
  - Reporting is limited; in addition to lack of data, the company address is contained in one field. There is no separation of the addresses that is required for mass mailings, tracking trends by zip code, and other data points.

The options available to the Board for tracking and monitoring complaints and investigations were limited to Microsoft Office Products, most notably Excel Spreadsheets. Given the data available, the ability of the Board to manage complaints, at a basic level, using Excel and mailing flash drives, was estimated to have a lifespan of six months.

I contacted both ODOT and Dept. of Administrative Services (DAS) in October of 2023 for in-house solution.

DAS does not have an in-house solution; DAS contacted other boards and provided the following cost estimates for programming and integration:

Vendor	Licensing?	Case Mgmt	Cost
Vendor A	Yes	Unknown	\$150K implementation and 4 years support.
Vendor B	Yes	Unknown	Not Provided
Vendor B	Yes	Yes	\$2 - 2.5M
Vendor C	Unknown	Unknown	Not Provided
Vendor D	Yes	Yes	Implementation Unknown, then per transaction.
Vendor D	Yes	Unknown	\$325K implementation and licensing
Vendor D	Yes	Yes	\$30K per year for 5 years, implementation and 5 year support
Vendor D	Yes	Yes	\$1500/month for 5 years for implementation and support.

ODOT has no solution; as the Board is not a part of ODOT or DMV, first, the Board cannot have access to the information contained in the DMV database; second, to have the vendor program access would take several months and be cost-prohibitive; and finally, the system used by DMV does not meet the basic needs of the Board.

*The Oregon State Board of Towing is responsible for protection of the safety and well-being of the public through the regulation of the towing industry by administering and enforcing the laws and rules of the State of Oregon, setting professional standards and expectations of the towing industry, and ensuring fairness and continuity of towing services provided by Oregon's towing industry.*

Being encouraged by both ODOT/DMV and DAS to seek off-the-shelf options to stay within the Board's budget, I conducted initial research into several case management products within the following parameters:

**Database Tracking Needs:**

***Required:***

- Ability to fully incorporate regulatory case management  
- report cost, time and expense
- Ability to create individual customers for each towing facility/ location (including different locations owned by same person)
- Ability to link individuals to facilities, disciplinary actions etc.
- Ability to import data from excel spreadsheets
- Ability for staff to pull specific reports from all fields
- Ability to attach documents to customer or case files
- Ability for staff to remove/update documents

***Nice to Have:***

- Templates (must be able to edit)
- Ability to include owner, manager, and other information under customer contact
- Ability to import DMV TW Certificate and other information from a spreadsheet
- Board member secure access to current and past meeting information, historical documents, current documents, etc.
- Allow staff to add options to field options without a "change"

After several months of research, discussions, and demonstrations, FileVine was found to be the more robust option at a reasonable cost, \$3229 per year, \$4350 implementation cost.

In addition to meeting the needs of the Board, FileVine will allow:

- Secure member access to Board Members of board meeting materials and historical documents. This means:
  - Case and disciplinary actions will be accessible to the Board members through a secure login to the database; this will eliminate the cost of sending case information via USPS at the cost of \$100 per meeting.
  - Board members will have immediate access to current rules and laws,
  - Board members will have immediate access to the most recent drafts of any documents, policies, proposed rules, etc.
- Time and expense tracking.
- Cloud based storage; data is stored within the US. Data is encrypted in storage and in transit. There is no storage limit.
- Able to modify fields and data points at the local level, allowing the Board to create different directories for tow facilities, respondents, complainants, partners, and

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others, as well as categorize complaints, and establish data points for how a complaint was resolved.

- Reports are created and run at the local level. Specialization for reports or templates is not required at the developer or programmer level.
- Docket and tickler system for complaints with ability to automate workflow processes.
- Use of conditional logic for online complaint filings and questions to the Board.
- Ability for complainants and respondents to securely upload requested documents directly to their case folder.
- Ability for the Board to accept credit and debit card payments for civil penalties.
- Training and ongoing support provided.

More information can be found at: [www.filevine.com](http://www.filevine.com)

**Current Status:**

- DAS security document has been prepared and provisionally approved by DAS Enterprise division
- The security document is currently under review by ODOT/DMV
- Once approved by ODOT/DMV the final security document will be submitted for final signatures
- DMV financial division has confirmed the Board has room in its allocated budget to make the purchase
- Board approval needed (expenditure over \$500)





Filevine CONTACT INFORMATION	
	Email
Brayden Geltz	braydengeltz@filevine.com

PRODUCTION SOFTWARE	Fee Type	# of Units	List Price	Monthly List Price	Discount	Discounted Monthly Price	Discounted Annual Price	Savings
Filevine Software License	Recurring	1	\$1,428.00	\$119.00	15%	\$101.15	\$1,213.80	\$214
Additional Modules								
DOCS+ Premium Document Management [2]	Recurring	1	\$540.00	\$45.00	20%	\$36.00	\$432.00	\$108
LeadDocket	Recurring	1	\$1,980.00	\$165.00	20%	\$132.00	\$1,584.00	\$396
Recurring Sub-Total							\$3,229.80	\$718.20

Pricing based on 3 year term and annual in advance payments - Valid Through 1/31/24

Filevine Customization & Implementation*	One-time
Customization, Implementation & Training	\$2,500.00
LeadDocket Integration	\$1,850.00
Total	\$4,350.00

[1] OCR & Indexing  
PDF Editor  
Share Link - Two-Way Folder Share  
Email Doc from Filevine  
Upload up to 25GB  
Bates Stamping  
Docs Combiner  
Bulk Upload (Folder Upload)  
Document Lock  
Doc Zipping for Download

[2] OCR & Indexing  
PDF Editor  
Share Link - Two-Way Folder Share  
Email Doc from Filevine  
Upload up to 25GB  
Bates Stamping  
Docs Combiner  
Bulk Upload (Folder Upload)  
Document Lock  
Doc Zipping for Download

LAST UPDATED: JANUARY 9, 2024

# Filevine Subscription Agreement

This Agreement is entered into by and between Filevine, Inc. (“**Filevine**”) and the customer who purchased the Filevine Services (“**Subscriber**”) (collectively the “**Parties**”) as set forth in one or more Sales Orders that incorporate this Agreement by reference. For the prior version of this Agreement, please click [here](#).

If Subscriber is a natural person, Subscriber affirms that it is either more than 18 years of age or has reached the age of legal majority in Subscriber’s jurisdiction of residence, and, if Subscriber is a legal entity, that the natural person entering into the Agreement possesses the requisite authority to enter into this Agreement on behalf of such legal entity. Subscriber further represents that it is not a competitor of Filevine nor does it represent, directly or indirectly, a competitor of Filevine.

## 1. Definitions:

- 1.1. “**Agreement**” means this Subscription Agreement together with any and all Sales Orders and other documents and agreements included or incorporated by reference therein via hyperlink or other reference.
- 1.2. “**Authorized User**” means an individual who is authorized by Subscriber and Filevine to access the Filevine Services, and may include, for example, Subscriber’s employees, agents, and third parties with whom Subscriber transacts business.
- 1.3. “**Confidential Information**” means all information whether oral or in written, electronic or other form or media, that could reasonably be understood to be confidential given the nature of the information or circumstances surrounding the disclosure. Confidential Information includes, but is not limited to: information relating to a party’s software or hardware, computer programs, source code, API data files, documentation, specifications, databases, system design, and development methods as well as information relating to the party’s past, present and future business, financial, commercial and marketing information and plans, trade secrets, intellectual property, ideas, inventions, discoveries, processes, know-how, financials and financial forecasts and projections, product plans, designs, technical data and information, formulae, analyses, products, equipment, product road maps, prototypes, samples, designs, data sheets, schematics, configurations, specifications, techniques, draws, customer lists, business processes and any other data or information disclosed, whether orally, visually, or in writing. Among other things, Filevine regards the source and object code, processes, algorithms, methods, and related know-how and residual knowledge developed, created or used by Filevine or its agents in connection with the performance of the Filevine Service, including, without limitation, any software products, processing platforms or other tools named in the Sales Order, and any documentation relating thereto including any modifications, enhancements, new versions or derivative works thereof, and all trade secrets, copyrights, patents and other intellectual and proprietary rights therein as Filevine’s Confidential Information. Confidential Information shall not include data or information which (i) is or becomes part of the public domain without breach of any obligation of confidentiality, as evidenced by the Receiving Party’s written records; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without any obligation of confidentiality, as evidenced by the Receiving Party’s written records; (iii) is received from a third party without any obligation of confidentiality; (iv) is disclosed after written approval of the Disclosing Party; or (v) was independently developed by the Receiving Party without recourse or use of the Confidential Information disclosed under this Agreement as demonstrated by written records.
- 1.4. “**Disclosing Party**” means the party disclosing Confidential Information to the Receiving Party.
- 1.5. “**Data**” all of Subscriber’s and Subscriber’s Authorized User’s data and information, in any form or media, (i) submitted to Filevine by Subscriber or Subscriber’s Authorized User or on Subscriber’s or Subscriber’s Authorized Users’ behalf (including within the Uploaded Data Files), (ii) generated by the Filevine Services specifically in response to such data and information, or (iii) captured by the Filevine Service regarding data or information supplied by Subscriber or Subscriber’s Authorized Users (including within the Uploaded Data Files).

- 1.7. **"Filevine End User Terms of Service"** means the terms of service made available by Filevine at [www.filevine.com/terms-of-service](http://www.filevine.com/terms-of-service) that Authorized Users of the Filevine Service must agree to as a condition of being granted access to the Filevine Service, as updated from time to time.
- 1.8. **"Filevine Service(s)"** means the online, cloud-based platforms and other subscription products and/or services provided by Filevine, as identified in a Sales Orders and made available to Subscriber by Filevine on a software-as-a-service basis via web pages designated by Filevine including associated offline components found in the Documentation, all as modified from time to time in Filevine's discretion. If Subscriber is accessing a Filevine cloud-based product or service through online provisioning or an online registration or order process, then the "Filevine Services" are the Filevine cloud-based services Subscriber accesses through such means.
- 1.9. **"Intellectual Property Rights"** means, on a worldwide basis, any and all rights, title and interest in or relating to intellectual property, including: (i) all rights associated with works of authorship and literary property, including copyrights and moral rights of any author, software, website content, databases, data collections and rights therein; (ii) all trademarks, service marks, logos, trade dress, trade names (whether or not registered), and the goodwill associated therewith; (iii) all rights relating to know-how or trade secrets; (iv) all patents, designs, algorithms and other industrial proprietary rights; and (v) any other intellectual or industrial property rights, whether now or hereafter existing, and whether or not protected, filed, registered or recorded.
- 1.10. **"Receiving Party"** means the party receiving Confidential Information from the Disclosing Party.
- 1.11. **"Sales Order"** means the ordering documents for Subscriber's purchases of any subscription or Services from Filevine, which may detail, among other things, the number of Authorized Users authorized to use a Service under Subscriber's subscription.
- 1.12. **"Term"** means the applicable subscription term set forth in Subscriber's Sales Order.
- 1.13. **"Uploaded Data Files"** means any data files which have been uploaded into the Filevine Service by Subscriber or an Authorized User for processing.

## 2. Use of the Filevine Service

- 2.1. **Subscription Grant.** Subject to the terms and conditions of this Agreement, Filevine hereby grants to Subscriber, a limited, non-exclusive, revocable, non-assignable, non-transferable, non-sublicensable right, during the Term, to permit Subscriber's Authorized Users to (a) access and use the Filevine Services; and (b) use the Documentation in support of such Authorized Users' permitted use of the Filevine Services, in each case, solely for the internal business use of Subscriber. The number of licenses or rights to use the Filevine Services identified in the applicable Sales Order (each a **"Filevine License"**) represents the number of licenses or Filevine Services for which Subscriber agrees to pay for the Term; Subscriber may delegate one (1) Authorized User per Filevine License (as further detailed in Section 5.3.3 of the Sales Order).
- 2.2. **Subscription.** Subscriber acknowledges that Subscriber's and Subscriber's Authorized Users' use of the Filevine Service is subject to and limited by the terms of this Agreement, and that Subscriber's Authorized Users' right to access and use the Filevine Service is subject to their compliance with the Filevine End User Terms of Service. No additional rights are granted herein. Subscriber agrees that Subscriber shall be solely responsible for any breaches of this Agreement by any Authorized Users to whom Subscriber provides access to the Filevine Service. In the event Filevine reasonably believes that Filevine Licenses to the Filevine Services are being shared or otherwise used by more than one Authorized User per Filevine License, Filevine will require Subscriber to purchase additional Filevine Licenses, in excess of what is specified in the applicable Sales Order.
- 2.3. **Subscription Restrictions.** Subscriber agrees that Subscriber's right to use and access the Filevine Services is subject to the following restrictions:
- 2.3.1. Subscriber may not make any part of the Filevine Services or Subscriber's logon credentials accessible to anyone other than Authorized Users;
- 2.3.2. Subscriber may not attempt to reverse engineer, decompile, disassemble, or extract any element of and/or otherwise discover any source code, algorithms, methods, or techniques embodied in the Filevine Service, except to the extent expressly permitted by applicable law;
- 2.3.3. Subscriber may not modify, adapt, transfer, translate, assign, pledge, rent, lease, loan, sell, resell, or create derivative works based on the Filevine Service or any user interfaces related to the foregoing;
- 2.3.4. Subscriber may not attempt to access, upload, distribute or make available for distribution any proprietary and/or confidential Uploaded Data Files, the Filevine Services, or its related systems or networks, unless Subscriber has sufficient rights and proper authorization to do so:

- 2.3.6. Subscriber may not imply that the Filevine Service was developed, owned by, or proprietary to Subscriber or any other third party, including hiding, tampering, amending, removing or otherwise amending any Filevine proprietary markings or legends placed upon or contained within the Filevine Services or any related materials;
- 2.3.7. Subscriber may not use the Filevine Service, or introduce code or other items to the Filevine Service, in a manner that adversely affects the operation of Filevine's servers or other systems;
- 2.3.8. Subscriber may not use the Filevine Service to upload, create, access, display, manipulate, store, or distribute any Data that misappropriates or infringes the intellectual property or privacy rights of any third party;
- 2.3.9. Subscriber may not use or access the Filevine Service in order to (i) build a competitive product or service, or (ii) copy any features, functions or graphics of the Filevine Services;
- 2.3.10. Subscriber may not use the Filevine Services if it or any of its Authorized Users is directly or indirectly a competitor of Filevine; and
- 2.3.11. Subscriber may not otherwise use the Filevine Service in violation of the Agreement, the Documentation, or applicable law.

## 2.4. **Subscriber's Obligations**

- 2.4.1. **Implementation.** Subscriber shall provide a primary and secondary point of contact (the "**Filevine Administrator**") to coordinate communication and make decisions during the Filevine Services implementation process. Subscriber understands that Filevine's completion of the implementation process is entirely dependent upon Subscriber's timely and effective completion of responsibilities under the terms of this Agreement. In the event on-site implementation services are required or requested by Subscriber, Filevine may pass on any incidental travel-related expenditures to Subscriber, as agreed to and specified in a Sales Order.
  - 2.4.1.1. Subscriber understands and acknowledges: (i) that its failure to engage in good faith best efforts to implement the Filevine Services shall relieve Filevine of its obligations to implement the Filevine Services within any specified period of time; (ii) that its good faith efforts, including timely and responsive communication surrounding the implementation efforts are expected and relied upon by Filevine; and (iii) Filevine cannot complete a successful and timely implementation absent Subscriber's good faith best efforts and cooperation.
- 2.4.2. **Third-Party Equipment/Software.** Subscriber acknowledges and agrees that to use the Filevine Service, each Authorized User will need a personal computing device, a tablet, or other computing device which has Internet access and is in compliance with any of Filevine's written specifications, as may be set forth in the Documentation. In addition, certain third-party software which is not incorporated into the Filevine Service may be required to be loaded onto such computer or other device (each such device when properly installed with the required third party software to access the Filevine Service, herein referred to as an "**Authorized Device**") for Subscriber to access, use, or enjoy the full benefit of the Filevine Service (including a compatible third party web browser). Subscriber shall be fully responsible for obtaining Authorized Devices for use by Subscriber's Authorized Users at Subscriber's own cost. Subscriber's use of such separately acquired third party software shall be in accordance with any terms and conditions of the end user license agreement provided with such software. Additionally, the Filevine Services may include certain open-source software components, each of which has its own copyright notice and license included in the applicable license file and documentation. It is Subscriber's responsibility to comply with such third-party terms and conditions. Subscriber acknowledges that Subscriber's access to and use of the Filevine Service does not carry, and Subscriber does not receive under this Agreement any license, covenant not to sue, or other rights under any third-party intellectual property rights or other rights.
- 2.4.3. Subscriber agrees that Subscriber shall ensure that Subscriber's use of the Filevine Services does not contain code, files or programs that may interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment, including, without limitation, by introducing viruses or similar code into the software contained in the Filevine Services or hosted systems or servers. Filevine is not responsible for any loss or damage to Data or other property and materials of Subscriber's. Subscriber assumes all risks for the Data and other property and materials of Subscriber.
- 2.4.4. Filevine recommends accessing the Filevine through the Google Chrome web browser ("**Browser**") and ensuring that all Browser updates are installed. While not recommended, if other web browsers are used to access the Filevine Services, Subscriber shall ensure that the web browser supports HTTP/2 and TLS 1.2 or 1.3.



Subscriber, audit Subscriber's use of the Filevine Service. If an audit reveals that Subscriber has used the Filevine Service beyond the scope of this Agreement, or Subscriber have failed to pay any associated subscription fees for such use, then, in addition to any other remedies Filevine may have, Subscriber shall cure such breach within thirty (30) days of written notice from Filevine by paying all applicable subscription fees which were due and payable by Subscriber at the time Subscriber exceeded the scope of Subscriber's subscription or failed to pay such fees. In the event any such audit reveals that Subscriber has underpaid Filevine by an amount greater than five percent (5%) of the amounts due Filevine in the period being audited, or that Subscriber has knowingly breached any material obligation hereunder, then, Subscriber shall also pay or reimburse Filevine the cost of the audit.

- 2.6. **Data Protection Agreement.** The terms of the [Filevine Data Protection Agreement](#) ("DPA") are hereby incorporated into this Agreement and will apply to the extent Subscriber Data Includes personal information or personal data, as such terms are defined under applicable privacy or data protection laws ("Personal Information"). To the extent Personal Information from the European Economic Area (EEA), the United Kingdom and Switzerland are processed by Filevine, the Standard Contractual Clauses will apply, as further set forth in the DPA. For the purposes of Subscriber's acceptance of this Agreement, execution of a Sales Order by Subscriber will be treated as its execution of the Standard Contractual Clauses and related Appendices.
- 2.7. **Protection of Subscriber's Data.** Filevine will use commercially reasonable efforts to maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Subscriber's Data (including Subscriber's Personal Information). Filevine will not access, use or disclose Subscriber's Data except to provide the Filevine Service and prevent or address service or technical problems, or at Subscriber's request in connection with customer support matters. Although Filevine uses reasonable efforts to safeguard the security of such information, transmissions made on or through the Internet cannot be guaranteed to be secure.
- 2.8. **Server Communication Features.** Subscriber acknowledges and agrees that the Filevine Service may contain server access restrictions, security and other technology designed to offer Subscriber features that prevent unauthorized access or use of the Filevine Service. Subscriber agrees that Subscriber will not attempt to, or encourage or assist any other person to, circumvent or modify any security technologies included as part of the Filevine Service.
- 2.9. **Logon Credentials.** Subscriber acknowledges and agrees that, if the necessary functionality is made available as part of the Filevine Service, Subscriber shall require each Authorized User to create a user account, including a username and password, or other logon credentials (altogether, "**Logon Credentials**") to access and use the Filevine Service. Each Authorized User is solely responsible for maintaining the confidentiality of his or her Logon Credentials and for all activities on the Filevine Service that occur through the use of such Logon Credentials.
- 2.10. **Additional Product Terms.** If and only if any of the following Filevine Services are listed the applicable Sales Order or any amendment thereto, additional terms and conditions will apply to such specific Filevine Services: Fax, Periscope, Lead Docket Automation, Filevine Automation, Filevine Enterprise Automation, Timely, Payments by Filevine, and Filevine AI, including without limitation DemandsAI, AIBlocks, ProjectAI, LeadsAI, ImmigrationAI and FVAI+Demands. Such additional product-specific terms and conditions are published at [Filevine Product Specifications](#) are hereby incorporated and will apply to the extent Subscriber subscribers for such Filevine Services hereunder
- 2.10.1. In order to provide FilevineAI, Filevine may rely on AI technology provided by third-party AI providers. By using FilevineAI, Subscriber acknowledges that AI-generated information is made available solely for general information purposes. Subscriber should independently fact check AI-generated information. Filevine does not warrant the accuracy, currency, completeness, or usefulness of AI-generated information. Any reliance Subscriber places on such information is strictly at its own risk. Filevine disclaims all liability and responsibility arising from any reliance placed on such materials.
- 2.11. **Partner Implementation and Migration.**
- 2.11.1. Subscriber expressly acknowledges and understands that once Subscriber is provided access to the Filevine Services they can immediately use the full functionality of the core software. However, if Subscriber desires to avail itself of custom processes suited to its unique data and workflows, Subscriber must be fully implemented.
- 2.11.2. Unless otherwise provided in the applicable Sales Order, Subscriber acknowledges and understands that Filevine will not perform or provide any implementation services and/or data migration services directly to or on behalf of Subscriber. Such implementation services and/or data migration services must be performed and provided by a third-party Filevine-certified implementation partner (the "**Implementation Partner**"). Filevine may provide Subscriber with a referral to such an Implementation Partner, who can perform and provide implementation and/or data migration services to Subscriber. Subscriber's use of such Implementation Partner, including payment of Implementation Partner's fees, shall be exclusive of this Agreement, and shall be governed and dictated strictly by the terms of a separate

the results to be attained by the use of such third-party implementation services and hereby disclaims any such warranties, including, without limitation, the warranties of merchantability or fitness for a particular purpose. By signing this Agreement, Subscriber represents that it has contracted with an Implementation Partner, or that it will contract with an Implementation Partner within thirty (30) days following the execution of this Agreement and will use its best efforts to be implemented as soon as practicable. Neither Subscriber's failure to contract with an Implementation Partner or implement the Services as contracted, nor the emergence of any issues pertaining to the quality or length of implementation will cancel, suspend, or terminate Subscriber's obligation to pay fees under this Agreement for the remainder of the Term.

### 3. **Term and Termination.**

- 3.1. **Term of Agreement.** This Agreement shall remain in effect for the Term specified in Subscriber's Sales Order unless terminated sooner in accordance with this Agreement. If the applicable Sales Order is silent as to renewal terms, all subscriptions shall automatically renew for additional one (1) year renewal periods, unless either party provides thirty (30) days' prior written notice of its intent not to renew prior to the end of the then-current Term. Failure by Subscriber to comply with any terms of this Agreement, including any implementation requirements for any Filevine Services, shall not delay or modify the Term or any of Subscriber's payment obligations hereunder or under any Sales Order.
- 3.2. **Termination.** In the event Filevine reasonably suspects that illegal activity is occurring, or reasonably believes that a material security risk has, or will, occur, Filevine reserves the right, without any prior notice and without liability for any resulting consequential damages, in its sole and reasonable discretion, to terminate Subscriber's access to the Filevine Services. Either party may terminate this Agreement immediately upon notice to the other party if the other party commits a non-remediable breach, or if the other party fails to cure a remediable breach within ninety (90) days after being notified in writing of such breach, unless such breach is non-payment of fees due hereunder, in which case such breach must be cured within ten (10) days after being notified.
- 3.3. **Effects of Termination.** Upon termination of this Agreement, all subscriptions granted to Subscriber hereunder shall terminate and Subscriber's Authorized Users shall immediately cease all use of the Filevine Service. Except as otherwise expressly set forth in Section 8.1, any early termination of this Agreement does not cancel, suspend or terminate the obligation to pay fees for the remainder of the Term, and all fees paid in advance are non-refundable and Subscriber will not be entitled to a pro rata refund of any portion of such fees. Filevine shall have no obligation to retain any Uploaded Data Files more than thirty (30) days after termination or expiration.
- 3.4. **Uploaded Data Files Backup.** Filevine shall not be obligated to store any Uploaded Data Files for more than thirty (30) days following the expiration or termination of this Agreement by either party. Within twenty (20) days following the date of termination or expiration, Subscriber shall notify Filevine, in writing, whether it would like the Uploaded Data Files: (i) destroyed; or (ii) returned to Subscriber in a mutually agreed-upon format. Subscriber shall be solely responsible for all costs associated with such return. Upon written request, Filevine will provide to Subscriber a written certification of the deletion/destruction of Uploaded Data Files. Filevine shall be permitted to retain copies of any Uploaded Data Files for archival, legal and/or regulatory purposes. For the avoidance of doubt, Filevine may also continue to use data or information from Uploaded Data Files as Anonymized Data (as defined in Section 7.2).
- 3.5. **Surviving Provisions.** Sections 2.5, 3, 6, 8, 9 and 10 of this Subscription Agreement and Sections 5.1 and 5.3 of the Sales Order will survive any termination of this Agreement, together with any payment obligations owed by Subscriber to Filevine for Filevine Service and/or services under any Schedules or Addendums received prior to the effective date of termination.

4. **Pricing and Payment Terms.** All prices and terms contained are set forth in the applicable Sales Order and are to be regarded as Confidential Information of Filevine and are not to be disclosed to any third party without the express written consent of Filevine.

### 5. **Service Support**

- 5.1. **Technical Support.** Filevine shall provide Subscriber with unlimited access to the Filevine Help Center. Subscriber will also have access to email-based and online chat-based technical support services during Filevine's regular business hours, 7:00 a.m.-6:00 p.m. Monday to Friday U.S. Mountain Time, excluding U.S. holidays.
- 5.2. **Availability.** Filevine will use commercially reasonable efforts consistent with prevailing industry standards to make the Filevine Service available at least ninety-nine percent (99.0%) of the time as measured over the course of each calendar month during the Term, except for: (a) scheduled maintenance; (b) unplanned downtime or (c) any unavailability caused by circumstances beyond Filevine's reasonable control, including without limitation, acts of God, acts of government, floods, fires, earthquakes, pandemics, civil unrest, acts of terror, strikes or other labor problems, Internet or other cloud service provider failures or delays, or denial of service attacks.

### 6. **Confidentiality**

prior written approval. The Receiving Party agrees to maintain the confidentiality of the Confidential Information disclosed by the Disclosing Party, using the same degree of care that it uses to protect its own confidential information (but in no event less than a reasonable degree of care), the Receiving Party agrees to notify the Disclosing Party promptly of any unauthorized disclosure of Confidential Information and to assist the Receiving Party in remedying any such unauthorized disclosure. The Receiving Party agrees that all persons having access to the Confidential Information under this Agreement will abide by the obligations set forth in this Agreement. Nothing in this Agreement shall be construed to restrict the parties from disclosing Confidential Information as required by law or court order or other governmental order or request, provided in each case the party requested to make such disclosure shall timely inform the other party and use all reasonable efforts to limit the disclosure and maintain the confidentiality of such Confidential Information to the extent possible. In addition, the party required to make such disclosure shall permit the other party to attempt to limit such disclosure by appropriate legal means.

- 6.2. Neither party will disclose to the other party any third-party confidential information without first obtaining the written consent of such third party.
- 6.3. All Confidential Information disclosed hereunder shall remain the sole property of the Disclosing Party and the Receiving Party shall have no interest in or rights with respect thereto except as expressly set forth in this Agreement.
- 6.4. Filevine may contract with third parties or subcontractors as Filevine deems appropriate to perform its obligations and/or services under this Agreement, including without limitation marketing assistance, e-mail delivery, hosting, back-up and recovery services, customer service, implementation, data migration and data analysis and shall have the right to disclose Subscriber's Confidential Information to such third party in connection with their performance of services on Filevine's or Subscriber's behalf. Filevine will require any third-party service providers or subcontractors maintain the confidentiality of the information disclosed to them and such third parties or contractors are not permitted to use Confidential Information for any purpose other than to provide services to Filevine. Filevine will remain primarily liable to Subscriber for the performance of such subcontractors; provided, however, that this sentence does not apply to any third party with whom Subscriber directly contracts for implementation, migration or other services.
- 6.5. The parties agree that unauthorized use or disclosure of Confidential Information would be a material breach of this Agreement, may cause irreparable harm to Disclosing Party and that the Disclosing Party shall be entitled to seek injunctive or other equitable relief seeking to restrain such use or disclosure without the necessity of posting any bond.
- 6.6. The provisions in this Section 6 shall survive for seven (7) years after termination of this Agreement, except that with respect to any Confidential Information that constitutes a trade secret as defined under applicable law, the receiving party will continue to be bound by its obligations under this Section 6 for so long as such information continues to be eligible for trade secret protection under applicable law, but in no event for a period of less than the seven (7) year period specified immediately above.
- 6.7. Avatars, icons, or any representations of an individual distributed through the use of the Filevine Services are not considered Confidential Information.

## 7. **Ownership; Feedback**

- 7.1. **Filevine Ownership.** As between Filevine and Subscriber, Filevine retains all rights, title, and interest (including all Intellectual Property Rights and other rights) in and to the Filevine Service and all equipment, infrastructure, websites, materials or deliverables provided to Subscriber by Filevine, including any updates of any of the foregoing, any intangible ideas, residual knowledge, concepts, know-how and techniques related to or learned from its performance and provision of the Filevine Services, and any feedback submitted by Subscriber in accordance with Section 7.3 regarding Filevine's current or future products or services, subject only to the limited rights expressly set forth in Section 2.1 of this Agreement. Subscriber does not acquire any other rights, express or implied, in the Filevine Service other than those rights expressly granted under this Agreement.
- 7.2. **Ownership of Subscriber's Data.** Filevine does not claim any ownership rights to any Uploaded Data Files created by Authorized Users, which are and shall continue to be the sole and exclusive property of Subscriber or Authorized Users, as applicable. Notwithstanding anything in the Agreement to the contrary, Filevine shall have the right to collect and analyze Subscriber's Data and other content or information relating to the provision, use and performance of various aspects of the Filevine Service and related systems, technologies and offerings, and Filevine will be free (during and after the term of the Agreement) to (i) use, access, store, copy, display and transmit such data, content and information to improve and enhance the Filevine Service and for other development, diagnostic and corrective purposes in connection with the Filevine Service and other Filevine technologies and offerings, and (ii) use and share such data in aggregate or other de-identified form ("**Anonymized Data**") in connection with its business, including, without limitation, for artificial intelligence training purposes. Anonymized Data will not be considered Subscriber's Confidential Information. No rights or licenses are granted except as expressly set forth herein, and Subscriber represents and warrants that it has the right to grant Filevine these rights.

7.3. **Feedback.** If Subscriber elects to provide any feedback or comments to Filevine related to the Filevine Service ("**Feedback**") all



disclose such Feedback in any manner and for any purpose in Filevine's discretion without remuneration, compensation or attribution to Subscriber, provided that Filevine is under no obligation to use such Feedback.

- 7.4. **Customer Lists.** Notwithstanding anything herein to the contrary, Filevine may (i) during the Term, display Subscriber's name and logo on its website and related marketing assets as a customer of the Filevine Service, and (ii) use and publish Subscriber's user's testimonials and Feedback regarding the Filevine Service in publications, presentations and marketing assets used by Filevine.

## 8. **Limited Warranty; Limitation of Liability**

- 8.1. **Limited Warranty.** During the Term, Filevine warrants that the Filevine Service will function in substantial accordance with its written specifications and Documentation. In the event of a material breach of Filevine's warranty of this Section 8.1, Filevine agrees to use commercially reasonable efforts to cause the Filevine Service to function in substantial accordance with its specifications and Documentation. If Filevine notifies Subscriber that it is unable to remedy any material breach of this warranty, Subscriber or Filevine shall have the right to terminate the affected service and, upon such termination, Filevine will refund to Subscriber a pro rata portion of any fees Subscriber prepaid for the canceled service based on the remaining unused portion of the Term for the canceled service. For any breach of the warranty above, Subscriber's sole and exclusive remedy shall be as provided in this Section 8.1.
- 8.2. **Disclaimer.** EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS SUBSCRIPTION AGREEMENT, THE FILEVINE SERVICE AND SERVICES PROVIDED HEREUNDER (INCLUDING ANY SERVICES PROVIDED UNDER ANY SCHEDULES OR ADDENDUMS TO THE SUBSCRIPTION AGREEMENT) ARE PROVIDED "AS IS", "AS-AVAILABLE", WITH ALL FAULTS, AND FILEVINE MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS, AND ANY WARRANTIES THAT MAY ARISE FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY FILEVINE OR ITS REPRESENTATIVES SHALL CREATE A WARRANTY. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS SUBSCRIPTION AGREEMENT, SUBSCRIBER'S USE OF THE FILEVINE SERVICE IS ENTIRELY AT SUBSCRIBER'S OWN RISK AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH SUBSCRIBER. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO THE ABOVE EXCLUSION AND LIMITATIONS MAY NOT APPLY TO SUBSCRIBER. FILEVINE IS NOT A LAW FIRM OR LEGAL SERVICES PROVIDER, AND DOES NOT AND CANNOT PROVIDE ANY LEGAL ADVICE, EXPLANATION, OPINION OR OTHER RECOMMENDATION ABOUT CONTRACT STRATEGY OR THE MEANING OF TERMS IN ANY CONTRACT GENERATED BY THE SERVICES OR OTHERWISE.
- 8.3. **Limitation of Liability; Independent Allocation of Risk.** EXCEPT TO THE EXTENT THE FOLLOWING LIMITATION OF LIABILITY IS PROHIBITED BY LAW, FILEVINE'S, AND ITS EMPLOYEES', OFFICERS', DIRECTORS', STOCKHOLDERS', AGENTS', SUCCESSORS', ASSIGNS', AFFILIATES', CONSULTANTS' AND SUPPLIERS' (COLLECTIVELY, THE "FILEVINE ENTITIES") TOTAL LIABILITY TO SUBSCRIBER SHALL BE LIMITED TO DIRECT DAMAGES SUSTAINED BY SUBSCRIBER UP TO A MAXIMUM AMOUNT OF THE FEES PAID BY SUBSCRIBER TO FILEVINE UNDER THIS SUBSCRIPTION AGREEMENT IN THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM; PROVIDED THAT, REGARDLESS OF ANY STATUTE OR LAW, NO CLAIM OR CAUSE OF ACTION, REGARDLESS OF FORM, ARISING OUT OF OR IN CONNECTION WITH THIS SUBSCRIPTION AGREEMENT MAY BE BROUGHT BY SUBSCRIBER MORE THAN TWELVE (12) MONTHS AFTER THE FACTS GIVING RISE TO THE CAUSE OF ACTION HAVE OCCURRED, REGARDLESS OF WHETHER THOSE FACTS BY THAT TIME ARE KNOWN TO, OR REASONABLY OUGHT TO HAVE BEEN DISCOVERED BY SUBSCRIBER; FURTHERMORE, NO FILEVINE ENTITY NOR ANY OF ITS LICENSORS SHALL BE LIABLE TO SUBSCRIBER FOR SERVICES PERFORMED BY AN IMPLEMENTATIONS PARTNER, PERSONAL INJURY, OR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE, OR OTHER DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OR INTERRUPTION OF BUSINESS, LOSS OF DATA, LOSS OF GOODWILL OR LOST PROFITS), UNDER ANY THEORY OF LIABILITY, INCLUDING WITHOUT LIMITATION CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY ARISING OUT OF OR RELATING IN ANY WAY TO THIS SUBSCRIPTION AGREEMENT (INCLUSIVE OF ANY SCHEDULES AND/OR ADDENDUMS HEREUNDER), EVEN IF FILEVINE HAS BEEN ADVISED OF THE RISK OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR PERSONAL INJURY, OR OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION MAY NOT APPLY TO SUBSCRIBER. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE. THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS OF LIABILITY IN THIS SECTION 8.3 AND IN THE OTHER PROVISIONS OF THIS SUBSCRIPTION AGREEMENT AND THE ALLOCATION OF RISK HEREIN ARE ESSENTIAL ELEMENTS OF THE BARGAIN BETWEEN THE PARTIES, WITHOUT WHICH FILEVINE WOULD NOT HAVE ENTERED INTO THIS SUBSCRIPTION AGREEMENT. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY FILEVINE TO SUBSCRIBER AND IS AN ESSENTIAL ELEMENT

- 8.4. **Use of API Keys.** Subscriber acknowledges and agrees that if Filevine grants Subscriber access to any Filevine API, Subscriber assumes all responsibility for the actions of any person or entity with whom Subscriber shares such API access. Certain prohibited uses of the API are set forth in Section 2.3 of this Subscription Agreement.
- 8.5. **Use of Calendar Function.** If Subscriber uses the Filevine calendar feature, Subscriber acknowledges that it is solely responsible for: (i) its own proper data entry; (ii) maintaining any and all said calendar entries; and (iii) maintaining its own mandated deadlines, including but not limited to statutory deadlines. Filevine is not responsible for any misuse of the calendar functionality or any issues that arise from such aforementioned misuse.
- 8.6. **Third Party Services.** As a part of the Filevine Services, Filevine may offer links to, or include within such Filevine Services, certain software, services, or information by or from other third parties ("**Third-Party Services**"). Such Third-Party Services are licensed to Subscriber, and Subscriber agrees that its use of such Third-Party Services is subject to and will comply with the license terms of such Third-Party Service and the terms of this Subscriber Agreement. Filevine is not liable or responsible for any acts or omissions created or performed by these Third-Party Services. The Third-Party Services are provided "as is" and Subscriber will have no remedy against Filevine with respect to any Third-Party Service.
- 8.7. **Disclaimer for Third-Party Services.** Filevine is not the publisher of information supplied by Third-Party Services. FILEVINE ASSUMES NO RESPONSIBILITY AND MAKES NO REPRESENTATIONS, WARRANTIES, RECOMMENDATIONS, ENDORSEMENTS OR APPROVALS WITH REGARD TO SUCH THIRD-PARTY INFORMATION.

## 9. Indemnity

- 9.1. **Subscriber's Indemnity Obligations.** Subscriber agrees to indemnify, defend and hold harmless Filevine and its officers, directors, employees, stockholders, agents, representatives, successors and assigns from and against any and all losses, claims, costs, demands, damages, deficiencies, actions, judgments, settlements, interest, awards, penalties, fines, liabilities or expenses of whatever kind, including, but not limited to, reasonable attorneys' fees and costs ("**Losses**") arising from any third party suits, actions, claims, or proceedings ("**Claims**"): (i) alleging that the content and/or Data (including Personal Information) infringes or misappropriates a third party's intellectual property, privacy or other rights; (ii) resulting from Subscriber's or Subscriber's Authorized User's use of the Filevine Service; (iii) resulting from Subscriber's or Subscriber's Authorized Users', employees' or agents' breach of or failure to comply with or fulfill any term, condition, representation, or covenant under this Agreement; or (iv) any failure by Subscriber or its employees, agents or Authorized Users to comply with any applicable federal, state or local laws, regulations or codes applicable to Subscriber's obligations under this Agreement or use of the Filevine Services.
- 9.2. **Filevine's Indemnity Obligations.** Filevine agrees to indemnify and defend Subscriber from and against any Claim initiated by a third party alleging that Subscriber's use of the Filevine Service in accordance with the terms of this Agreement infringes any United States patents of which Filevine is aware, any copyrights of any third party or trade secret rights, provided, however, that Filevine shall not be obligated to indemnify and defend Subscriber from and against any Claim to the extent arising from (i) any matter for which Subscriber are obligated to indemnify Filevine pursuant to Section 9.1 above; (ii) use of the Filevine Service with any other software or service not provided by Filevine, if, but for such combination, the use of the Filevine Service would not have been infringing; and/or (iii) use of the Filevine Service under a Trial/Evaluation Subscription. In addition, Subscriber shall be obligated to notify Filevine promptly upon learning of any Claim for which Subscriber are seeking indemnification pursuant to this Section 9.2, and Subscriber must provide Filevine with sole control and authority over the defense and/or settlement of the Claim, subject to Subscriber's provision of reasonable assistance at the request of Filevine and at Filevine's expense. Should the Filevine Service become or, in Filevine's reasonable opinion is likely to become, the subject of any Claim, Filevine may, at its option and expense, either: (a) procure for Subscriber the right to continue to use the Filevine Service as contemplated by this Agreement, (b) replace or modify the Filevine Service to make its use in accordance with this Agreement non-infringing, or (c) with thirty (30) days' notice to Subscriber, terminate this Agreement and refund to Subscriber any prepaid subscription fees covering the remainder of the Term after the effective date of termination.
- 9.3. **Exclusive Remedy.** This Section 9 states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of Claim described in this Section 9.

## 10. General Terms

- 10.1. **Governing Law; Dispute Resolution.** This Agreement and all matters arising out of or relating to this Agreement shall be governed by the internal laws of the State of Utah without giving effect to any choice of law rule. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded. Except as set forth in this Section 10.1, each party hereby irrevocably consents to the mandatory and exclusive personal jurisdiction and venue of the state and federal courts located in Salt Lake County, Utah, with venue proper only in Salt Lake County, Utah. Except for: (i) the right of either party to apply to a court of competent jurisdiction for a

exclusively, settled by binding arbitration in Salt Lake City, Utah. The arbitration shall be held before one arbitrator under the Commercial Arbitration rules of the American Arbitration Association (“AAA”) in force at that time. The arbitrator shall be selected pursuant to the AAA rules. The arbitrator shall apply the substantive law of the State of Utah, except that the interpretation and enforcement of this arbitration provision shall be governed by the Federal Arbitration Act. To begin the arbitration process, a party must make a written demand therefor. The prevailing party shall be entitled to receive from the other party all attorneys’ fees and costs incurred. Any judgment upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction in Utah. The AAA Commercial Arbitration Rules can be found at [www.adr.org/Rules](http://www.adr.org/Rules).

10.1.1. For all disputes or claims Subscriber may have, Subscriber must first give Filevine an opportunity to resolve Subscriber’s claim by sending a written description of Subscriber’s claim (“Notice of Dispute”) to [legal@filevine.com](mailto:legal@filevine.com). The Notice of Dispute must contain enough information for Filevine to identify Subscriber’s account and attempt to resolve Subscriber’s claim, including (a) Subscriber’s name and contact information; (b) account number; (c) a written description of the problem, relevant documents and supporting information; and (d) a good faith calculation of the damages Subscriber claims to have suffered and a statement of the specific relief Subscriber is seeking. Subscriber may be represented by an attorney or other person in that process.

10.1.2. The Parties agree to negotiate any claim(s) between them in good faith. Filevine and Subscriber each agree that neither Party may commence any arbitration, mediation, or court proceeding (except as allowed by this Section 10.1.2, including for collection disputes) unless Filevine and Subscriber are unable to resolve the claim(s) within 30 days after receipt of the Notice of Dispute and the Parties have made a good faith effort to resolve the claim during that time. If the Parties are unable to resolve the dispute, the Parties agree to mediate the dispute within a reasonable time. Either Party may (by written notice to the other Party) submit the dispute to mediation. Each Party will bear its own costs in relation to the mediation. If one or more Parties is not satisfied with the result proposed by the mediator, the dispute may be referred (by written notice to the other Party) to arbitration, in accordance with Section 10.1.1.

10.2. **Class Action Waiver.** THE PARTIES AGREE THAT, EXCEPT AS PROVIDED BELOW, ANY AND ALL CLAIMS OR DISPUTES, OF ANY NATURE, INCLUDING TORT AND STATUTORY CLAIMS, IN ANY WAY RELATED TO OR CONCERNING THE AGREEMENT, PRIVACY OR DATA SECURITY PRACTICES, THE FILEVINE SERVICES, INCLUDING ANY BILLING DISPUTES, WILL BE RESOLVED BY INDIVIDUAL BINDING ARBITRATION. THERE IS NO JUDGE OR JURY IN ARBITRATION, AND COURT REVIEW OF AN ARBITRATION AWARD IS LIMITED. THE ARBITRATOR MUST FOLLOW THIS AGREEMENT AND CAN AWARD, ON AN INDIVIDUAL BASIS, THE SAME DAMAGES AND RELIEF AS A COURT (INCLUDING ATTORNEYS’ FEES).

10.3. **Severability and Waiver.** If any provision of this Agreement is held to be illegal, invalid, or otherwise unenforceable, such provision will be enforced to the extent possible consistent with the stated intention of the parties, or, if incapable of such enforcement, will be deemed to be severed and deleted from this Agreement, while the remainder of this Agreement will continue in full force and effect. The waiver by either party of any default or breach of this Agreement will not constitute a waiver of any other or subsequent default or breach.

10.4. **Assignment.** Subscriber may not assign, sell, transfer, delegate, or otherwise dispose of, whether voluntarily or involuntarily, by operation of law or otherwise, this Agreement or any rights or obligations under this Agreement without the prior written consent of Filevine which may be withheld at Filevine’s discretion. Any purported assignment, transfer or delegation by Subscriber shall be null and void. Filevine shall have the right to assign this Agreement without Subscriber’s consent and without prior notice to Subscriber. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

10.5. **Notice.** Any notice in connection with this Agreement shall be given in writing and must be: (i) hand delivered; (ii) sent via first class registered mail, postage prepaid; (iii) sent by an internationally recognized overnight air courier, postage prepaid, or (iv) by electronic mail, in the case of notices to Subscriber, to the electronic mail address provided by Subscriber and, in the case of notices to Filevine, to [legal@filevine.com](mailto:legal@filevine.com). Notices will be considered to have been given at the time of actual delivery in the case of hand delivery, two (2) business days after depositing in the mail as set forth above or one (1) day after delivery to the overnight courier, or immediately upon delivery by electronic mail. Notices sent to Subscriber shall be sent to its address as set forth on the first page of the Sales Order, to the electronic mail address set forth on the first page of the Sales Order, or to such physical or electronic mail address as subsequently modified by written notice given in accordance with this Section 10.5. Notices given to Filevine shall be sent to 1260 Stringham Ave., Suite 600, Salt Lake City, Utah 84106, Attn: Legal Department.

10.6. **Legal Compliance; Export Administration; and Government Users.** By accepting this Agreement Subscriber represents and warrants that Subscriber and Subscriber’s Authorized Users (i) are not located in a jurisdiction that is subject to a U.S. government embargo, or that has been designated by the U.S. government as a “terrorist supporting” country, and will not use the Filevine Service in such jurisdictions; (ii) are not listed on any U.S. government list of prohibited or restricted parties; and



software” and the Documentation constitutes “commercial computer software documentation”, and pursuant to FAR 12.212 or DFARS 227.7202, and their successors, as applicable, use, reproduction, and disclosure of the Filevine Service, the software accessed there through and Documentation are governed by the terms of this Agreement. The manufacturer of the software accessed through the Filevine Service is Filevine with an address at 1260 Stringham Ave., Suite 600, Salt Lake City, Utah 84106.

- 10.7. **Conflicts.** In the event of any conflict or inconsistency between this Agreement and the Filevine Service End User Terms of Service, the terms of this Agreement shall control and prevail to the extent of such conflict or inconsistency.
- 10.8. **Injunctive Relief.** Subscriber acknowledges and agrees that a breach or threatened breach of any covenant contained in this Agreement would cause irreparable injury, that money damages would be an inadequate remedy and that Filevine shall be entitled to temporary and permanent injunctive relief, without the posting of any bond or other security, to restrain Subscriber, from such breach or threatened breach. Nothing in this Section 10.8 shall be construed as preventing Filevine from pursuing any and all remedies available to it, including the recovery of money damages from Subscriber.
- 10.9. **Independent Contractor.** Filevine’s relationship with Subscriber will be that of an independent contractor. It is agreed and understood that neither party is the agent, representative, nor partner of the other and neither party has any authority or power to bind or contract in the name of or to create any liability against the other in any way or for any purpose pursuant to this Agreement. Nothing contained in this Agreement shall be construed to give either party the power to direct and control the day-to-day activities of the other, constitute the parties as partners, joint venturers, principal and agent, employer and employee, co-owners, or otherwise as participants in a joint undertaking, or allow either party to create or assume any obligation on behalf of the other party for any purpose whatsoever.
- 10.10. **Language.** English is the language of this Agreement, and all communications and proceedings must be conducted in English. If this Agreement is translated, then the English language version will control.
- 10.11. **Modifications.** Filevine may modify this Agreement from time to time in which case Filevine will update the “Last updated” date at the bottom of this Agreement. It is solely Subscriber’s responsibility to review this Agreement from time to time to view any such changes. The updated Agreement will be effective as of the time of posting, or such later date as may be specified in the updated Agreement. Subscriber’s continued access or use of the Filevine Services after the modifications have become effective will be deemed Subscriber’s acceptance of the modified Agreement.
- 10.12. **Entire Agreement.** The Agreement is the final, complete, and exclusive agreement of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous communications and understandings between the Parties including, without limitation, any prior or subsequent purchase orders, requests for proposals, invoice, receipt, correspondence, acceptance or otherwise proffered by the Subscriber, unless each party mutually and expressly agrees to such provision in writing. To the extent there is a conflict between the terms of this Agreement and any of the foregoing, the terms of this Agreement shall prevail.

Last updated: January 9, 2024

Platform

- [Case Management Software](#)
- [Lead Management](#)
- [Document Management](#)
- [Contract Management](#)
- [Business Analytics](#)
- [Billing & Time-keeping](#)
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Resources

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Company

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# Filevine Data Protection Agreement

This Data Protection Agreement (“**DPA**”) is entered into between Filevine, Inc., (“**Filevine**”) and the customer who purchased the Filevine Services (“**Subscriber**”) (Each, a “**Party**” or collectively, the “**Parties**”) as set forth in one or more Sales Order(s). This DPA is incorporated into and forms part of the Parties’ Filevine Subscription Agreement and applicable Sales Order (hereinafter, collectively the “**Subscription Agreement**”).

By signing the Subscription Agreement, Subscriber enters into this DPA on behalf of itself and, to the extent required under applicable Privacy and Data Protection Requirements, in the name and on behalf of its Authorized Affiliates, if and to the extent Filevine processes Personal Information for which such Authorized Affiliates qualify as the Controller. For the purpose of this DPA only, and except where indicated otherwise, the term “Subscriber” shall include Subscriber and Authorized Affiliates. Capitalized terms not defined herein shall have the same meaning set forth in the Subscription Agreement.

## 1. DEFINITIONS AND INTERPRETATION

1.1. The following definitions and rules of interpretation apply in this DPA.

- “**Authorized Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity (“**Control**” for purposes of this definition, means direct or indirect ownership or control of more than fifty percent (50%) of the voting interests of the subject entity) which is (a) subject to the data protection laws and regulations of the European Union, the European Economic Area and/or their member states, Switzerland and/or the United Kingdom, and (b) is permitted to use the Services pursuant to the Subscription Agreement between Subscriber and Filevine, but has not signed its own Subscription Agreement with Filevine and is not “Subscriber” as defined under this DPA.
- “**Business Purpose**” means the purpose of delivering the Filevine Services, as such term is defined in the Subscription Agreement (hereinafter the “Services”) or any other purpose specifically identified in the Appendix.
- “**Controller**” means the entity which determines the purposes and means of the Processing of Personal Information.
- “**Data Subject**” means an individual who is the subject of Personal Information.
- “**Employee**” means any natural person in their capacity as a worker. It includes temporary employees, agents, executors, contractors, contingent workers, and other kinds of workers.
- “**GDPR**” means the EU General Data Protection Regulation 2016/679 including the applicable implementing legislation of each Member State and the UK Data Protection Act 2018 and the UK General Data Protection Regulation as it forms part of UK law by virtue of section 3 of the European Union (Withdrawal) Act 2018, as amended (including by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019).
- “**Personal Information**” means (a) any information Filevine processes for Subscriber that identifies or relates to an individual who can be identified directly or indirectly from that data alone or in combination with other information in Filevine’s possession/control or that Filevine is likely to have access to, or (b) the relevant Privacy and Data Protection Requirements otherwise defined as protected personal information.
- “**Processing, processes, or process**” means any activity that involves the use of Personal Information or that the relevant Privacy and Data Protection Requirements may otherwise include in the definition of processing, processes, or process. It includes obtaining, recording, storing, or holding the data, or carrying out any operation or set of operations on the data including, but not limited to, organizing, amending, retrieving, using, disclosing, erasing, transmitting, or destroying it. Processing also includes transferring Personal Information to third parties.
- “**Processor**” means the Party which Processes Personal Information on behalf of the Controller, including as applicable any “Service Provider” as that term is defined by the CCPA.
- “**Privacy and Data Protection Requirements**” means applicable laws and regulations, to which Filevine is subject, relating to the processing, protection, or privacy of personal information, including where applicable, the common law and the guidance and codes of practice issued by regulatory bodies in any relevant jurisdiction. Depending on the scope of processing as set forth elsewhere in this DPA, this may include the GDPR, the California Consumer Privacy Act, as amended by the California Privacy Rights Act and any binding regulations promulgated thereunder (“CCPA”), Canada’s Personal Information Protection and Electronic Documents Act as well as other Canadian federal or provincial laws governing the collection, use, disclosure, or protection of Personal Information.

unsuccessful attempts or activities that do not compromise the security of Personal Information, including unsuccessful log-in attempts, pings, port scans, denial of service attacks, or other network attacks on firewalls or networked systems.

- **“Standard Contractual Clauses”** or “SCCs” refer to any standardized contractual clauses promulgated by a jurisdiction’s data protection regulator or authority to legitimize the flow of personal information to other jurisdictions. SCCs include the European Commission’s Standard Contractual Clauses for the transfer of Personal Information from the European Union to processors established in third countries as well as the “International Data Transfer Addendum to the European Commission’s Standard Contractual Clauses for International Data Transfers” promulgated by the United Kingdom’s Information Commissioner’s Office (“UK Addendum”). To the extent this DPA includes SCCs, they are included as set forth in the Appendix.
- **“Sub-processor”** means any Processor engaged by Filevine.
- **“Term”** refers to the period of time during which this DPA is in full force and effect, as governed under Section 12 of this DPA.

1.1.1. For the sake of readability, this DPA does not use initial capitalization of most defined terms. Any defined terms shall be construed as defined, regardless of their capitalization.

1.2. The Appendix forms part of this DPA and will have effect as if set out in full in the body of this DPA. Any reference to this DPA includes the Appendix.

1.3. A reference to writing or written includes email.

1.4. Notwithstanding anything to the contrary in the Subscription Agreement, if there is a conflict between this DPA and the Subscription Agreement, this DPA will control. In the event of any conflict or inconsistency between this DPA and the Standard Contractual Clauses, the Standard Contractual Clauses shall prevail.

## 2. PERSONAL INFORMATION TYPES AND PROCESSING PURPOSES

2.1. The Parties acknowledge and agree that with regard to the Processing of Personal Information, Subscriber is the Controller and Filevine is the Processor, as applicable, and that Filevine will engage Sub-processors pursuant to the requirements set forth in Section 9 below.

2.2. Filevine shall process Personal Information for the purposes of providing the Services, as set forth in the Subscription Agreement, or this DPA. Filevine shall not determine the purposes or means of processing the Personal Information. Unless otherwise set forth herein or in the Subscription Agreement, Subscriber, either on its own behalf or on behalf of the Controller, shall ensure that it is lawful under the applicable Privacy and Data Protection Requirements for Filevine to process the personal data and that necessary notices have been or shall be provided to data subjects. Subscriber shall also be responsible for the processing instructions it gives Filevine.

2.3. [Annex A to the Appendix](#) describes the general Personal Information categories and data-subject types Filevine may process to fulfill the business purpose of the Subscription Agreement.

## 3. FILEVINE’S OBLIGATIONS

3.1. Filevine will process the Personal Information to the extent, and in such a manner, as is necessary for the business purposes in accordance with Subscriber’s instructions for the following specific purposes: (i) Processing in accordance with the Subscription Agreement; (ii) Processing initiated by users in their use of the Services; and (iii) Processing to comply with other documented reasonable instructions provided by Subscriber (e.g., via email or support ticket) where such instructions are consistent with the terms of the Agreement.

3.2. Filevine will reasonably comply with Subscriber’s written request or instruction requiring Filevine to amend, transfer, or delete Personal Information, or to stop, mitigate, or remedy unauthorized processing of this Personal Information.

3.3. Filevine will maintain the confidentiality of Personal Information and will not disclose it to third parties unless Subscriber or this DPA specifically authorizes the disclosure, or as required by law. If a law requires Filevine to process or disclose Personal Information, Filevine will first inform Subscriber of the legal requirement and give Subscriber an opportunity to object or challenge the requirement, unless the law prohibits such notice, and provided such opportunity for objection or challenge does not serve to prejudice Filevine or subject Filevine to liability for non-disclosure. Any disclosure of Personal Information shall be limited to the minimum necessary to accomplish the purpose of the disclosure.

3.4. Subscriber acknowledges that Filevine is under no duty to investigate the completeness, accuracy, or sufficiency of any specific Subscriber instructions or personal information except when required under the Privacy and Data Protection Requirements.

3.5. Filevine acknowledges and agrees that it is a “service provider” as defined under CCPA and shall not (a) “sell” or “share” (as both terms are defined in the CCPA) Personal Information; or (b) retain, use, or disclose any Personal Information for any purpose other than for the specific purpose of providing the Services under the Subscription Agreement, including retaining, using, or disclosing Personal

Information for a commercial purpose (as defined in CCPA) other than providing the Services under the Subscription Agreement.

3.6. Filevine shall notify Subscriber in the event Filevine determines that it can no longer meet its obligations under Privacy and Data Protection Requirements.

#### 4. FILEVINE'S EMPLOYEES

##### 4.1. Filevine will limit Personal Information access to:

(a) those employees who require Personal Information access to meet Filevine's obligations under this DPA and the Subscription Agreement; and

(b) the part or parts of the Personal Information that those employees strictly require for the performance of their duties.

##### 4.2. Filevine will ensure that its relevant employees:

(a) have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

(b) have undertaken training on the Privacy and Data Protection Requirements relating to handling Personal Information and how it applies to their particular duties; and

(c) are aware both of Filevine's duties and their personal duties and obligations under the Privacy and Data Protection Requirements and this DPA.

##### 4.3. Filevine will take reasonable steps to ensure the reliability, integrity, and trustworthiness of, and conduct background checks (to the extent permissible under applicable law) on, Filevine's employees with access to Personal Information.

#### 5. SUBSCRIBER OBLIGATIONS

Subscriber is solely responsible for its use of the Services, including (a) obtaining any needed consents or authorizations for Filevine to process Personal Information; (b) without limitation of Filevine's obligations under Section 6 (Security), making appropriate use of the Services to ensure a level of security appropriate to the risk in respect of the Personal Information; (c) securing the account authentication credentials, systems and devices Subscriber uses to access the Services; (d) securing Subscriber's systems and devices that Filevine uses to provide the Services; and (e) backing up Personal Information (if not provided by the Services).

#### 6. SECURITY

6.1. Filevine will endeavor to maintain appropriate technical and organizational measures to safeguard Personal Information against unauthorized or unlawful processing and against accidental loss, destruction, disclosure, or damage. The appropriateness of such measures shall be judged against the risk of harm to Subscriber or to data subjects if the data were to be used, disclosed, altered, or deleted without proper authorization. These include the security measures listed in [Annex B to the Appendix](#). Nevertheless, Filevine agrees to maintain a level of security appropriate to the risk. Filevine will take commercially reasonable steps to document those measures in writing and periodically review them, at least annually, to ensure they remain current, complete, and appropriate to the risk.

6.2. Filevine shall promptly remediate any non-public vulnerability that jeopardizes Personal Information if it becomes aware that an exploit of the vulnerability is available and known to persons or organizations other than Filevine, its employees, contractors, and other agents.

#### 7. SECURITY BREACHES AND DATA LOSS

7.1. Filevine will promptly notify Subscriber without undue delay after becoming aware of a Security Breach. Such notification shall, to the extent possible, describe the categories of Personal Information affected, the approximate number of data subjects involved, the steps taken to investigate and remedy the breach, and provide the contact information for a person that can respond to questions regarding the Security Breach. Such information may be provided in phases as it becomes available.

7.2. Following discovery of a Security Breach, Filevine shall take prompt action to investigate the Security Breach and shall use industry standard, commercially reasonable efforts to mitigate the effects of any such Security Breach in accordance with its obligations hereunder.

7.3. Subject to Section 15, Filevine will cover reasonable expenses associated with the performance of the obligations under Sections 7.1 and 7.2, unless the matter arose from Subscriber's specific instructions, negligence, willful default, or breach of this DPA, in which case Subscriber will cover these expenses.

#### 8. CROSS-BORDER TRANSFERS OF PERSONAL INFORMATION.

If any personal information transfer between Filevine and Subscriber requires execution of Standard Contractual Clauses to comply with the Privacy and Data Protection Requirements, the Parties hereby incorporate, with any noted exceptions and details, those clauses set forth in the Appendix. By executing this DPA, the Parties also agree to the incorporation of the Standard Contractual Clauses with such exceptions and details as are set forth below regardless of whether the Standard Contractual Clauses are separately executed.

#### 9. SUB-PROCESSORS.

9.1. Subscriber acknowledges and agrees that Filevine may engage third-party Sub-processors in connection with the provision of the Services. Filevine has entered into a written agreement with each Sub-processor containing data protection obligations not less protective than those in this DPA with respect to the protection of Personal Information to the extent applicable to the nature of the services provided by such



- 9.2. Filevine’s current list of Sub-processors for the applicable Services are in [Annex C to the Appendix](#), and Subscriber authorizes Filevine’s use of such Sub-processors. Filevine shall also provide a mechanism to subscribe to notifications of new Sub-processors, to which Subscriber shall subscribe, whereupon Filevine will provide notification of any new Sub-processors to Process Personal Information in connection with the provision of the applicable Services.
- 9.3. Subscriber may object to Filevine’s use of a new Sub-processor on reasonable grounds relating to the protection of Personal Information, by notifying Filevine promptly in writing within ten (10) business days after receipt of Filevine’s notice in accordance with the mechanism described in Sections 9.2 and 9.5. In the event Subscriber objects to a new Sub-processor, as permitted in the preceding sentence, Filevine will use reasonable efforts to make available to Subscriber a change in the Services or recommend a commercially reasonable change to Subscriber’s configuration or use of the Services to avoid Processing of Personal Information by the objected-to new Sub-processor without unreasonably burdening Subscriber. If Filevine is unable to make available such change within a reasonable period of time, Filevine will permit Subscriber to terminate the applicable Subscription Agreement with respect only to those Services which cannot be provided by Filevine without the use of the objected-to new Sub-processor in accordance with the termination provisions of the Subscription Agreement.
- 9.4. Filevine shall be liable for the acts and omissions of its Sub-processors to the same extent Filevine would be liable if performing the services of each Sub-processor directly under the terms of this DPA, except as otherwise set forth in the Subscription Agreement. Filevine will refund Subscriber any prepaid fees covering the remainder of the term of such Subscription Agreement following the effective date of termination with respect to such terminated Services, without imposing a penalty for such termination on Subscriber.
- 9.5. To subscribe to the notifications described in Section 9.2, Subscriber shall email the word “subscribe” to [privacy@filevine.com](mailto:privacy@filevine.com).
10. DATA SUBJECT REQUESTS AND COMPLAINTS/THIRD-PARTY INQUIRIES, REQUESTS, AND COMPLAINTS
- 10.1. Filevine will notify Subscriber promptly if it receives any complaint, notice, or communication that directly or indirectly relates to the Personal Information processing or to either Party’s compliance with the Privacy and Data Protection Requirements. This shall include requests or inquiries from data subjects relating to their Personal Information. Filevine will endeavor to include the complaint, notice, or communication in its notification to Subscriber. Subscriber shall be responsible with regard to any determinations related to a request or inquiry made by a data subject.
- 10.2. Filevine will give Subscriber its full cooperation and assistance in responding to any complaint, notice, inquiry, communication, or data subject request. Filevine shall also fully cooperate and assist Subscriber in complying with data subject rights in situations where Subscriber cannot reasonably comply without Filevine’s assistance. Such cooperation and assistance shall be provided without charge unless, in the aggregate, it exceeds two hours of effort in a single calendar month. Filevine may charge Subscriber to recover for the costs of labor incurred in excess of two hours.
- 10.3. Filevine will make records of its internal practices as well as its books and records relating to the Processing of Personal Information available to government agencies when required by applicable law for the government agency to determine compliance with the Privacy and Data Protection Requirements.
- 10.4. Filevine must not disclose Personal Information to any data subject or to a third party unless the disclosure is at Subscriber’s request or instruction, permitted by the Subscription Agreement or this DPA, or required by law.
11. PRIVACY IMPACT ASSESSMENTS.
- Upon request, Filevine shall provide reasonable cooperation and assistance to Subscriber in ensuring compliance with data security obligations, as well as in carrying out any data protection impact assessment or similar activity, including but not limited to, providing a description of processing operations, assisting with an assessment of the risks to the rights and freedoms of the data subjects to whom the Personal Information relates, and/or assisting with an assessment of the necessity and proportionality of the processing operations in relation to the underlying purpose. Filevine shall also cooperate and provide any assistance or information needed for Subscriber to engage in consultations with regulatory authorities or otherwise respond to requests for information from such authorities. Unless such request follows a Security Breach or is otherwise required by Privacy and Data Protection Requirements, Subscriber shall not make any such request more than once in any 12-month period.
12. TERM AND TERMINATION.
- 12.1. This DPA will remain in full force and effect so long as the Subscription Agreement remains in effect.
- 12.2. Any provision of this DPA that expressly or by implication should come into or continue in force on or after termination of the Subscription Agreement in order to protect Personal Information will remain in full force and effect.
- 12.3. If a change in any Privacy and Data Protection Requirement prevents either Party from fulfilling all or part of its Subscription Agreement obligations, the Parties will suspend the Processing of Personal Information until that Processing complies with the new requirements.
13. DATA RETURN AND DESTRUCTION.
- 13.1. On termination of the Subscription Agreement for any reason or expiration of its term, Filevine will destroy or, if directed in writing by Subscriber, return all or any Personal Information, in accordance with the relevant provisions of the Subscription Agreement.
- 13.2. If any law, regulation, or government or regulatory body requires Filevine to retain any data that Filevine would otherwise be required to

13.3. Filevine will certify in writing that it has destroyed Personal Information within thirty (30) days after it completes the destruction.

#### 14. AUDIT.

14.1. At least once per year, Filevine will retain an independent third party to conduct an audit of its data processing practices and the information technology and information security controls for facilities, infrastructure, and systems that are used to process Personal Information.

14.2. Upon Subscriber's written request, Filevine will make the relevant audit reports available to Subscriber for review. Subscriber will treat such audit reports as Filevine's confidential information and subject to the applicable confidentiality provisions of the Subscription Agreement.

14.2.1. Filevine's failure to comply with Section 14.1 or Section 14.2 shall not be considered a breach of this DPA or the Subscription Agreement unless Filevine also breaches Section 14.4 of this DPA.

14.3. Filevine will promptly address any issues, concerns, or exceptions noted in the audit reports with the development and implementation of a corrective action plan by Filevine's management.

14.4. If Filevine has not conducted an audit as described in Section 14.1 within the last year or if Filevine has declined to make the reports resulting from such audits available to Subscriber, Filevine will permit Subscriber, along with any third-party representatives Subscriber shall retain for this purpose, to audit Filevine's compliance with its DPA obligations, upon at least 21 days' notice, during the Term. Filevine will give Subscriber and its third-party representatives the necessary assistance to conduct such audits. The assistance may include, but is not limited to:

(a) in each case to the extent practical and reasonably necessary, and with Filevine's supervision, physical access, remote electronic access, and electronic access to the records and any other information held at Filevine's premises or on systems storing Personal Information;

(b) access to and meetings with any of Filevine's personnel reasonably necessary to provide explanations and perform the audit effectively; and

(c) inspection of pertinent records and the infrastructure, electronic data, or systems, facilities, equipment, or application software used to store, Process, or transport Personal Information.

14.5. In addition to the obligations set forth above, Filevine agrees to fully and honestly respond in writing annually to a security questionnaire from Subscriber. Subscriber agrees that Filevine shall not be required to respond to such a questionnaire more frequently than once each year. Filevine agrees to tender its responses to the questionnaire within six (6) weeks after Filevine receives it.

#### 15. LIMITATION OF LIABILITY.

Each Party's and all of its Authorized Affiliates' liability, taken together in the aggregate, arising out of or related to this DPA, and all DPAs between Authorized Affiliates and Filevine, whether in contract, tort or under any other theory of liability, is subject to the 'Limitation of Liability' section of the Subscription Agreement, and any reference in such section to the liability of a Party means the aggregate liability of that Party and all of its Authorized Affiliates under the Subscription Agreement and all DPAs together. For the avoidance of doubt, Filevine's and its affiliates' total liability for all claims from Subscriber and all of its Authorized Affiliates arising out of or related to the Subscription Agreement and all DPAs shall apply in the aggregate for all claims under the Subscription Agreement and all DPAs established under the Subscription Agreement, including by Subscriber and all Authorized Affiliates, and, in particular, shall not be understood to apply individually and severally to Subscriber and/or to any Authorized Affiliate that is a contractual party to any such DPA.

#### 16. NOTICES AND MISCELLANEA.

16.1. Any notice or other communication given to a Party under or in connection with this DPA must be in writing and delivered to:

For Subscriber: Subscriber's primary contact listed in the Sales Order.

For Filevine: Privacy@filevine.com.

16.2. Section 16.1 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any mediation, arbitration or other method of dispute resolution.

16.3. Notwithstanding anything to the contrary contained herein, and without prejudice to Section 6 ('Security') of this DPA, and compliance with Subscriber's instructions, Filevine reserves the right to make any updates and changes to this DPA. Updates and changes will be effective as of the time of posting, or such later date as may be specified herein. Subscriber's continued access or use of the Services after the modifications have become effective will be deemed Subscriber's acceptance of the modified DPA.

16.4. The Parties acknowledge and agree that, to the extent the Services contemplate the Processing of Personal Information that is subject to Privacy and Data Protection Requirements that require additional terms in this DPA, the Parties shall enter into an amendment to this DPA that addresses such additional terms.

The Standard Contractual Clauses are hereby incorporated into this DPA and available here:

[https://eur-lex.europa.eu/eli/dec\\_impl/2021/914/oj?uri=CELEX%3A32021D0914&locale=en](https://eur-lex.europa.eu/eli/dec_impl/2021/914/oj?uri=CELEX%3A32021D0914&locale=en)

The UK Addendum, issued by the ICO in accordance with s119A of the Data Protection Act 2018 and available below. In addition, for the purposes of the UK Addendum, Tables 1 through 3 shall be completed with the appropriate information in Annexes A through C to this Appendix. For Table 4, the option of “Exporter” and “Importer” shall be selected.

<https://ico.org.uk/media/for-organisations/documents/4019539/international-data-transfer-addendum.pdf>

The Standard Contractual Clauses are amended as follows:

#### Standard Contractual Clauses, Operative Provisions and Additional Terms

For the purposes of the Standard Contractual Clauses, Subscriber is the data exporter and Filevine is the data importer, and the Parties agree to the following. If and to the extent an Authorized Affiliate relies on the Standard Contractual Clauses for the transfer of Personal Information, any references to “Subscriber” in this Appendix, include such Authorized Affiliate.

1. The relevant provisions contained in the Standard Contractual Clauses are incorporated by reference and are an integral part of this DPA.
2. Docking clause. The option under clause 7 shall not apply.
3. Certification of Deletion. The Parties agree that the certification of deletion of Personal Information that is described in clause 8.5 and 16(d) of the Standard Contractual Clauses shall be provided by Filevine to Subscriber only upon Subscriber’s written request.
4. Instructions. This DPA and the Subscription Agreement are Subscriber’s complete and final documented instructions at the time of signature of the Subscription Agreement to Filevine for the Processing of Personal Information. Any additional or alternate instructions must be consistent with the terms of this DPA and the Subscription Agreement. For the purposes of clause 8.1(a), the instructions by Subscriber to Process Personal Information are set out in Section 3.1 of this DPA.
5. Security of Processing. For the purposes of clause 8.6(a), Subscriber is solely responsible for making an independent determination as to whether the technical and organizational measures set forth in the Appendix meet Subscriber’s requirements and agrees that (taking into account the state of the art, the costs of implementation, and the nature, scope, context and purposes of the Processing of its Personal Information as well as the risks to individuals) the security measures and policies implemented and maintained by Filevine provide a level of security appropriate to the risk with respect to its Personal Information. For the purposes of clause 8.6(c), personal data breaches will be handled in accordance with Section 7 of this DPA.
6. Audits of the SCCs. The Parties agree that the audits described in clause 8.9 of the Standard Contractual Clauses shall be carried out in accordance with Section 14 of this DPA.
7. General authorization for use of Sub-processors. Option 2 under clause 9 shall apply. For the purposes of clause 9(a), Filevine has Subscriber’s general authorization to engage Sub-processors in accordance with Section 9 of this DPA. Filevine shall make available to Subscriber the current list of Sub-processors in accordance with Section 9.2 of this DPA. Where Filevine enters into Standard Contractual Clauses with a Sub-processor in connection with the provision of the Services, Subscriber hereby grants Filevine authority to provide a general authorization on Controller's behalf for the engagement of sub-processors by Sub-processors engaged in the provision of the Services, as well as decision making and approval authority for the addition or replacement of any such sub-processors.
8. Notification of New Sub-processors and Objection Right for new Sub-processors. Pursuant to clause 9(a), Subscriber acknowledges and expressly agrees that Filevine may engage new Sub-processors as described in Section 9.1 of this DPA. Filevine shall inform Subscriber of any changes to Sub-processors following the procedure provided for in Sections 9.2 and 9.5 of this DPA.
9. Complaints - Redress. For the purposes of clause 11, and subject to Section 10 of this DPA, Filevine shall inform Data Subjects on its website of a contact point authorized to handle complaints. Filevine shall inform Subscriber if it receives a complaint by, or a dispute from, a Data Subject with respect to Personal Information and shall without undue delay communicate the complaint or dispute to Subscriber. Filevine shall not otherwise have any obligation to handle the request (unless otherwise agreed with Subscriber). The option under clause 11 shall not apply.
10. Liability. Filevine’s liability under clause 12(b) shall be limited to any damage caused by its Processing where Filevine has not complied with its obligations under the GDPR specifically directed to Processors, or where it has acted outside of or contrary to lawful instructions of Subscriber, as specified in Article 82 GDPR.
11. Supervision. Clause 13 shall apply as follows:
  - 11.1. Where Subscriber is established in an EU Member State, the supervisory authority with responsibility for ensuring compliance by Subscriber with Regulation (EU) 2016/679 as regards the data transfer shall act as competent supervisory authority.
  - 11.2. Where Subscriber is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) and have appointed a representative pursuant to Article 27(1) of Regulation (EU) 2016/679, the supervisory authority of the Member State in which the representative within the meaning of Article 27(1) of Regulation (EU) 2016/679 is established shall act as competent supervisory authority.
  - 11.3. Where Subscribers is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) without however having to appoint a representative pursuant to Article 27(2) of Regulation

- 11.4. Where Subscriber is established in the United Kingdom or falls within the territorial scope of application of UK data protection laws and regulations, the Information Commissioner's Office shall act as competent supervisory authority.

11.5. Where Subscriber is established in Switzerland or falls within the territorial scope of application of Swiss Data Protection Laws and Regulations, the Swiss Federal Data Protection and Information Commissioner shall act as competent supervisory authority insofar as the relevant data transfer is governed by Swiss Data Protection Laws and Regulations.
12. Notification of Government Access Requests. For the purposes of clause 15(1)(a), Filevine shall notify Subscriber (only) and not the Data Subject(s) in case of government access requests. Subscriber shall be solely responsible for promptly notifying the Data Subject as necessary.

13. Governing Law. The governing law for the purposes of clause 17 shall be the law that is designated in the ‘Governing Law; Dispute Resolution’ section of the Subscription Agreement. If the Subscription Agreement is not governed by an EU Member State law, the Standard Contractual Clauses will be governed by either (i) the laws of France; or (ii) where the Subscription Agreement is governed by the laws of the United Kingdom, the laws of the United Kingdom.

14. Choice of forum and jurisdiction. The courts and venue under clause 18 shall be those designated in the Governing Law; Dispute Resolution section of the Subscription Agreement. If the Subscription Agreement does not designate an EU Member State court as having exclusive jurisdiction to resolve any dispute or lawsuit arising out of or in connection with the Subscription Agreement, the Parties agree that the courts of either (i) France; or (ii) where the Agreement designates the United Kingdom as having exclusive jurisdiction, the United Kingdom, shall have exclusive jurisdiction to resolve any dispute arising from the Standard Contractual Clauses. For Data Subjects habitually resident in Switzerland, the courts of Switzerland are an alternative place of jurisdiction in respect of disputes.

15. Conflict. The Standard Contractual Clauses are subject to this DPA and the additional safeguards set out hereunder. The rights and obligations afforded by the Standard Contractual Clauses will be exercised in accordance with this DPA, unless stated otherwise. In the event of any conflict or inconsistency between the body of this DPA and the Standard Contractual Clauses, the Standard Contractual Clauses shall prevail.

ANNEX A TO THE APPENDIX: Details of Processing

A. LIST OF PARTIES

orter(s):

	Subscriber, as identified in the relevant Sales Order.
	The Subscriber’s address, as identified in the relevant Sales Order.
erson’s name, position and contact details:	The Subscriber’s primary contact details, as identified in the relevant Sales Order.
relevant to the data transferred under these Clauses:	Receipt of the Services under and in accordance with the Subscription Agreement.
oller or Processor):	Controller

orter(s):

	Filevine, Inc.
	1260 Stringham Ave., Suite 600, Salt Lake City, Utah 84106
erson’s name, position and contact details:	Data Protection Officer Privacy@filevine.com
relevant to the data transferred under these Clauses:	Provision of the Services under and in accordance with the Subscription Agreement.
oller or Processor):	Processor

B. DESCRIPTION OF TRANSFER

of data subjects whose personal data is transferred (if applicable)	The categories of data subjects whose personal data is processed inclu account holders (i.e., Subscriber’s individual end users with access to a account) and (ii) Subscriber’s clientele and other individuals about whor Subscriber has given Filevine information or has otherwise interacted w Subscriber via the Services.
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of personal data transferred (if applicable)	Subscriber may upload, submit, or otherwise provide certain personal data to Filevine Services, the extent of which is typically determined and controlled by Filevine in its sole discretion, and may include the following types of personal data: <ul style="list-style-type: none"><li>Account holders: Identification and contact data (name, address, phone number, contact details, username); employment details (employer, job title, geographic location, area of responsibility).</li><li>Contacts: Identification and contact data (name, date of birth, gender, general, occupation or other demographic information, address, telephone number, contact details, including email address); IT information (IP address, browser data, cookies data, online navigation data, location data, browser history).</li></ul>
the nature of the data and the risks involved, such as for instance data sensitivity, data use limitation, access restrictions (including access only for staff having received specialized training), keeping a record of access to the data, restrictions for data transfers or additional security measures	N/A
frequency of the transfer (whether the data is transferred on a one-off or continuous basis)	On a continuous basis during the term of the Subscription Agreement.
the processing of the data	As described in the Subscription Agreement.
the purpose of the data transfer and further processing	As described in the Subscription Agreement.
the period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period	Duration of performance of the Services.
transfers to (sub-) processors, also specify subject matter, nature and duration of processing	As described in the Subscription Agreement.

C. COMPETENT SUPERVISORY AUTHORITY

The competent supervisory authority shall be the supervisory authority that has jurisdiction over the Data Exporter/Controller.

ANNEX B TO THE APPENDIX: Data Security

Filevine maintains a strong commitment to information security, compliance, and data privacy. Filevine aligns activities with industry recognized security best practices, compliance frameworks or privacy regulations (where applicable) and contractual obligations. As compliance frameworks and security or privacy obligations change, Filevine strives to update these security policies accordingly. Further information can be found at <https://www.filevine.com/security/>.

ANNEX C TO THE APPENDIX: Subprocessors

[Subprocessors List](#)

Last updated: May 16, 2024

Platform

[Case Management Software](#)

[Lead Management](#)

Company

[Careers](#)

[Events](#)

[Business Analytics](#)

[Billing & Time-keeping](#)

[eSignatures](#)

[Document Assembly](#)

[News](#)

**Resources**

[Help Center](#)

[Features](#)

[Integrations](#)

[Community](#)

[Case Studies](#)

**Support & Legal**

[Security](#)

[Subscription Agreement](#)

[Privacy Policy](#)

[End User Terms of Service](#)



**STATE BOARD OF TOWING**

**Bylaws**

**Effective: June 11, 2024**

# OREGON STATE BOARD OF TOWING

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# OREGON STATE BOARD OF TOWING BYLAWS

## Article 1: Governance

The Oregon State Board of Towing (“the Board”) was established by the 2021 Legislature with the authority to

- Adopt Administrative Rules to implement the laws regulating the towing industry under ORS 98.853 to 98.862 and administer additional statutes under the Board's jurisdiction,
- Carry out the provisions of ORS 822.250 to 822.290 and 822.995,
- Investigate allegations of violation of the laws and rules assigned to the Board, and
- If violations are found, assess civil penalties; or issue an Order to suspend, revoke, or deny a tow certificate issued by Oregon DMV (“DMV”) or a letter of appointment issued by Oregon State Police (“OSP”).

## Article 2: Mission Statement

The Oregon State Board of Towing is responsible for the protection of the safety and well-being of the public through the regulation of the towing industry by administering and enforcing the laws and rules of the State of Oregon, setting professional standards and expectations of the towing industry, and ensuring fairness and continuity of towing services provided by Oregon’s towing industry.

## Article 3: Bylaws

### Section 1: Bylaws Generally

1. The Board adopts these Bylaws establishing a governance structure for the conduct of Board business.
2. The Bylaws define the duties, authority limits and principal operating procedures for the Board.
3. Board policies supplement the Bylaws and guide Board operations.
4. If the Bylaws conflict with an Oregon Revised Statutes (“ORS”) ], or an Oregon Administrative Rules (“OAR”) of the Board, the statutes and then the rules will take preference.

### Section 2: Bylaws – Amendments

1. The Board may adopt new, or amend or repeal existing, Bylaws at any regular meeting of the Board by a majority vote of the members present.
2. Unless otherwise specified, amendments or suspension of the Bylaws will become effective when approved by the Board.
3. The written text of any proposed adoption, amendment, or repeal of a Bylaw is to be submitted in writing to the Chair and the Board Administrator at least sixty (60)

days prior to the regular scheduled Board meeting when the proposal is to be considered.

4. Upon receipt of a proposal to adopt, amend, or repeal a Bylaw the Board Administrator will:
  - a. Prepare and distribute the proposed modification to each Board member at least 10 days prior to the public Board meeting when the Board will review the proposed modification.
  - b. Post the proposed modification with the Board Meeting Materials available to the public, and
  - c. Include the topic “Bylaw Amendment” as part of the Board’s agenda for discussion during a public meeting.
5. A new, an amendment to, or repeal of an existing Bylaw may be proposed by the Board, its staff or committee, a Board collaborative partner, a state or local agency, or a member of the public.

### Section 3: Bylaw Review

The Board will periodically review the Bylaws to ensure the Bylaws remain in alignment with Oregon’s laws and the Board’s administrative rules, mission, and objectives.

## Article 4: Responsibilities of the Board

The Board:

1. Determines the Board’s Mission and ensures the Board’s Mission is kept current and aligns with the vision of the Oregon Legislature, the objectives of collaborative partners, the goals and standards of the towing industry, and the protection of the public.
2. Regulates the towing industry in the State of Oregon by exercising and carrying out the powers, rights, and duties expressly conferred upon the Board by the laws of the State of Oregon.
3. Interprets the laws and rules governing the towing industry in Oregon, ensuring that the laws and rules are administered fairly and effectively throughout the state.
4. Reviews Oregon laws, rules, and regulations to identify needs for definition, clarification, enforceability, ethical standards and practices, consistency of services, and protection of the public.
5. Adopts Administrative Rules under the Board’s rule making authority as necessary for the Board to fulfill its statutory role and legislative mandate.
6. Ensures the relevance and enforceability of Board rules, policies, procedures, and standards.
7. Periodically assesses the performance of the Board and its members, staff, committees, policies, and practices.

8. Develops policies and procedures ensuring the services rendered to stakeholders, industry members, collaborative partners, consumers, and the public are non-discriminatory, effective, and efficient.
9. Ensures the Board is run in an ethical and fiscally responsible manner.
10. Identifies the interests and needs of consumers and the public, encouraging the creation of services to meet protection, education, and resource needs within the areas of concern of the Board.
11. Assists, co-creates, and supports other state agencies and organizations in meeting the needs of the public, the towing industry, and partners by cooperation and sharing of information that will benefit all.

## Article 5: Leadership of the Board – Board Members

### Section 1: Appointments

1. The Board consists of nine members appointed by, and serving at the pleasure of, the Governor of the State of Oregon.
  - a. One member holding an Oregon Tow Business Certificate who represents a city in Oregon with a population of 100,000 or more;
  - b. One member holding an Oregon Tow Business Certificate issued by DMV, who represents a city in Oregon with a population of less than 100,000;
  - c. One member holding an Oregon Tow Business Certificate who has specialized knowledge in towing equipment and vehicles with a gross vehicle weight rating of more than 44,000 pounds;
  - d. One member holding an Oregon Tow Business Certificate who has specialized knowledge in towing vehicles with a gross vehicle weight rating of 26,000 pounds or less;
  - e. One member who represents the insurance industry who is a:
    - A. Licensed Property and Casualty Agent, adjuster or underwriter with a working knowledge of insurance as it affects the towing industry (including on-hook coverage.)
    - B. Certified Insurance Counselor, or other accredited or credentialed insurance professional specializing in risk assessment and management, liability, and property-casualty insurance.
  - f. One member who is a sworn officer from the Oregon State Police Tow Program;
  - g. One member who is the Chief of Police or the County Sheriff;
  - h. One member who is a member of the public and who
    - A. does not meet the requirements of any of the other appointed board positions; and
    - B. is able to objectively represent the concerns and needs of the general public related to towing operations and regulations within the State of Oregon.
  - i. One member who is a consumer advocate and who has:
    - A. familiarity with consumer education and outreach;

- B. volunteer or professional experience in the field of consumer advocacy, which might include but is not limited to legal, policy, or education; and
- C. general knowledge of relevant Oregon consumer protection laws.
- 2. Any position appointment based on a Board member's employment is automatically revoked if the Board member changes employment and no longer qualifies for the position.
- 3. Candidates seeking appointment for a board member position must:
  - a. Be a resident of the State of Oregon; and
  - b. Meet the requirements of the position applied for; and
  - c. Submit an online application to the Governor's Executive Appointments Team.
- 4. Only current appointed members of this Board may vote or serve as elected officers of the Board.

## Section 2: Terms

- 1. The term of each member of the Board is four (4) years from the date of appointment, except for the expiration dates of the initial terms of office under ORS 822.250.
- 2. A member of the Board may serve two consecutive terms of four (4) years each.
- 3. The Governor, at their sole discretion, may appoint a member of the Board to serve more than two consecutive terms to meet the needs of the Board and the public.

## Section 3: Resignation of Board Members

If it is necessary to resign, the Board Member will:

- 1. Send a letter of resignation to the Governor's Office of Executive Appointments with the effective date of the resignation.
- 2. Send a copy of the Letter to the Board Administrator.

## Section 4: Removal of Board Members

The Board, by majority consensus, may recommend that the Governor remove a board member from an appointed position, declare the position vacant, and appoint a successor to the vacant board position for just cause, including:

- 1. Three (3) unexcused absences or other neglect of duty as a board member;
- 2. Use of the board appointment for financial gain or to avoid financial detriment;
- 3. Unauthorized use or disclosure of confidential information;
- 4. Conduct in violation of Oregon government standards and practices laws;
- 5. For the protection of the public or integrity of the Board; and
- 6. For other just cause determined reasonable by the Board.

## Section 5: Vacancies and Recruitment of Board Members

- 1. When possible, departing Board Members are expected to recruit candidates to apply for their respective board positions.

2. When a known vacancy is to occur, Board staff will contact the professional organizations representing the soon-to-be vacant position.
3. The following information will be posted on the Board's website and available to the public:
  - a. Board positions and term expiration dates
  - b. Position qualifications
  - c. Current or upcoming vacancies
  - d. Link to the Online Application on the Governor's website with basic instructions.
4. Board Members seeking reappointment of a second term will submit an online application to the Governor's Executive Appointments team 60 days of the expiration of the current term.
5. The Board will review the applications to confirm candidates meet the position requirements and may recommend an applicant for appointment; however, the Governor has the final authority of appointment of a board member.
6. A Board member who has reached the end of their term may continue to serve until the Governor has appointed a successor.

#### Section 6: Board Member Communications

1. The Board's authority is vested in the Board collectively, and not in any individual Board Member.
2. Members do not speak on behalf of the Board unless authorized to do so by the Board.
3. The Chair and the Board Administrator are the delegated authority to speak on behalf of the Board as directed by the Board and Board policies.

#### Section 7: Indemnification of Board Members

Board members will have indemnification rights under ORS 30.285.

### Article 6: Leadership of the Board - Officers of the Board

#### Section 1: Officers of the Board

1. The officers of the Board are Chair and Vice Chair.
2. The Board may establish additional officers of the Board as it deems necessary to conduct Board business.
3. Elected Officers of the Board must be voting Board members.
4. The officers have the powers and duties set out in these Bylaws, and as directed by the Board, by Board policies, or by law.

#### Section 2: Chair

The Chair:

1. Will preside at all Board meetings and has the right to vote on all matters before the Board, unless the Chair is a tow member and subject to a vote rotation under ORS 822.255.

2. Will ensure the officers and members of the Board observe the Bylaws and that the decisions of the Board are carried out.
3. Is the designated representative of the Board as directed by the Board.
4. Will perform such other duties as assigned by the Board.

### Section 3: Vice Chair

The Vice Chair will:

1. In the absence of the Chair or in the event of the Chair's inability or failure to act, perform the duties of the Chair, and when so acting, has the powers of and is subject to all the restrictions upon the Chair.
2. Perform a monthly review of the fiscal transactions of the Board.
3. Perform such other duties as assigned by the Board.

### Section 4: Past Immediate Chair

The Immediate Past Chair will:

1. Perform the duties of the Chair and/or Vice Chair in the absence of the Board Chair and/or Vice Chair, as long as the Immediate Past Chair remains a voting member of the Board.
2. Serve on the Board's Executive Committee.
3. Perform such other duties as assigned by the Board.

### Section 5: Member Emeritus

1. In recognition of the leadership and dedication of the Board Members, any voting board member who no longer meets the requirements of an appointed Board position, or who has not been appointed by the Governor to serve an additional term, may serve the Board as a Member Emeritus.
2. A Member Emeritus is a non-voting member of the Board who may attend and participate in all Board meetings as if an appointed board member,
3. Will not participate in a vote on any matter before the Board, either by consensus or by roll call vote.
4. Will perform such other duties as assigned by the Board.

## Article 7: Leadership of the Board –Elections, Terms, Resignation, Vacancies

### Section 1: Elections

The Chair and Vice-Chair, and any additional elected board officers, are elected from the appointed members of the Board at the last Board meeting of the fiscal year.

### Section 2: Nominations

Nominations for each officer are conducted in a public board meeting as follows:

1. The Chair asks for nominations from the floor.

2. Board Members may move to nominate a candidate for the position.
3. Board Members may nominate themselves.
4. A nominee may decline a nomination.
5. Nominations are closed after all nominations are taken.
6. The Chair will ask for a close of nominations when it's clear that all members have had an opportunity to nominate their candidates.
7. Nominees, appointed Board Members, Emeritus Members, and Board Advisors designated by the Board may discuss the nominees, position requirements and expectations, and recommendations of a nominee.

### Section 3: Voting

1. Board vote on the Nominees are conducted during public session of a Board.
2. A vote may be conducted by consensus, a show of hands, roll call, or ballot at the discretion of the Chair.
3. If the vote is conducted by ballot, the ballots are tallied by the Board Administrator and verified by the DMV Program Manager or their designee.
4. All appointed members of the Board are eligible to vote on the elective positions of the Board, including the nominees.

### Section 4: Term of Office

1. The term of office for elected positions of the Board is one year.
2. A person may be elected to the same office for two consecutive terms.
3. The term of an elected office begins July 1 each year, and ends June 30 the following year.
4. Both the current officer and the officer-elect will attend meetings and participate in discussions and decisions required of the position between the date of election and the beginning of an elected term.

### Section 5: Resignation of Officers

1. An officer of the Board may resign at any time by delivering written notice to the Chair (or, if the resigning officer is the Chair, to the Vice Chair) and the Board Administrator.
2. An officer who resigns from office is not required to resign as a board member.

### Section 6: Removal of Officers

Any Board officer may be removed from such office by a two-thirds majority of the Board's vote at a meeting of the Board called expressly for that purpose.

### Section 7: Vacancies

1. **Chair.** A vacancy in the office of the Chair will be filled for the remainder of the unexpired term by the Vice-Chair.



2. **Vice Chair.** A vacancy in the office of Vice-Chair will be filled by election of the members of the Board at the Board meeting when the vacancy is announced.
3. **Chair and Vice Chair.** If vacancies occur in the offices of both Chair and Vice-Chair at the same time, the Board will elect a Chair and Vice-Chair to serve the remainder of the unexpired terms at the soonest public Board Meeting.
4. **Immediate Past Chair.** In the event the most recent Immediate Past Chair retires from the Board or is unable to meet the expectations of the position, the next most recent immediate past chair may become the Immediate Past Chair.

## Section 8: Eligibility for Consecutive Terms

Appointment or election to the office of Chair or Vice Chair due to vacancy will not prevent election to the same office to two consecutive terms unless the unexpired term of the vacated office is more than six (6) months.

## Article 8: Leadership of the Board – Board Administrator

### Section 1: Appointment

The Board Administrator position is appointed pursuant to the requirements of ORS 822.260 and the policies of the Board.

### Section 2: Responsibilities

The Board Administrator:

1. Is responsible for the general administration and implementation of the Board's affairs in accordance with the general policies established by the Oregon Statutes, Oregon Administrative Rules, Board Policies, and the Board's Bylaws.
2. Has signature authority for compliance documents, final orders, subpoenas, and other official documents and disciplinary actions as delegated by the Board.
3. Has signature authority of Contested Case Hearing Final Orders and Stipulated Agreements Final Orders upon Board approval of the Final Order.
4. Ensures Board compliance with the requirements of the proposed rules process, notices, and hearings.
5. Has other responsibilities and duties as assigned by the Board.

### Section 3: Annual Review

1. The annual performance review of the Board Administrator is coordinated by the Board's Executive Committee.
2. A summary of the performance review is presented by an Executive Committee member during the Board's Annual Meeting.

### Section 4: Extended Leave or Vacancy

1. In the event of extended leave or a vacancy, an interim Board Administrator may be appointed after Board consultation with the Governor's Office of Executive Appointments.

2. Oregon Dept. of Transportation will continue to render the necessary support and assistance during an extended leave or vacancy.

## Article 9: Board Meetings

### Section 1: General Conduct of Meeting

The Board will use, at its discretion, Robert's Rules of Order for the conduct of business at Board Meetings and committee meetings.

### Section 2: Meeting Agendas

1. Meeting Agendas are prepared by the Board Administrator at the direction of the Board and in consultation with the Board Chair.
2. Each Regular Board Meeting Agenda will include:
  - a. Board Administrator and Compliance Reports.
  - b. A report on the expenditures and financial receipts of the Board.
  - c. Committee Reports as applicable.
  - d. Allocated time for public comment.
3. Discussions and actions during Board meetings may include any business consistent with the duties and responsibilities of the Board.

### Section 3: Records and Minutes

1. Written notes or minutes are kept of all Board, committee, or subcommittee meetings, including Board Executive Session and Work Sessions.
2. Notes or written minutes are drafted by Board staff and approved by the Board.
3. Notes or written minutes are made available to the public through the Board's website or upon request.
4. The notes or written minutes will show:
  - a. The time and place of the Board meeting.
  - b. The names of the Board members present.
  - c. A statement of each matter brought before the Board.
  - d. A record of the vote of each Board member if a vote, unless a vote by consensus, is taken.
  - e. Materials reviewed or discussed by the Board are made available to the public prior to the Board meeting, and attached to, or made available with, the final minutes.
  - f. Will reflect the subject and outcome of each vote.
5. Minutes of matters discussed in Executive Session exempt from public disclosure are kept separately and clearly labeled confidential.
6. Board records will be in the custody of the Board Administrator at the Board's physical address.

#### Section 4: Participation in Board Meetings

1. Deliberation of issues on matters before the Board is conducted by appointed Board Members, Member Emeritus, Board partners and advisors, and other persons recognized by the Chair.
2. Public Board Meeting and work session Agendas will include time reserved for public comments or statements.
3. Public comments are subject to time and topic limits as determined by the Chair to allow for public participation and conduct of Board business.
4. The purpose of public comment sessions are to provide an opportunity for public input Board for consideration; while the Board may ask clarifying questions, the Board will not discuss individual complaint or confidential information, or enter into discussions with the public during the public comment session of a public board meeting.
5. Attending public demonstrating disrespectful or disruptive conduct, or who are unwilling to take direction from the Board, may be removed from a public meeting or work session.
6. Individuals other than Board Members wishing to present or introduce topics to the Board outside of the Agenda may submit a written request to the Board Administrator at least three weeks prior to a scheduled public meeting.

#### Section 5: Voting and Quorum

1. A majority of the appointed positions of the Board constitutes a quorum for the transaction of Board business.
2. When the Board is deliberating or voting on a matter before it, four members of the board constitute a quorum.
3. Appointed members will have one vote on all matters before the Board, except as required under ORS 822.255 (4).
7. Matters under consideration by the Board are decided by consensus or a majority vote of a quorum of the Board at the discretion of the Chair.

#### Section 6: Annual Meeting

The Board will hold an Annual Meeting at least once every calendar year to discuss Board organizational and operational matters, including:

1. Review the accomplishments from the previous year.
2. Review, modify, or create a Board Business Plans.
3. Review Board operations and infrastructure.
4. Identify concerns, goals, and critical tasks for the upcoming year.
5. Strategic planning sessions to create actions plans, identify Board long and short-term goals, identify Legislative Concepts and concerns, and identify other Board objectives or action.
6. Annual Performance Evaluation of the Board Administrator.
7. Conduct other official business of the Board.

## Article 10: Board Committees

In full compliance with the legislative intent under ORS 183.33, the Board may appoint committees to solicit insight and recommendations from partners, the towing industry, and the public, subject to the requirements of applicable law.

### Section 1: Board Committees - Generally

1. From time to time, committees may be appointed by the Board to complete specific tasks or projects for recommendation of Board action.
2. Special committees may be authorized and appointed by the Chair to meet urgent or emergency needs.
3. All committees will report to the Board.
4. The duties of committees, membership, and reporting requirements of such committees are determined on creation of the committee.
5. Committee members will act as conduits for the exchange of information between the constituency, the agencies and organizations they represent, and the Board.
6. Any committee of the Board and the members of any such committee serve at the pleasure of the Board.
7. The Board will consider Committee recommendations when drafting proposed administrative rules and adopting policies and procedures.
8. Committee members are voluntary positions and will not receive compensation for participation in a Board committee.

### Section 2: Board Committees – Authority

1. The Committee's authority is vested in the Committee collectively and not in any individual Committee member.
2. Committee members have the authority to make recommendations for action to the Board.
3. Committee members, individually or collectively, have no authority to make statements or make representations on behalf of the Board.
4. Committee members cannot make decisions for the Board or obligate the Board on a course of action.

### Section 3: Board Committees - Appointments/Recruitment

1. Appointments may be made:
  - a. Directly by the Board
  - b. Through an application process, or
  - c. Through recruitment by Committee Members and approval of the Board
2. In selection of Committee members, the Board will consider the interests of the Board's state and local partners, the industry, consumer advocates, law enforcement, ODOT and Oregon DMV, other state agencies, and other groups or organizations with an interest in the subject matter assigned to the Committee.

3. The Board's committee appointment process will represent the State of Oregon's diversity and inclusion objectives and guidelines.

#### Section 4: Board Committees - Membership

1. The Board will determine the number of committee members of each committee.
2. The Board may, at its discretion or under a request by the Committee, increase or decrease the number of required active committee members of a committee.
3. No more than three appointed Board members may serve on a single Board Committee.

#### Section 5: Board Committees - Terms

Committee Members are appointed until conclusion of the committee assignment, a member's resignation, or by removal by the Board.

#### Section 6: Resignation of Committee Members.

If it is necessary to resign, the Committee Member should send a letter of resignation to both the Committee Chair and the Board Administrator with the effective date of the resignation.

#### Section 7: Removal of Committee Members

The Board may remove a committee member for reasons determined reasonable by the Board, including:

1. Three (3) unexcused absences or other neglect of duty as a committee member.
2. Failure or inability to fulfill the obligations of a Committee Member.
3. Use of the committee appointment for financial gain or to avoid financial detriment;
4. Unauthorized use or disclosure of information obtained or reviewed by the Committee.
5. Conduct in violation of Oregon government standards and practices laws;
6. For the protection of the public or integrity of the Board.

#### Section 8: Vacancy

In the event of vacancy, the Board may appoint another person to the Committee.

### Article 11: Board Committees – Meetings

#### Section 1: Public Meeting Requirements

Committee meetings must comply with Public Meeting requirements.

#### Section 2: Quorum

One-half of the appointed Committee Members of the Committee constitutes a quorum for purposes of discussions and consensus of recommendations to the Board.

### Section 3: Participation

1. Committee decisions and recommendations are by consensus of Committee members.
2. Committees are encouraged to allow non-members to make public comments or express opinions to the Committee at Committee Meetings, provided the non-members adhere to the subject and limit their presentation as requested by the Chair.

## Article 12: Board Committees – Types of Committees

### Section 1: Types of Committees, Generally

1. Standing, special, ad hoc, and sub-committees may be created by the Board and may be suspended or abolished in the same manner.
2. Nothing in this section requires the Board to establish a Committee, nor is the Board's authority limited in the designation or appointment of committees.

### Section 2: Board Member Committee

The Board or Board Chair may appoint a Board Member Committee of no more than three appointed board members to research any topic or subject on behalf of the Board.

### Section 3: Executive Committee

1. The Executive Committee will consist of the immediate past Chair, the current Chair, and the current Vice-Chair.
2. The Chair of the Board will also serve as the Chair of the Executive Committee.
3. The Executive Committee is responsible for coordinating:
  - a. The annual performance review of the Board Administrator.
  - b. The recruitment and appointment process of the Board Administrator in the event of a vacancy.
  - c. Delegation or oversight of the Board Administrator duties in the event of a temporary or permanent vacancy.
  - d. Other duties as assigned by the Board.

### Section 4: Rules Advisory Committee

1. The Board may appoint Rules Advisory Committees (RAC) as needed to meet the legislative intent of public input in the Board's proposed administrative rules process.
2. In addition to the general reporting requirements, RACs are to provide recommendations to the Board:
  - a. Whether the rule will have a financial impact,
  - b. Who is financially impacted by the rule,
  - c. How individuals or businesses may be impacted,
  - d. The extent of the financial impact of the rule, and
  - e. Whether the rule will have a significant adverse impact on small businesses.

3. If the RAC finds that the rule may have a significant adverse impact on small businesses, the RAC will provide recommendations on compliance with [ORS 183.540 \(Reduction of economic impact on small business\)](#).

#### Section 5: Rules Review Committee

Beginning in 2028, the Board will appoint a Rules Review Committee consisting of the Board Administrator, the Board Chair, other appointed Board Members or Emeritus Members, representatives from state and local agencies, the towing industry, consumer advocates, and other partners and public members to review Administrative Rules adopted by the Board in the previous five years in compliance with ORS 183.405.

ADOPTED by the State Board of Towing on the \_\_\_\_ day of \_\_\_\_\_, 2024.

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Chuck Riley, Chair



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# State Board of Towing

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## Compliance Report

To: SBOT Board Members

From: Torey McCullough, Board Administrator

Date: June 11, 2024

### Complaints:

- Complaints and complaint inquiries have been responded to, but not tracked due to lack of an efficient tracking system.
- The new Case Management System will allow tracking of phone calls and inquiries in real time which will allow for more accurate data tracking and reporting.
- Top complaint themes remain:
  - Private Property Impounds (both valid and invalid tows).
  - Law Enforcement Tows (generally after accidents).
  - Code Enforcement tow complaints are down.
  - Rates and Fees continue to be a common concern across all of the complaints.

### Improved Complaint Process with Case Management System:

- The online complaint form will use conditional logic; complaint questions answered online can be specific to the type of complaint.
- Complainants will be able to upload complaint documents directly to the case file.
- Follow up emails can include missing items; uploads of the documents will be tracked by the system as completed.
- Reminder emails of missing components can be scheduled using the CMS workflow process.
- Respondents will also be able to upload documents directly to the case file.
- Permissions can be granted within case files and documents to allow the access of investigation documents to the Board's investigation partners. Investigation partners will also be able to upload their reports and photos directly into the case file through a secure link.
- The Board will be able to track and report on many data matrixes, including:
  - Incoming calls can be better tracked; reports can be run showing complaint topics, narrative descriptions, etc.
  - How many complaints were received and current status of complaints
  - Valid Tow Complaints (vs. non-valid)

- 
- Resolution:
  - If complaint was not a board complaint, which partner agency the complaint was forwarded to.
  - How many complaints were resolved prior to Board intervention, under a Stipulated Agreement, or Final Order.
  - Ability to tag specific complaints for identifying specific issues for Board discussion and policy or education research.
  - Ability to search complaints by Respondent, Complainant, or Category
  - Confidential complaint information will be available to the Board members for review prior to the Board meeting through a secure login instead of requiring the case files be sent via mail on a flash drive.
  - A report can be run showing public complaint data, without having to export to excel to manually manipulate the data.
  - Time and cost management, this information will assist with the Board determining:
    - Time, cost and expenses of an investigation
    - Evaluate processes for better response and engagement
    - Evaluate staffing resources

Attached is an updated Complaint Tracking Form showing key data points to be tracked in the CSM and reports.

[July 23, 2024:](#)

Special meeting for the Board to review 2024 complaints with:

- The new data system
- The new public policies related to PPIs and authorized signatures



Oregon State Board of Towing  
ICO DMV HQ - Program  
Services  
1905 Lana Ave., NE  
Salem, OR 97304

## Complaint Tracking Data

### General:

- ☐ Date Received:
- ☐ Case No.
- ☐ Tow Business Certificate? Y/N
- ☐ Previous Discipline? Y/N
- ☐ Current Status
- ☐ Closed:
  - o Date:
  - o Reason:
  - o \_\_\_\_\_ of days from receipt to closed

### Type of Tow Service

- ☐ Abandoned Vehicle
- ☐ Collision/Wreck Tow
- ☐ Customer Call - Private Tow
- ☐ Involuntary/Unauthorized Tow from private parking facility (PPI)
- ☐ Law Enforcement/Code Enforcement Tow (vehicle towed for violation of parking or city codes)
- ☐ Law Enforcement (arrest)
- ☐ Recovery Services
- ☐ Repossession
- ☐ Salvage/Dismantler Tow
- ☐ Service Tow (AAA, Dealership, Insurance)
- ☐ Other:

### Allegations

- ☐ Business Hours
- ☐ Damage to Vehicle
  - o During Tow
  - o During Storage
- ☐ Fee/Charges/Rates
- ☐ Missing or Stolen Items
- ☐ Not Granted Access to Personal Items
- ☐ Personnel/Employment Issues
- ☐ Possessory Lien Errors
- ☐ Professionalism of Tow Operator
- ☐ Refusal to provide documents/pictures
- ☐ Safety Concerns
- ☐ Title or Registration Issues (lawful ownership)
- ☐ Unauthorized Tow
  - o Specify:
- ☐ Other:

### Complaint

#### How Complaint was received

- ☐ Online
- ☐ Email
- ☐ Mailed
- ☐ In-Person
- ☐ Phone
- ☐ Other:

#### Complainant

- ☐ Consumer
- ☐ Consumer's Representative
- ☐ DMV Business Services
- ☐ DMV Vehicle Services
- ☐ DOJ Consumer Complaints
- ☐ Law Enforcement/Code Enforcement:
  - o Specify: Which Dept.
- ☐ ODOT
- ☐ Other Agency/Organization:
  - o Specify

<p><i>Complaint:</i></p> <p><input type="checkbox"/> Board complaint? <input type="radio"/> Yes</p> <p><input type="checkbox"/> If No:</p> <p><input type="checkbox"/> Complainant missing.</p> <p><input type="checkbox"/> Complainant not registered owner.</p> <p><input type="checkbox"/> No Violation (<i>specify</i>)</p> <p><input type="checkbox"/> Not Substantiated (<i>specify</i>)</p> <p><input type="checkbox"/> No Jurisdiction (<i>specify</i>)</p> <p><input type="checkbox"/> Other Authority</p> <p>    <input type="radio"/> Specify:</p> <p><input type="checkbox"/> Respondent Unidentified/Cannot Locate:</p> <p>    <i>Was Respondent Contacted: Y / N</i></p>	<p><i>Claimed Loss</i></p> <p><input type="checkbox"/> Claim Lost:</p> <p>    <input type="radio"/> Damages:</p> <p>    <input type="radio"/> Fees:</p> <p>    <input type="radio"/> Other:</p> <p><input type="checkbox"/> Tow Fees</p> <p><input type="checkbox"/> Documented loss</p>
<p><i>Board Action:</i></p> <p><input type="checkbox"/> Board Review Date:</p> <p><input type="checkbox"/> Board Vote:</p> <p>    <input type="radio"/> Continue to Investigation</p> <p>    <input type="radio"/> Dismiss</p> <p>    <input type="radio"/> LOC/Education Letter</p> <p>    <input type="radio"/> Notice of Proposed Action</p> <p>    <input type="radio"/> Violations:</p> <p>    <input type="radio"/> Amount of Civil Penalties</p>	<p><i>Work flow:</i></p> <p><input type="checkbox"/> Complaint Reviewed Date:</p> <p><input type="checkbox"/> Staff Review Date:</p> <p><input type="checkbox"/> Initial Assessment</p> <p><input type="checkbox"/> Contact Complainant</p> <p>    <input type="radio"/> Missing Documents</p> <p>    <input type="radio"/> Not a Board issue</p> <p>        <i>Forward Complaint info to Appropriate Agency</i></p> <p><input type="checkbox"/> Board review</p> <p><input type="checkbox"/> Forward to investigation</p> <p><input type="checkbox"/> Documentation from Respondent Received</p> <p><input type="checkbox"/> Investigation report complete and reviewed</p> <p><input type="checkbox"/> Board case packet complete</p> <p><input type="checkbox"/> Board vote</p> <p><input type="checkbox"/> Board action</p> <p><input type="checkbox"/> Action Item drafted (LOC, Notice)</p> <p><input type="checkbox"/> Complainant updated with status</p> <p><input type="checkbox"/> Docketed for 20 days</p> <p><input type="checkbox"/> Final Default Order</p> <p><input type="checkbox"/> Docketed for 60 days</p> <p><input type="checkbox"/> Resolution in lieu of final order</p> <p><input type="checkbox"/> Contested Case Hearing Request received</p> <p><input type="checkbox"/> Hearing Request received</p> <p><input type="checkbox"/> Board Response</p> <p><input type="checkbox"/> Respondent Response</p> <p><input type="checkbox"/> Request forwarded to DOJ/Office of Admin Hearings</p> <p><input type="checkbox"/> Discovery Deadlines</p> <p><input type="checkbox"/> Motion for Dismissal</p> <p><input type="checkbox"/> Hearing Date</p> <p><input type="checkbox"/> Admin Law Judge Opinion</p> <p><input type="checkbox"/> Draft Proposed Order</p> <p><input type="checkbox"/> Exceptions</p> <p><input type="checkbox"/> Final Order - draft</p> <p><input type="checkbox"/> Exceptions</p> <p><input type="checkbox"/> Final Order</p> <p><input type="checkbox"/> Judicial Review? Y/N</p> <p><input type="checkbox"/> Final Order</p>

<i>Payment/Collections:</i> <input type="checkbox"/> Notice of Amount Due: <input type="checkbox"/> Courtesy Letter (30 days) <input type="checkbox"/> Final Notice (60 days) <input type="checkbox"/> To Collections (90 days)	<i>Investigation:</i> <input type="checkbox"/> Date Assigned: <input type="checkbox"/> Investigator: <input type="checkbox"/> Report Received: <input type="checkbox"/> Date Prepared for Board Review: <input type="checkbox"/> Board Review: _____ of days from receipt to investigation _____ of days from receipt to Board Review _____ of days from receipt to close
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For Discussion Purposes Only

For Discussion Purposes Only





**Case Tracking Data**  
Oregon State Board of Towing  
ICO DMV HQ - Program  
Services  
1905 Lana Ave., NE  
Salem, OR 97304

## Other Demographics

*Consumer Information:*

☐ Zip Code/County?

*Tower Information:*

- ☐ Zip Code/County?
- ☐ Tow Business Certificate? Yes/No
- ☐ Previous Discipline? Yes/No
  - Agency:
  - Number:



June 11, 2024 Board Meeting  
Work Session Materials  
PPI Objectives and Policy Expectations



# State Board of Towing PPI Initial Concept Summary – Work Session Objectives June 11, 2024

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**DRAFT**  
**for Discussion Purposes Only**



## State Board of Towing PPI Initial Concept Summary – Work Session Objectives June 11, 2024

### Review and Discuss Initial Concept Summary.

The Board reviewed the first draft of the Initial Concept document for signed authorizations making corrections, accepting public comments, and defining the following:

### Verify:

#### Intent of Board Policy:

The intent and purpose of the PPI laws, rules and policies is to:

1. Protect the public and tenant from unlawful, unethical, or unprofessional tow practices.  
Note: these tow practices may be the result of the actions of either (1) the tower (2) the landlord, property owner, or its agent
2. Empower private property owners and their agents to protect their property, tenants, and the public from unlawful, unethical, or unprofessional tow practices.
3. Allow management of parking facilities to customize parking requirements for tenants as needed.
4. Provide protection to tow companies and their towers complying with the PPI requirements.
5. Allow transparency in the PPI process and a defined course of action for individuals whose vehicles were towed without required authorization.
6. Provide transparency and legal protection for towers, private property parking lot owners, and their agents, who comply with Oregon's PPI laws and rules.

#### Per statute:

- Towers do not have the legal authority to authorize tows under any statute.
- Towers can only tow vehicles when the tow is requested or authorized from a person granted the legal authority to do so in statute.
- Towers are prohibited by law from acting as an owner's agent in PPI tows.

#### For the purposes of ORS 98.854 (2) – (4)

The parking facility owner, or its agent, has the responsibility and accountability to confirm authorized tows are conducted in compliance with the parking facility rules and Oregon's laws and regulations.

The tower must obtain an authorized signature from the parking facility owner, or owner's agent, affirming and verifying that the authorization to tow the vehicle is in compliance with the parking facility rules and Oregon's laws and regulations.

A tow company, its employees, affiliates, or any person or business associated with the tower cannot act as an owner's agent to authorize a tow when there exists an actual or potential financial benefit to the tower, its principals, affiliate, its employees, or family members when the authorization creates an actual or potential conflict of interest for the tower.

## Discussion:

### Definition: ORS 98.853 (3) (a) and 98.856 - Operator

ORS 801.375 Owner:

*"Owner" when referring to the owner of a vehicle means:*

*(1) The person in whose name title to a vehicle is issued, and who is entitled to possession and use of the vehicle.*

*(2) If the title and right to possession and use for a vehicle are in different persons:*

*(a) The person, other than a security interest holder, who is entitled to the possession and use of the vehicle under a security agreement.*

*(b) The lessor or lessee of a vehicle, as designated by the lessor on the application for title, if the lessee is entitled to possession and use of the vehicle under a lease agreement.*

ORS 98.853 (3) (a) and 98.856 specify "owner or operator of vehicle".

Operator is not defined.

Issue:

Many of the PPI tows involve vehicles driven/operated by the owner's partner, friend, children. For the purpose of the PPI pre-tows only – who can the tow driver reasonably release the vehicle to before leaving the parking facility?

Possible definitions:

"Operator" or "driver" means a person who drives or is in actual or reasonable physical possession of a motor vehicle (bill of sale, keys, verified relationship with the owner)

Question for the Board:

Must the "operator" be legally licensed to drive for the purposes of releasing the PPI vehicle prior to towing?

## Discussion:

### Third-party contractors and surveillance options:

#### Security Companies

Security Entities or Security Personnel contracted or hired to act as an owner's agent for the purpose of authorizing PPI tows must:

1. Meet the DPSST licensure or certification requirements.
2. Be a contracted agent of the parking facility owner, not the tow company.
3. To protect the well-being of the public and the integrity of the towing industry, it is the intent and expectation of the Board that no tow company, its employees, family or principals will create a corporation, act under an assumed business name, or create an affiliated business to act as a parking facility owner's agent to monitor parking lot facilities for the purpose of identifying vehicles to be towed by the tower, a financially affiliated business, or in a quid pro quo relationship with another tower.

### 24-hour video surveillance

1. Posted signs



2. Surveillance conducted in accordance with Oregon's legal requirements
  - A. Monitored by the parking facility owner or their agent
  - B. Tower, its employees or agents cannot act as the parking facility owner's agent for the purposes of monitoring the private parking facility for parking violations.

## Question for Clarification/Discussion:

### Request or Authorization

Is there a difference between a REQUEST for a PPI and an AUTHORIZATION for a PPI.  
OR, does a request for a tow automatically define itself as an authorization?

## Discussion:

### Lawful, Unlawful, Valid and Invalid:

For purposes of Board compliance actions:

Suggested:

- Lawful and unlawful is used to incorporate all tow services and actions, including those tow services not under the jurisdiction of the Board;
- Valid and invalid tows are meant to clarify definitions of the PPI tows

### "Lawful tow" means:

A tow completed in compliance with Oregon's statutes, rules or ordinances.

*Meant to include the requirements under ORS Chapters 98, 819, 822, an administrative rule adopted by the board or another state agency regulating towing requirements or standards, or a rule or ordinance adopted by a city or county under ORS 822.230.*

### "Unlawful tow" means:

A tow completed in violation of one or more of Oregon's statutes, rules or ordinances. *Meant to include the requirements under ORS Chapters 98, 819, 822, an administrative rule adopted by the board or another state agency regulating towing requirements or standards, or a rule or ordinance adopted by a city or county under ORS 822.230.*

### "Valid tow" means:

A private property impound tow completed in compliance with Oregon's legal requirements *Including requirements of ORS 90.485, 98.853, and 98.854 or a rule of the Board.*

### "Invalid tow" means:

A private property impound tow completed without full compliance of Oregon's legal requirements.

*Including requirements of ORS 90.485, 98.853, and 98.854 or a rule of the Board.*

## Discussion:

### Invalid vs. Unlawful PPI Tows

*When is a PPI tow invalid, and when does it become unlawful?*

*Differences may be considered as Board addresses complaints, issues disciplinary actions:*

- ☐ No authorized signature from the owner or owner's agent at the time of tow
- ☐ Tow operator, dispatch, or tower's agent acts as the parking facility owner's agent to identify or authorize a vehicle to be towed.
- ☐ Signed authorization does not include all required information.
- ☐ There is no photograph taken by the tower that clearly shows the towed vehicle parked in violation of the parking facility rules prior to hook up.
- ☐ Failure to stop or cease hook up procedures when the vehicle owner or operator is present at the time of the tow.
- ☐ Unclear or inadequate signage posting.

### Tows deemed "invalid" due to a private parking facility owner's actions:

- ☐ failure to comply with ORS Chapter 90?
- ☐ authorizing a tow in violation of a lease agreement
- ☐ failure to post a required notice prior to towing

*Note: The Board does not have authority or jurisdiction over the lawful parking facility owners or their agents; recourse for the public for a tow conducted under the signed authorization of a facility owner or their agent, and otherwise meeting the tower requirements for a valid tow, remains a civil matter.*

### Indemnification as to the tower for the validity of the tows?

### Board expectation if a tow may be "invalid":

Expectation of tower in resolving an unlawful tow when notified or upon review of information by tower demonstrating that the tow is unlawful or not valid (prior to Board intervention).

### Expectation/process of the Board if a Board complaint is received:

## Discussion:

### Define expectations – “Photographs”

- (1) *Photo taken by the tower must show the vehicle parked and in clear violation of the private parking facility rules prior to hook up.*
- (2) *The intent of the photo is to clearly demonstrate the violation to the vehicle owner or the vehicle owner’s representative.*

### Best Practices:

- (1) *If there are posted signs, a photo, or series of photos, showing where the vehicle is parked in relation to the sign*
- (2) *If parking tags or placards are issued to tenants, photos clearly showing all windows, the dash of the vehicle, or any area of the vehicle where the parking sticker is to be placed are to be taken prior to the hook up of the vehicle to demonstrate violation.*
- (3) *If vehicle damage is observed by the tow operator prior to hook up, pre-tow pictures showing the damage for the tow records is suggested. Any damage sustained as a result of the tow should be documented in the company’s records.*

## Discussion:

### Board Expectations – Gate Fees, Appointments:

1. Gate Fee during regular business hours for PPIs?

No gate fee will be charged to the owner of a PPI vehicle for the purposes of retrieving a vehicle or emergency personal items per ORS 98.852 (6) “*Personal property of an emergency nature*” includes, but is not limited to, prescription medication, eyeglasses, hearing aids, clothing, identification, a wallet, a purse, a credit card, a checkbook, cash and child safety car and booster seats.

2. Appointments during business hours?

3. How many times is a tower required to allow someone access to their vehicle to retrieve personal items?

4. Is there a time limit for a person to retrieve items from the vehicle? (15 minutes, 30 minutes)?

5. At the tower's discretion, can the tow company request the vehicle operator to provide a list of items to be removed from the vehicle OR remove the items meeting the definition of ORS 98.852 (6)?
6. Should the definition of ORS 98.852 (6) be expanded for PPI tows? Perishable foods? Work items? Tools?
7. Other expectations?

## Discussion:

### Define expectations – Tow Agreements

ORS 98.854 (1) requires *a sign displayed in plain view at the parking facility that, using clear and conspicuous language, prohibits or restricts public parking at the parking facility.*

ORS 98.862 (1) requires *The motor vehicle is towed from a parking facility where the tower has provided the information on signs that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility.*

It is not the intent of the Board to limit or restrict the rights of a tower and a private parking facility owner to enter into an exclusive Tow Services Agreement, as long as the Agreement does not appoint or designate the tower as the parking facility owner's agent or representative for the purposes of authorizing the towing of a vehicle.

Towing Service Agreements verify the agreement between the tow company and the parking facility owner, including:

- Identifies the private parking facility owner and authorized agents
- Identifies the tower, and how a PPI is to be requested and authorized
- Verifies signage requirements and responsibility for maintenance of the signs
- Verifies notices are posted prior to the request if required by ORS Chapter 90
- Identifies response times from when a PPI tow is requested to when the tow might be expected (within an hour, four hours, etc.)
- Rights and resolutions for the owner of the towed vehicle
- Remedies for invalid tows

### Definition: "Towing Service Agreement" means:

- An agreement between a tower and a private parking facility owner allowing exclusive rights of a tower to post signs and tow vehicles from the parking facility when authorized at the time of tow. Such agreement:

- Will contain all information specified in Board's administrative rules.\*
- May not name or otherwise delegate the tower as the parking facility owner's agent for the purpose of authorizing private property impounds from the parking facility.

**\*Information requirements of a Towing Service Agreement:**

- TSAs do not replace the signed authorization requirement.
- Name of facility owner and authorized agents/representatives
- Parking facility location: each location must have a separate agreement
- Date of Service Agreement
  - Agreements must be renewed every ### years
- Recourse/remedy for invalid tows based on:
  - Parking facility owner/agent action
  - Tower action
- Other requirements?

**Board Expectations – Other circumstances:**

**“Parked with Permission”**

Clarification: Expectations when an employee (not the parking facility owner) gives permission to a tenant, guest, or member of the public to park at the facility in violation of signs or the parking facility rules (e.g., bar patron leaving vehicle overnight, visitor to apartment complex, overcrowding of parking lot, mechanical failure of vehicle, etc.)

**Discussed:**

***If the PPI is valid: not a board issue. It is the responsibility of the person requesting to leave their vehicle to communicate with the parking facility owner/agent to make arrangements.***

***Refer the consumer to the establishment who provided permission.***

**“Disabled vehicle”?**

ORS 98.853 (3)

*(a) If the owner or operator of the motor vehicle is present at the time of the tow, the tower shall release the motor vehicle at no charge unless the hookup is complete. If the hookup is complete, the tower shall release the motor vehicle and may charge the owner or operator of the motor vehicle a fee that does not exceed the charge to hook up for that type of tow as listed in a written statement described in ORS 98.856 (Tower responsibility of disclosure to owner or operator of vehicle).*

Is there a requirement that the

**Right to owner calling their own roadside service**

The owner of an incapacitated or disabled vehicle has the right to contact their own towing company or service (i.e., AAA, etc.) if that towing company or service can respond and remove the vehicle as long as:

Keeping in mind

- (1) The facility owner/agent must observe the vehicle parked in violation
- (2) Must request a tow from the tow company
- (3) Tow company response time

Is this a Board issue?

Suggested best practices/suggestions for the public?

#### Clarification: Vehicle hook up complete.

A tower completing a PPI will not refuse to release to the owner or operator, a motor vehicle that has been hooked or lifted but not removed from private property upon payment of the tow company's posted rates required in ORS 98.856.

#### Copy of Authorization remains with vehicle

What does the Board think about the following requirement:

*A copy of such authorization shall be posted with the vehicle by the person giving authorization, and shall remain with the vehicle until the vehicle is claimed by the owner.*

## Discussion – Commercial Property Exceptions

### Commercial properties

TBD by the Board:

Should there be an exemption to patrolling commercial properties by a tower when:

1. Commercial tenants in the property have posted regular business hours AND
2. There are signs posted that are clearly readable by an operator of a motor vehicle in each entrance to the parking facility, and each area within a parking facility, which reasonable informs the public of prohibited or restricted public parking on the parking facility AND
3. A notice is predominantly posted of the hours during which monitoring occurs on signs that are clearly readable by an operator of a motor vehicle in each parking stall OR at each entrance to the parking facility with additional signs posted as needed to inform members of the public of the monitoring requirement AND
4. No vehicle is towed from the parking facility without authorization from the parking facility owner or their agent.



### Vacant commercial buildings or vacant lots:

Different laws apply to private properties that are not parking facilities.

For the purposes of processing complaints and questions, what is the expectation for:

1. A commercial business/office is vacant, but there remains a parking area on the property.
2. An empty lot, portions of which may have previously used as a parking facility; currently no building on the lot.

**DRAFT**  
**for Discussion Purposes Only**

# OREGON STATE BOARD OF TOWING

## Initial Concept Summary Private Property Impounds - *Signed Authorization*

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# OREGON STATE BOARD OF TOWING

## Initial Concept Summary Private Property Impounds - *Signed Authorization*

### Definitions:

*The Board encompasses the following definitions from ORS 98.805*

(1) "Owner of a parking facility" means:

- (a) The owner, lessee or person in lawful possession of a private parking facility; or
- (b) Any officer or agency of this state with authority to control or operate a parking facility.

(2) "Owner of proscribed property" means the owner, lessee or person in lawful possession of proscribed property.

(3) "Parking facility" means any property used for vehicle parking.

(4) "Proscribed property" means any part of private property:

- (a) Where a reasonable person would conclude that parking is not normally permitted at all or where a land use regulation prohibits parking; or
- (b) That is used primarily for parking at a dwelling unit. As used in this paragraph, "dwelling unit" means a single-family residential dwelling or a duplex.

(5) "Tower" means a person issued a towing business certificate under ORS 822.205 (Certificate).

(6) "Vehicle" has the meaning given that term in ORS 801.590 ("Vehicle").

[1979 c.100 §2; 1981 c.861 §23; 1983 c.436 §2; 2007 c.538 §9; 2017 c.480 §1]

*As used in this Concept Summary:*

"Invalid tow" means:

A private property impound completed in violation of Oregon's legal requirements, including violation of a requirement of ORS 90.485, 98.853, and 98.854 or a rule of the Board.

"Lawful tow" means:

A tow completed in compliance with Oregon's statutory or legal requirements.

"Owner's agent" means:

1. A person or company employed by the parking facility owner to conduct business on behalf of the parking facility owner, including property management company or apartment managers.
2. Tenants operating a commercial business under a lease agreement between the tenant and the parking facility owner and
  - a. The lease agreement designates areas within the parking facility for use by the tenant's customers AND
  - b. Designates the terms and conditions when the tenant is authorized to act as the parking facility owner's agent for towing purposes.
3. A security firm or other third-party hired by the parking facility owner to monitor the parking facility and surrounding private property to identify trespassing or criminal activity in addition to violations of the parking policy violations.
4. For the purposes of authorizing PPIs, the following cannot act as the owner's agent:
  - a. May not be a manager or employee of the tow company,
  - b. An affiliated company or business under the same management, ownership, or operating at the same location of the tow company,
  - c. A third-party financially affiliated, employed or contracted by the tower or their employees,
  - d. Any person or business associated with the tower when there exists an actual or potential financial benefit to the tower, its employees, or family members as a result of the tow.

"Patrolling" means:

Patrolling or keeping a privately owned parking facility under surveillance by a tower or a tower's employee or agent for the purposes of identifying improperly or unauthorized parked vehicles to be towed by the tower, its employee, or its agent.

"Private property impound" or "PPI" means:

The impoundment of a vehicle from a private parking facility at the request of the property owner, operator, lessee, manager of the private property facility, or their authorized agent or representative, without the prior consent of the vehicle's registered owner.

**"Signed authorization" means:**

A document signed in person, by electronic signature, or via email showing:

1. The date and time of the authorization.
2. The signature, printed name, and title of the person authorizing the tow.
3. The location, make, model, color, and plate number of the vehicle to be towed.
4. The reason for the tow.
5. If required, affirms the tow authorization is in compliance with ORS 90.485
6. Signed by the owner of the parking facility or the owner's agent.
7. The authorized signature is invalid if signed by
  - A. The owner, manager, or employee of the tow company
  - B. An owner, manager, or employee of an affiliated tow company under the same management or ownership
  - C. A third-party employed or contracted by the tower or their employees
  - D. Any person or business associated with the tower when there exists an actual or potential financial benefit to the tower, its employees, or family members as a result of the tow.

**"Towing Services Agreement" means:**

An agreement between a tower and a private parking facility owner allowing exclusive rights of a tower to post signs and tow vehicles from the parking facility when authorized at the time of tow. Such agreement:

- A. Will contain all information specified in Board's administrative rules.
- B. May not name or otherwise delegate the tower as the parking facility owner's agent for the purpose of authorizing private property impounds from the parking facility.

**"Unlawful tow" means:**

A tow completed in violation of Oregon's legal requirements.

**"Upon Request" means:**

Upon request of the consumer, but no later than the next calendar day or at time of retrieval of vehicle, whichever comes first.

**"Valid tow" means:**

A private property impound completed in compliance of Oregon's legal requirements, including violation of a requirement of ORS 90.485, 98.853, and 98.854 or a rule of the Board.

## Board authority:

The State Board of Towing was established by the 2021 Oregon legislature:

ORS 822.265 Rulemaking authority

(1) In accordance with applicable provisions of ORS chapter 183, the State Board of Towing may adopt rules:

- (a) Necessary for the administration of the laws that the board is charged with administering.
- (b) To implement ORS 98.853 (Conditions allowing towing) to 98.862 (Exceptions to requirements of ORS 98.856).

## Legislative findings and history:

SB117, sponsored by Senators Riley and Manning, was introduced during the 2017 Legislative Session to protect the safety and wellbeing of the public and rental tenants from unnecessary harm caused by unprofessional towing practices used by a small number of Oregon towing companies.

SB 117 (with amendments) was unanimously passed by both House and Senate members present for the vote, signed by the Governor on June 27, 2017, and became effective January 1, 2018 as ORS 98.853 and amended ORS 98.854.

## Oregon's Towing Industry:

Vehicles offering commercial towing services in Oregon must be issued a DMV tow business certificate.

As of June 1, 2024, DMV data indicates:

- 2150 active tow business certificates are issued to:
- Approximately 775 – 850 individual towing companies

It is unknown how many of Oregon's towing companies participate in PPI tows.

## Identifying compliance issues:

The State Tow Board began accepting consumer complaints January 1, 2024.

Preliminary data, encompassing three months and approximately 70 complaints, show the majority of the complaints allege violations of the following statutes:

### ORS 98.853 Conditions allowing towing

(1) A tower may tow a motor vehicle if the motor vehicle:

- (a) Blocks or prevents access by emergency vehicles;
- (b) Blocks or prevents entry to the premises;
- (c) Blocks a parked motor vehicle; or
- (d) Parks without permission in a parking facility used for residents of an apartment and:

- (A) There are more residential units than there are parking spaces;
- (B) The landlord has issued parking tags or other devices that identify vehicles that are authorized to be parked on the premises; and
- (C) There are signs posted that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility prohibiting or restricting public parking on the parking facility.

(2) Prior to towing a motor vehicle pursuant to ORS 98.812 (Towing of unlawfully parked vehicle), a tower shall take at least one photograph of the motor vehicle and record the time and date of the photograph. The photograph must show the motor vehicle as it was left or parked at the time the tower arrived to conduct the tow. The tower shall maintain for at least two years, in electronic or printed form, each photograph taken along with the date and time of the photograph. Upon request, the tower shall provide a copy of any photographs to the owner or operator of the motor vehicle at no additional charge.

(3)

(a) If the owner or operator of the motor vehicle is present at the time of the tow, the tower shall release the motor vehicle at no charge unless the hookup is complete. If the hookup is complete, the tower shall release the motor vehicle and may charge the owner or operator of the motor vehicle a fee that does not exceed the charge to hook up for that type of tow as listed in a written statement described in ORS 98.856 (Tower responsibility of disclosure to owner or operator of vehicle).

(b) For purposes of this subsection, a hookup is complete if the motor vehicle to be towed has been loaded onto a tow vehicle, or if any part of the motor vehicle has been placed on or connected to an assembly that is part of a tow vehicle, such that the tow vehicle is capable of being in motion with the motor vehicle in tow.

### ORS 98.854 Prohibitions placed on tower.

A tower may not:

(1)

(a) Tow a motor vehicle from a parking facility unless there is a sign displayed in plain view at the parking facility that, using clear and conspicuous language, prohibits or restricts public parking at the parking facility.

(2) Except as provided in ORS 98.853 (Conditions allowing towing), tow a motor vehicle from a parking facility without first contacting the owner of the parking facility or the owner's agent at the time of the tow and receiving signed authorization from the owner of the parking facility or the owner's agent that the tower should tow the motor vehicle. The tower shall maintain for at least two years, in electronic or printed form, each signed authorization received under this subsection. Upon request, the tower shall provide a copy of the signed authorization to the owner or operator of the motor vehicle at no additional charge.

(3) Serve as an agent of an owner of a parking facility for the purpose of signing an authorization required by subsection (2) of this section.

(4) Tow a motor vehicle from a parking facility if the owner of the parking facility or the owner's agent is an employee of a tower.

(5) Charge more than a price disclosed under ORS 98.856 (Tower responsibility of disclosure to owner or operator of vehicle) when towing a motor vehicle without the prior consent or authorization of the owner or operator of the motor vehicle.

(8) Park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business.

(14) Charge for the hookup and release of a motor vehicle except as provided in ORS 98.853 (Conditions allowing towing).

Most of the PPI complaints are lawful tows and do not represent knowing or willful violation of the law

Violations in the majority of PPI complaints may be resolved by:

1. Clarification and definition of ORS 98.853 and 98.854 in industry best practices, Board policy, and OARs.
2. Education of the towing industry, parking facility owners and their agents, and the public of the intent and expectations under the ORSs, and
3. Regulation and enforcement of the statutory requirements and Administrative Rules adopted by the Board

A small percentage of the PPI complaints show less than 1% of the Oregon tow companies are willfully and knowingly violating, or instructing or allowing employees to violate, Oregon's laws under ORS 98.854, laws enacted to protect the public from unlawful and unethical towing practices.

## Possible reasons for noncompliance – reckless or negligent

1. Lack of education or business standards: there has been no authoritative interpretation or definition of the intent or requirements of ORS 98.853 and 98.854.
2. "Signed authorization" has been interpreted to include texts, phone calls, and other communications between a tow company and the owner of the parking facility.
3. Industry practices adopted to comply with the Governor's COVID-19 Pandemic Emergency Orders have not been reviewed or rescinded.
4. Plausible Deniability: Both property owners and towers are using Plausible Deniability to absolve themselves, or to hold themselves harmless, from legal responsibility or obligations under a Tow Services Contract.
5. There is no verification process or authority review to ensure a Tow Services Agreement meet the legal requirements and exceptions of ORS 90.485, 98.853, 98.854, or provides adequate protection or recourse for tenants and the public.
6. Private property owned for commercial or public purposes (i.e., malls, business complexes, restaurants, medical centers, churches, organizations, etc.) are also entering into Tow Services Agreements delegating the Towing Company as the property owner's agent under a contract, with no property owner contact or authorization required at the time of tow.
7. Lack of consumer resources, including lack of education and information related to consumer and tenant rights related to the parking and towing of vehicles, has enabled unethical PPI practices to continue in a small number of towing companies.

## Possible reasons for current noncompliance – willful or intentional

**Note: the following violations were found to be substantiated in complaints against less than 1% of all Oregon Tow companies with tow business certificates issued by DMV.**

1. Lack of authoritative interpretation of the definition and intent of the statutes allows towers, parking facility owners, and their representatives to define the statutes in a way that benefits the towers/and parking facility owners while taking financial advantage and causing public risk and harm to the public without recourse.
2. Towing Service Agreements are used in lieu of the contacting the parking facility owner to circumvent the signed authorization requirements in violation of ORS 98.854 (2).
3. Apartment parking lots are being trolled and vehicles towed under a Towing Services Agreement for reasons other than the conditions allowed under ORS 98.853 (1), without property owner consent, and without a signed authorization.
4. Towers using the terms under a "Towing Services Agreement" to continue hooking up of the vehicle, in the presence of the Tenant or Consumer, to continue incurring charges or to ensure payment in violation of ORS 98.853 (3).
5. Copies of signed authorizations are being used at time of the tow without any contact with the property owner.
6. Current "signed authority" does not generally include the name and title of the person who requested the tow, the date and time the tow was requested, how the person authorizing the tow is authorized to do so, and other information required to determine compliance of the signed authorization.
7. Plausible Deniability: Both property owners and towers are using Plausible Deniability to absolve themselves, or to hold themselves harmless, from legal responsibility or obligations under a Tow Services Agreement.
8. Towers, or their employees, are serving as agents of parking facility owners in violation of ORS 98.854 (2) – (4).
9. Towers are not requiring employees to take adequate photos as required by ORS 98.853 (2) and not releasing the photos in a timely manner.
10. Towers are not releasing the signed authorization required under ORS 98.854 in a timely manner.



## Harm and damages caused by violation of ORS 98.853 and 98.854

1. The majority of the PPI tow complaints are from tenants and members of the public living in low income or government-assisted apartment complexes. These individuals do not have the disposable income and have limited resources to pay fees incurred by an unlawful tow.
2. Known issues with "lawful ownership" of a vehicle and vulnerable populations creates unnecessary barriers and hardships for tenants and members of the public who are unlawfully towed.
3. Loss or missed work due to time spent locating and retrieving vehicles.
4. Physical damage to the vehicles caused by an unlawful tow; damages include damage to drive trains, wheels, and other components of the vehicle due to towing with insufficient or incomplete hook up, unsafe driving practices, and other factors.
5. Elevated risk of physical injury due to a continuing to hook up a vehicle in the presence of the vehicle's owner.
6. Loss of use of a motor vehicle through no fault of the owner.
7. Loss of access to medications, documents, childcare items, and personal possessions contained within the vehicle at the time of the unlawful tow.
8. The ability for the vehicle owner to retain possession of the vehicle due to the fees and costs incurred by the tow.
9. Most tow companies will release a vehicle at no cost if a mistake was made by a parking facility owner or the tower; unfortunately, there are handful of tow companies requiring tenants and the public to pay all or a portion of the towing fees, holding possessions and vehicles hostage until payment is received, even if the tow was unlawful or in violation of current statutes.

## Board's role

ORS 98.850 Legislative findings and declaration

(2) The Legislative Assembly declares that:

(a) Statutes that assist members of the public in avoiding involuntary loss of use of motor vehicles and in expediting recovery of motor vehicles and the personal property in the motor vehicles promote the safety and welfare of members of the public. [2007 c.538 §1]

With the small number of towing companies named in complaints in general, and the even smaller number of towers involved in substantiated complaints (less than 1% of the tow truck companies legally operating in Oregon), PPI issues are not a statewide or industry problem.

The Board has identified PPIs as a priority in consideration:

1. The large percentage of complaints substantiating unethical PPI towing practices and violations of ORS 98.854.
2. The significant and identifiable damage and harm these practices and violations are causing the public.
3. The actions of less than 1% of the industry creating a significant negative image of the reputation of the industry.
4. The request by the towing industry for clarity in determine intent and compliance with the statute.
5. The request by Board partners for assistance in enforcement and regulation of ORS 98.853 and 98.854.
6. A recognized need of the Board to educate the public, tenants, and their guests of their rights, responsibilities, and recourse under ORS 98.853 and 98.854.

Oregon Statutes are written to be broad and encompassing; the Board's role is to adopt policies and OARs to:

1. Clarity of the intent of the ORSs as determined by the Board.
2. Provide an authoritative definition of the meaning and requirements under ORS 98.853 and 98.854.
3. Protect the safety and well-being of the public.
4. Establish statewide practice standards to protect the integrity of the towing industry.
5. Ensure compliance of the laws and accountability by all parties involved with PPI tows.
6. Develop a compliance process and civil penalty schedule for violations of ORS 98.853 and 98.854.
7. Identify and provide options for recourse and resolution for tenants and members of the public whose vehicles have been unlawfully towed.

## Board's findings

Tow companies and their employees provide necessary and essential services for the public, including:

- Roadside assistance services
- Assistance to law enforcement, code enforcement, and local governments
- Assistance to law enforcement and other incident team members in clearing wrecks and hazards
- Personal assistance
- Salvage
- Vehicle recovery efforts
- Repossessions
- Private Property Impounds

Tow companies provide these services at the request or direction of an authorized person or agency.

At no time is a vehicle to be towed unless the tow is authorized by a person who has the legal authority to request the tow.

Towers, their employees, including dispatch and tow operators, are prohibited from acting as the parking facility owner's agent under ORS 98.854 (3) and (4).

The practice of having a tower act as the parking facility owner's agent violates the legal requirements of ORS 90.485, 98.853 and 98.854 and is creating an unnecessary and avoidable risk and harm to public safety and well-being.

The practice of "trolling" or "patrolling" parking facilities by towers for the purpose of monitoring the parking facility for towing business is in violation of the intent of ORS 98.854 (8) and is used by a small number of towers and property owners to circumvent the legal requirements of ORS 90.485, 98.853 and 98.854.

Compliance with ORS 90.485, 98.853 and 98.854:

1. Protects the public from unlawful tows.
2. Protects towers and their employees from civil liability and actions.
3. Allows parking facility owners to protect their tenants, guests, and facilities from unlawful tows or towing errors.
4. Protects parking facility owners from civil risk and liability.
5. Provides clear accountability and recourse for tenants and members of the public when a vehicle has been unlawfully towed.
6. Reduces the work load required of the Board, its staff, and partners in determining the validity of a complaint and the options for resolution.

## DRAFT – Board definition and interpretation of ORS 98.853 and 98.854

The following information is based on review of current ORS, adjudicated cases, and Board work session and meeting notes for discussion purposes only.

- The Board has not voted on any of the following at this time.
- Board review and discussion of the Initial Concept will be conducted during public work sessions and meetings.
- Comments and testimony from both the public and the industry will be accepted prior to Board vote on any policy or rule.
- Questions and comments on any of the findings, proposed definitions, may be submitted to [info@towboard.oregon.gov](mailto:info@towboard.oregon.gov)

### ORS 98.853 Conditions allowing towing

(1) A tower may tow a motor vehicle if the motor vehicle:

- (a) Blocks or prevents access by emergency vehicles;
- (b) Blocks or prevents entry to the premises;
- (c) Blocks a parked motor vehicle;

1. The conditions allowing towing under ORS 98.853 provides the conditions which a vehicle may be towed without notice to the vehicle owner or its driver.
2. The conditions **do not allow the tower to act as a parking facility owner's agent or to independently authorize a tow.**
3. Vehicles meeting the definition under ORS 98.853 (1) (a) – (c) are exempt from the requirement under ORS 98.854 (2) only that a tower **is not required** to contact the owner of the parking facility or their agent; the authorization for tows under ORS 98.853 (1) (a) – (c) can

be made by a tenant, an employee, or other persons if the vehicle to be towed is parked in clear violation of ORS 98.853 (1) (a) – (c), and the name, contact information, and vehicle information is recorded on the authorization to tow document.

4. The request for a tow under ORS 98.853 (1) (a) – (c) may be made by email, phone, or text as long as there is a signed authorization in the tower's possession prior to hook up.
5. The tow request must include the date, time, location of vehicle, the reason for the tow, the make, model, and plate of the vehicle to be towed.
6. Only the parking facility owner, or their agent, may authorize an involuntary tow of a vehicle from a parking facility under ORS 98.853 (1) (a) – (c).
7. Towers and their employees cannot serve as an agent of the parking facility owner for the purpose of towing a vehicle from the parking facility under ORS 98.853 (1) (a) – (c).
8. Both the parking facility owner and the tower will maintain for at least two years, in electronic or printed form, a record of the tow request documenting the date, time, location of vehicle, the reason for the tow, the make, model, and plate of the vehicle to be towed.
9. Upon request, the copy of the tow documentation will be provided to the owner or operator of the motor vehicle and any agency with proper jurisdiction at no additional charge.

### ORS 98.853 Conditions allowing towing

*(1) (d) Parks without permission in a parking facility used for residents of an apartment and:*

*(A) There are more residential units than there are parking spaces;*

*(B) The landlord has issued parking tags or other devices that identify vehicles that are authorized to be parked on the premises; and*

*(C) There are signs posted that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility prohibiting or restricting public parking on the parking facility.*

As a tower is unable to verify compliance with the requirements of ORS 98.853 (d), a vehicle can be towed under ORS 98.853 (1) (d) only at the request of the parking facility owner or their agent after the parking facility owner or their agent:

1. Verifies and documents there are more residential units assigned than there are parking spaces.
2. Records the date, time, location, of where the vehicle was parked.
3. Records the make, model, and plate number of the parked vehicle.
4. Verifies that the vehicle is parked in violation of the parking facility's parking policy and in violation of the terms of a tenant or rental agreement.
5. For parking spaces assigned to tenants: make reasonable attempts to contact the tenant to confirm that the vehicle is parked without the tenant's permission. The attempts and result of the contact with the tenant is to be documented.
6. Verifies, if required under the rental agreement and assigned to a tenant, that an assigned parking tag or sticker is not visible in or on the vehicle.

All other vehicles towed from a parking facility must meet the legal requirements of ORS 90.485, 98.853, 98.854, and the rules of the Board.

### ORS 98.853 Conditions allowing towing.

*(2) Prior to towing a motor vehicle pursuant to ORS 98.812 (Towing of unlawfully parked vehicle), a tower shall take at least one photograph of the motor vehicle and record the time and date of the photograph. The photograph must show the motor vehicle as it was left or parked at the time the tower arrived to conduct the tow. The tower shall maintain for at least two years, in electronic or printed form, each photograph taken along with the date and time of the photograph. Upon request, the tower shall provide a copy of any photographs to the owner or operator of the motor vehicle at no additional charge.*

The photographs under ORS 98.853 (2) must:

1. Show the vehicle as it was left or parked at the time the tower arrived to conduct the tow.
2. Sufficiently show the parking violation, including the vehicle's location and the nearest signage
3. Have the time and date time stamped on the photograph or documented as attachments to the signed authorization.
4. If a parking tag or other device is required to park in the parking facility, the photos must clearly show:
  - a. A parking tag is not visible from the exterior of the car or
  - b. Stickers are not affixed to the vehicle or the vehicle's window.

### ORS 98.853 Conditions allowing towing:

*(3)*

*(a) If the owner or operator of the motor vehicle is present at the time of the tow, the tower shall release the motor vehicle at no charge unless the hookup is complete. If the hookup is complete, the tower shall release the motor vehicle and may charge the owner or operator of the motor vehicle a fee that does not exceed the charge to hook up for that type of tow as listed in a written statement described in ORS 98.856 (Tower responsibility of disclosure to owner or operator of vehicle).*

1. Upon arrival of the owner or operator of the motor vehicle, the tow operator must immediately cease hookup of the vehicle.
2. For passenger vehicles: if the vehicle is not loaded or connected in such a way that the vehicle can be safely, and without risk of physical damage to the vehicle, towed, the vehicle is to be released at no charge.
3. At no time is a tower to begin or complete a hookup of a PPI tow if a person or animal is in the PPI vehicle without authorization from law enforcement or other government agency.
4. The Board has tabled consideration of exceptions for large commercial rigs or recreational vehicles for further discussion.

*(2) Except as provided in ORS 98.853 (Conditions allowing towing), tow a motor vehicle from a parking facility without first contacting the owner of the parking facility or the owner's agent at the time of the tow and receiving signed authorization from the owner of the parking facility or the owner's agent that the tower should tow the motor vehicle. The tower shall maintain for at least two years, in electronic or printed form, each signed authorization received under this subsection. Upon request, the tower shall provide a copy of the signed authorization to the owner or operator of the motor vehicle at no additional charge.*

No vehicle may be involuntarily towed from a parking facility without a request or authorization signed at the time of the tow showing:

1. The date and time of the tow
2. The color, make, model, and license plate number of the vehicle to be towed.
3. The signature and printed name of the person authorizing the tow and their contact information.

#### ORS 98.854 A tower may not:

- (3) Serve as an agent of an owner of a parking facility for the purpose of signing an authorization required by subsection (2) of this section.*
- (4) Tow a motor vehicle from a parking facility if the owner of the parking facility or the owner's agent is an employee of a tower.*

A tower or any employee of tower, including dispatch, office staff, tow operator, or independent contractor of any company or business owned or contracted by the tower, cannot act as the agent of a parking facility to authorize the tow or to tow a motor vehicle from a parking facility.

#### ORS 98.854 A tower may not:

- (8) Park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business.*

A tower, their employee or agent may not park within 1000 feet of a parking facility, within a parking facility, patrol a parking facility, or otherwise put a parking facility under surveillance for the purpose of monitoring the parking facility for towing business.

#### ORS 98.854 A tower may not:

- (14) Charge for the hookup and release of a motor vehicle except as provided in ORS 98.853 (Conditions allowing towing).*

For the purpose of PPIs:

1. Upon arrival of the owner or operator of the motor vehicle, the tow operator must immediately cease hookup of the vehicle.
2. For passenger vehicles: if the vehicle is not loaded or connected in such a way that the vehicle can be safely, and without risk of physical damage to the vehicle, towed, the vehicle is to be immediately released at no charge to the vehicle owner or operator.
3. If hook up is complete but the vehicle not yet towed to the tower's tow facility, the tower may only charge the owner or operator of the vehicle tower's standard rate for the cost of a hook up.
4. The tower may not exceed its rates and costs as listed in a written statement described in ORS 98.856 (Tower responsibility of disclosure to owner or operator of vehicle).

## Remaining provisions of ORS 98.853 and 98.854

**The Board has tabled the remaining provisions under ORS 98.853 and 98.854 for future discussions including:**

1. Signage requirements under ORS 98.853 (d) (C) *There are signs posted that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility prohibiting or restricting public parking on the parking facility.*

And

*ORS 98.854 (1) (a) Tow a motor vehicle from a parking facility unless there is a sign displayed in plain view at the parking facility that, using clear and conspicuous language, prohibits or restricts public parking at the parking facility.*

2. Definition of complete hookup under ORS 98.853 (3) (b)

3. Consideration of the time and expense required for complete hook up of big rigs, including motor homes and recreational vehicles, commercial trucks and trailers, box vans, etc.
4. Rate and fees, disclosures, and other requirements under ORS 98.856.

## Exemptions

Nothing within this Initial Concept Summary is to be interpreted as a restriction of the ability of a private property owner from instituting and enforcing regulations for parking at the private facility as allowed by law.

PPI administrative rules and the Board's policy exempts:

1. Vehicles impounded by law enforcement for criminal or legal offenses.
2. Vehicles impounded by state and local authorities as defined in ORS 819.120.
3. Vehicles towed at the request of the vehicle owner.
4. Exemption to ORS 98.854 (8): Commercial properties when:
  - a. Commercial tenants in the property have posted regular business hours AND
  - b. There are signs posted that are clearly readable by an operator of a motor vehicle in each entrance to the parking facility, and each area within a parking facility, which reasonable informs the public of prohibited or restricted public parking on the parking facility AND
  - c. A notice is predominantly posted of the hours during which monitoring occurs on signs that are clearly readable by an operator of a motor vehicle in each parking stall OR at each entrance to the parking facility with additional signs posted as needed to inform members of the public of the monitoring requirement AND
  - d. No vehicle is towed from the parking facility without authorization from the parking facility owner or their agent.
5. Vehicles parked on empty lots, vacant commercial premises, or other "Proscribed property" as defined in ORS 98.805 (4) e.g., any part of private property:
  - a. Vacant commercial premises;
  - b. Vacant lots previously used as a parking facility designated with signage as a "no parking" area.
  - c. Where a reasonable person would conclude that parking is not normally permitted or where a land use regulation prohibits parking; or
  - d. That is used primarily for parking at a single-family residential dwelling or a duplex.

## Enforcement and regulation

1. The Board will consult with the public, partners, and industries to ensure the proposed and adopted policies and rules:
  - a. Provide adequate protection of the public.
  - b. Identify the appropriate responsibility and accountability for PPI tows.
  - c. Ensure consistency with industry and partner standards and expectations.
  - d. Identify unintended consequences or loopholes.
  - e. Maintain the rights and safety of the public, tenants, and parking facility owners, their tenants and customers.
  - f. Maintain the right of the towing industry to conduct PPI tows in a lawful and safe manner.
2. Provide the towing industry with education of the Board's policy and proposed administrative rules regarding administration and enforcement of ORS 98.853 and 98.854 prior to the adoption and effective date of the administrative rules.
3. Review consumer complaints

## Other considerations of the Board

1. Vehicle towing for landlords are defined in ORS Chapter 90; both the requirements of ORS Chapter 90 and the requirements of ORS 98.853 and 98.854 need to be complied with. One ORS Chapter does not provide an exception to the requirements of the other ORS sections.
2. Prohibition of unauthorized parking under ORS 98.810.
3. Protection of private property owner rights to include the protection of the physical property, public safety concerns, and the responsibilities/obligations to tenants and customers.
4. Public and property safety and protection balanced with known issues faced in Oregon: homelessness/houselessness, public camping, drug use, increase of criminal behavior including theft, harassment and theft, etc.
5. Identify questions or clarify and educate the public:



6. Personal responsibility of tenants and the public when parking in privately owned parking facilities.
7. The PPI laws and requirements do not include law enforcement or other municipal tows.

## Benefits of better regulation and enforcement

1. Remove ambiguity of laws
2. Provide better structure for decision making for parking facility owners, their agents, and towers to remain in compliance with ORS 90.485, 98.853 and 98.854:
3. Accountability and responsibility of towers and parking facility owners to ensure protection of the public and recourse.
4. Provide better protection of the public and tenants most commonly subjected to unlawful tows and minimize the harm and loss sustained by the public due to vehicles being towed without authorization and without contacting the owner.
5. Resolution of one of the most common complaints submitted to the Board and its partners.
6. Ensure minimum practice standards across the state in PPI tows, help remove perception of unlawful tow practices.
7. Provide better recourse and resolution for consumers harmed by unlawful PPI towing.

## Identified partners and persons of interest

The Board is the recognized state authority to interpret and define the intent and meaning of the ORS, and the responsibility of defining and the requirements of the ORS remains with the Board

Legislative intent is for all public bodies to illicit, engage, and consider industry, partner and public insight and opinions prior to the adoption of public policies and OARs.

The Board's intent is to ensure transparency and active engagement in its work. This includes inviting a diverse range of individuals, organizations, and partners to identify issues and offer insights, public comments, and testimony in the development of Board policy and administrative rules.

The Board has identified the following partners and individuals in its outreach efforts:

1. Use of the Board's public email subscription list for updates and announcements.
2. Outreach to the following agencies, organizations and advocacy groups:
  - a. Parking facility owners: 18 different rental owner and property management associations and advocacy groups.
  - b. Tenants: Four different associations and tenant advocacy groups.
  - c. Oregon Housing and Community Services (state agency, low income housing assistance)
  - d. Oregon Tow Truck Association
  - e. Portland Dept. of Transportation Regulation Division and Towing Administration Advisory Committee.
  - f. Local Governments: 36 counties and approximately 250 incorporated cities.
3. Coordination with advocacy groups and partners to host public review and comments of the Board's proposed policies and rules and ensure distribution of proposed policies and rules during the comment period.
4. Individuals who filed complaints with the State Board of Towing regarding PPIs.

## Timeline and Next Steps

April 23, 2024: Board reviews first quarter complaints, identifies unlawful PPIs as a serious risk to public safety and a priority of the Board.

May:

May 14, 2024: Board review of initial concept

Board identifies potential partners and individuals most likely impacted under anticipated regulations.

June 2024:

Board reviews updated Initial Concept Summary, begin developing board policy at a public meeting, accepts public comment.

Board solicits additional public comments and testimony.

The following is a TENTATIVE timeline, pending determination by the Board:

July 2024:

Concept Proposal  
Signature Authority - ORS 98.854 (2) – (4)

DRAFT FOR DISCUSSION  
ONLY – Public Session

Board votes on the final policy, accepts comments.  
Process begins to draft administrative rules, accepting public comment.  
Public comment meetings scheduled through September.

October-November

Final proposed rules drafted and posted for comments.  
Public proposed rules hearing held.

January 1, 2025: Adoption of Administrative Rules

## Resources:

1. Attachment 1: SB117
2. Attachment 2: ORS 90.485 and 98.110-98.840
3. Attachment 3: Submitted complaints
4. Attachment 4: Laws and Rules from other States

**DRAFT**  
**for Discussion Purposes Only**



PPI Complaints - Complaints Not Fully Investigated by the Board May 14, 2024 Board Work Session		
Case No.	Description	Review
2024-01-003	Valid PPI Tow (no parking sticker, vehicle not registered with apartment as required, driver may not have been a tenant)	No Violation by Tower
2024-01-007	Vehicle towed from tenant's assigned spot in apartment complex without authorization.	Possible PPI Violation
2024-01-012	Vehicle towed from tenant's assigned spot in apartment complex without authorization.	Possible PPI Violation
2024-01-014	PPI from commercial lot; signs not posted in parked area, signed authorization was for different address and in a different area of town, authorization not signed, picture showed an empty lot, did not show the	Possible PPI Violation
2024-01-015	PPI from apartment during ice storm; 72 hours notice not given, tenant parked in compliance with apartment lease agreement	Incomplete Complaint
2024-01-021	PPI tow - unauthorized tow, photo and authorization not provided, tenant legally parked per rental agreement.,	Possible PPI Violation
2024-01-022	PPI commercial tow during business hours; tow not authorized, tower continued to hook up vehicle after owner arrived to "ensure payment" of the hook up fee.	Possible PPI Violation
2024-01-023	PPI commercial tow after hours; signed authorization does not show the owner was contacted or who authorized the time of tow; tow company representative misrepresented the requirements of ORS 98.853, conditions allowing towing.	Possible PPI Violation
2024-02-001	Vehicle towed from apartment after 72 hour notice posted; tenant not the registered owner of the vehicle.	No Violation by Tower
2024-02-002	PPI tow - unauthorized tow of a vehicle with permit, parked in appropriate parking spot.	Possible PPI Violation
2024-02-004	PPI tow - vehicle towed with parking pass displayed in windshield; tow company conceded mistake, required payment prior to release of vehicle.	Possible PPI Violation
2024-02-005	PPI commercial tow during commercial hours, no sign posted, tow not authorized.	Possible PPI Violation
2024-02-007	PPI commercial property; car was parked in loading zone with pavement marked, no signs posted. Vehicle left overnight, blocked deliveries and loading zone. City confirmed tow complied with city requirements.	Board Discussion Required
2024-02-009	Vehicle towed vehicle based on landlord representation of 72 hour notice to tenant to move vehicle.	No Violation by Tower
2024-02-011	PPI - tenant's vehicle was parked in appropriate space; car alarm activated, did not auto shut off, manager and police were unable to shut off alarm; tenant was away out of town, could not be reached. Police authorized tow per statute.	No Violation by Tower
2024-03-006	Vehicle tow requested and authorized by management. Vehicle parked in fire lane in a way that was blocking garage and sidewalk access; car unregistered and unplatd. Vehicle owner aware of parking registration requirements, had approximately 6 months to resolve parking registration prior to tow; elapsed time between the request for tow and completion of tow was over 1 hour.	No Violation by Tower
2024-03-009	PPI tow - tower refused to provide signed authorization or photo.	Possible PPI Violation
2024-03-015	PPI - vehicle towed from outside tenant's complex; more information required.	Incomplete Complaint

2024-03-016	Visitor parked in another tenant's assigned spot. Vehicle towed. Tow authorized by management.	No Violation by Tower
2024-03-017	New landlords/property owners are threatening to have tenant cars towed if the vehicles are not in the assigned spots. Tenants are sharing parking spots with neighbors, with permission, for many years. Landlord posted notices on the apartment doors informing tenants that if they park in unassigned spots, they will be towed.	Board Discussion Required
2024-03-019	Consumer/Tenant parked in an area of the parking lot designated "car wash area" at 10 p.m. due to lack of parking available in lot (holiday weekend). Tow company refuses to provide proof of authorization of the tow due to "private contract"; dispatch authorized the tow. Tow company refuses to provide photographs signed authorization.	Possible PPI Violations
2024-04-001	PPI - vehicle towed from home owner's driveway without notice or authorization and in violation of HOA rules.	Possible PPI Violations
2024-04-003	PPI - vehicle with parking pass displayed towed from tenants parking spot without notice or authorization from landlord. Tower demanded payment to release vehicle.	Possible PPI Violation
2024-04-005	PPI - attempted tow of vehicle parked in parking spot and with attached parking tag; owner arrived as the tower began hooking up vehicle; tower refused to stop hook up; landlord told tenant they had to negotiate with tow truck driver re: fees; neighbors collected \$200 demanded by tower prior to full hook up, vehicle released. Authorization and photos requested but not received.	Possible PPI Violations
2024-04-006	PPI - towed from apartment complex for no handicap placard; placard on dash of the vehicle. Authorization and photos requested but not received.	Possible PPI Violations
2024-04-011	PPI Tow from apartment complex. Visitor parked in parking area reserved for tenants, but did not display the placard. Tower did not provide signed authorization or reason for tow.	Possible PPI Violations
2024-04-012	PPI Tow – tenant parked in front of a dumpster and another vehicle, not in designated parking area. Authorization and photos requested but not received.	Incomplete
2024-04-013	PPI Tow - questions regarding ownership	No violation - DMV title issue.
2024-04-014	PPI Tow - No signs posted; consumer was touring a vacant townhouse with manager. Vehicle towed without authorization 7 minutes after the manager and potential tenants entered the townhouse. \$500 to retrieve the vehicle.	Possible PPI Violations
2024-04-016	Tenant observed tow truck parked illegally while taking her dog for a walk. Tenant went into apartment, and then noticed tow truck driver was beginning to back up to her vehicle. Tenant arrived prior to tower initiating hook up; tower continued to hook up vehicle demanding \$200 before releasing vehicle. Apt manager acknowledged at the time that they did not authorize the tow, but they could not prevent the tower from towing the vehicle.	Possible PPI Violations
2024-04-017	Vehicle towed from a commercial parking facility after hours; signed authorization dated 2022; required picture is taken from the interior of the tow truck; tow company refused to provide photos and signed authorization for a month. Required appointment to pick up vehicle during business hours; charged a gate fee for a 11 a.m. Monday, non-holiday, retrieval.	Possible PPI Violations

2024-05-002	Visitor parked with visible temporary visitor pass. Tower refuses to provide photos or authorization statement. Manager is referring tenant and guest to tower for resolution.	Possible PPI Violations
2024-05-003	Health care provider vehicle towed from client's parking lot. Tow company told consumer that the vehicle was towed under a contract allowing the tow company to patrol the parking lot; no authorization. There are more parking spots than assigned units within parking facility, there's no conditions in the tenant contract prohibiting guest parking. Tower refused to provide authorization or photos.	Possible PPI Violations
2024-05-005	Consumer parked in a commercial business parking lot overnight near a sign warning that vehicles would be towed. Complaint was not about the tow, but about the requirement to provide a title to retrieve the vehicle.	No violation - DMV title issue.
2024-05-006	Tenant's vehicle towed from apartment complex; assigned parking sticker was displayed in window as required. \$800 to retrieve the vehicle.	Possible PPI Violations

**DRAFT**  
**for Discussion Purposes Only**

# OREGON STATE BOARD OF TOWING

## Initial Concept Summary Private Property Impounds - *Signed Authorization*

ORS Chapter 90.485, ORS 98.110 – 98.840

The Board will review and consider the requirements under these statutes as it develops Board public policy and proposed administrative rules under ORS 822.265

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### ORS 90.485 Restrictions on landlord removal of vehicle; exceptions.

(1) A landlord may have a motor vehicle removed from the premises only in compliance with this section and either ORS 98.810 to 98.818 or ORS 98.830 and 98.840.

(2) Except as provided in ORS 90.425 regarding abandoned vehicles, a landlord may have a motor vehicle removed from the premises without notice to the owner or operator of the vehicle only if the vehicle:

- (a) Blocks or prevents access by emergency vehicles;
- (b) Blocks or prevents entry to the premises;
- (c) Violates a prominently posted parking prohibition;
- (d) Blocks or is unlawfully parked in a space reserved for persons with disabilities;
- (e) Is parked in an area not intended for motor vehicles including, but not limited to, sidewalks, lawns and landscaping;
- (f) Is parked in a space reserved for tenants but is not assigned to a tenant and does not display a parking tag or other device, as provided by subsection (3) of this section; or
- (g) Is parked in a specific space assigned to a tenant, as provided by subsection (4) of this section.

(3) A landlord may have a motor vehicle removed from the premises under subsection (2)(f) of this section only if the landlord:

- (a) Provides parking tags or other devices that identify vehicles that are authorized to be parked on the premises;
- (b) Provides a tenant with parking tags or other devices to be used on a vehicle other than the tenant's primary vehicle if the tenant wants to park a vehicle on the premises in lieu of the tenant's primary vehicle; and
- (c) Enters into written agreements with the owners or operators of vehicles authorized to park on the premises that:
  - (A) Authorize the landlord to have a vehicle removed from the premises without notice for failing to display the parking tag, sticker or other device;
  - (B) Unless the information is disclosed on prominent signs posted on the premises, disclose to the owners or operators of authorized vehicles the name, address and contact information of the tow company that is authorized to remove vehicles from the premises; and
  - (C) Specify whether guest parking is allowed and, if guest parking is allowed, describe methods for identifying guest parking spaces or identifying authorized guest vehicles.

(4) If a landlord assigns a specific parking space to a tenant, the landlord may have a vehicle towed under subsection (2)(g) of this section from the assigned parking space only with the agreement of the tenant at the time of the tow. The landlord may not require the tenant to agree to towing.

(5) If guest parking is allowed, the landlord shall post a sign in each designated guest parking space that is clearly readable by an operator of motor vehicle and that specifies any rules, restrictions or limitations on parking in the designated guest parking space.

(6) A landlord may have a motor vehicle that is inoperable, but otherwise parked in compliance with an agreement between the landlord and the owner or operator of the vehicle, removed from the premises if the landlord affixes a prominent notice to the vehicle stating that the vehicle will be towed if the vehicle is not removed or otherwise brought into compliance with the agreement. The landlord must affix the notice required by this subsection at least 72 hours before the vehicle may be removed.

(7) A landlord may not have a motor vehicle removed under this section because the vehicle's registration has expired or is otherwise invalid.

(8) This section does not:

- (a) Apply to a landlord of a facility.
- (b) Affect the obligations imposed on a landlord under ORS 98.810 to 98.818 or under ORS 98.830 and 98.840. [2007 c.565 §2; 2009 c.622 §4; 2017 c.480 §18]

## ORS 98.810 Unauthorized parking of vehicle on proscribed property prohibited.

A person may not, without the permission of:

- (1) The owner of a parking facility, leave or park any vehicle on the parking facility if there is a sign displayed in plain view at the parking facility prohibiting or restricting public parking on the parking facility.
- (2) The owner of proscribed property, leave or park any vehicle on the proscribed property whether or not there is a sign prohibiting or restricting parking on the proscribed property.

[1953 c.575 §1; 1979 c.100 §3; 1981 c.861 §24; 1983 c.436 §3; 2007 c.538 §10]

## ORS 98.811 Notice of parking violation; certificate of nonliability; dismissal of notice.

(1) If the owner of a parking facility or the owner of proscribed property has issued a citation or other notice of a parking violation alleging that a vehicle owned by a person engaged in the business of selling, renting, leasing or repairing motor vehicles has been left or parked in violation of ORS 98.810 and mailed a copy of the citation or notice to the person, the person is relieved of liability for the violation if, within 30 days from the mailing of the citation or notice, the person:

(a) Submits a certificate of nonliability stating that the vehicle was not in the custody and control of the person, under the terms of an agreement permitting an individual to use a motor vehicle owned by the person, when the alleged violation occurred; and

(b) Provides the name and address of the individual who was in control of the vehicle at the time of the alleged violation.

(2) Upon receipt of the certificate of nonliability and information described in subsection (1) of this section, the owner of the parking facility or the owner of the proscribed property must dismiss the citation or notice with respect to the person and may reissue the citation or notice in the name of the individual in control of the vehicle when the alleged violation occurred. [2009 c.90 §2]

## ORS 98.812 Towing of unlawfully parked vehicle; lien for towage, care and storage charges; notice requirements.

(1) If a vehicle has been left or parked in violation of ORS 98.810, the owner of the parking facility or the owner of the proscribed property may have a tower tow the vehicle from the parking facility or the proscribed property and place the vehicle in storage at a secure location under the control of the tower.

(2) A tower is entitled to a lien on a towed vehicle and its contents for the tower's just and reasonable charges and may retain possession of the towed vehicle and its contents until the just and reasonable charges for the towage, care and storage, subject to subsection (3) of this section, of the towed vehicle have been paid if the tower notifies the local law enforcement agency of the location of the towed vehicle within one hour after the towed vehicle is placed in storage.

(3) A tower may not assess any storage charge against the towed vehicle under subsection (2) of this section that is incurred after:

(a) If the towed vehicle is registered in Oregon, three business days after the vehicle is placed in storage unless, within that time, the tower delivers notice by mail or gives actual notice to the owner of the towed vehicle and to each person with an interest in the vehicle as indicated by the certificate of title.

(b) If the towed vehicle is not registered in Oregon:

(A) Three business days after the vehicle is placed in storage unless, within that time, the tower notifies and requests the title information from the records of the motor vehicle agency for the state in which the towed vehicle is registered.

(B) Three business days from the date of receipt of the records requested under subparagraph (A) of this paragraph unless, within that time, the tower delivers notice by mail or gives actual notice to the owner of the towed vehicle and to each person with an interest in the vehicle as indicated by the requested records.

(4) The lien created by subsection (2) of this section may be foreclosed only in the manner provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS 87.152. [1953 c.575 §2; 1977 c.634 §1; 1979 c.100 §4; 1981 c.861 §25; 1983 c.436 §4; 1993 c.385 §2; 2001 c.424 §1; 2007 c.538 §11; 2009 c.622 §1; 2017 c.480 §2; 2019 c.547 §1]

**ORS 98.818 Preference of lien.** The lien created by ORS 98.812 shall have preference over any and all other liens or encumbrances upon the vehicle. [1953 c.575 §3; 2007 c.538 §11a]

**ORS 98.830 Towing abandoned vehicle from private property; civil immunity; lien.**

(1) A person who is the owner, or is in lawful possession, of private property on which a vehicle has been abandoned may have a tower tow the vehicle from the property if:

(a) The person affixes a notice to the vehicle stating that the vehicle will be towed if it is not removed;

(b) The notice required by paragraph (a) of this subsection remains on the vehicle for at least 72 hours before the vehicle is towed; and

(c) The person fills out and signs a form that includes:

(A) A description of the vehicle to be towed;

(B) The location of the property from which the vehicle will be towed; and

(C) A statement that the person has complied with paragraphs (a) and (b) of this subsection.

(2) A tower who tows a vehicle pursuant to this section is immune from civil liability for towing the vehicle if the tower has a form described in subsection (1) of this section, filled out by a person purporting to be the owner or a person in lawful possession of the private property from which the vehicle is towed. This subsection does not grant immunity for any loss, damage or injury arising out of any negligent or willful damage to, or destruction of, the vehicle that occurs during the course of the towing.

(3) A vehicle towed under this section is subject to liens, possession and foreclosure by a tower under ORS 98.812 (2) to (4). [1995 c.758 §1; 2007 c.538 §12; 2017 c.480 §4; 2019 c.547 §2]

**ORS 98.840 Towing vehicle alternative to procedure in ORS 98.810 to**

**98.818.** The procedure authorized by ORS 98.830 for removal of abandoned vehicles from private property may be used by an owner of a parking facility or an owner of proscribed property as an alternative to the procedures described in ORS 98.810 to 98.818. [1995 c.758 §4; 2007 c.538 §13a; 2017 c.480 §5]



# OREGON STATE BOARD OF TOWING

Initial Concept Summary  
Private Property Impounds - *Signed Authorization*

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*Original formatting and numbering of each state used.*

### Arkansas

#### AR Code § 27-50-1101 (2020)

##### 27-50-1101 (a) (1)

(C) Prior to the removal of an abandoned vehicle, implement, or piece of machinery or a vehicle, implement, or piece of machinery parked without authority as provided by this section, the towing and storage firm shall obtain in writing from the property owner or agent a written statement that includes at a minimum the following:

- (i) Identification of the property owner or agent, including name, address, and telephone number;
- (ii) A statement that the property from which the vehicle, implement, or piece of machinery is to be removed is property owned or otherwise under the control of the agent requesting the removal;
- (iii) That the vehicle, implement, or piece of machinery is deemed abandoned or has been parked on the property without authorization, as the case may be;
- (iv) The make, model, and vehicle identification number or serial number of the vehicle, implement, or piece of machinery to be removed;
- (v) The location to which the vehicle, implement, or piece of machinery will be removed, including the name, address, and telephone number of the towing and storage firm removing the vehicle, implement, or piece of machinery; and
- (vi) The signature of the property owner or agent requesting removal of the vehicle, implement, or piece of machinery.

(D) A copy of the written statement shall be left with the property owner or the on-site agent, who shall make the written statement available for inspection upon request by any person claiming an interest in the removed vehicle, implement, or piece of machinery.

(G) A towing and storage firm shall not remove any abandoned vehicle, implement, or piece of machinery or improperly parked vehicle, implement, or piece of machinery without the authorization of the property owner or on-site agent as provided in this section except as may otherwise be authorized by the provisions of § 27-50-1201 et seq. or as directed by any law enforcement officer.

### Connecticut

#### Chapter 246 - Motor Vehicles (ct.gov)

##### GENERAL PROVISIONS

#### **Sec. 14-145. Towing or removal of motor vehicle from private property. Use of a wheel-locking device. Regulations. Prohibition re issuance of parking citation. Exemption. Penalty.**

(a) (1) An owner or lessee of private property, or his or her agent, may remove or cause to be removed, or may use a wheel-locking device to render immovable, any motor vehicle left without authorization on such property in accordance with the provisions of this section and sections [14-145a](#) to [14-145c](#), inclusive, provided any owner or lessee of private commercial property, or his or her agent, shall install conspicuous signage stating that motor vehicles left without authorization on such private commercial property may be removed or rendered immovable and indicating where such motor vehicle will be stored, how the vehicle may be redeemed and any costs or fees that may be charged.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, an owner or lessee of private commercial property or such owner or lessee's agent may tow any motor vehicle left without authorization on such property and no signage warning of such towing shall be required to be installed by such owner or lessee if such motor vehicle is left

(A) in a space reserved, as required in section [14-253a](#), for exclusive use by persons who are blind and persons with disabilities and such vehicle does not bear a removable windshield placard or special license plate, as defined in section [14-253a](#),

(B) in an area reserved for authorized emergency vehicles, (C) within ten feet of a fire hydrant, as provided in section [14-251](#), (D) blocking building access, (E) blocking entry or exit from such property, or (F) for forty-eight or more hours.

(e) Any person who violates any provision of this section shall, for a first offense, be deemed to have committed an infraction and be fined fifty dollars, and, for each subsequent offense, shall be fined not less than fifty dollars and not more than one hundred dollars or imprisoned not more than thirty days or be both fined and imprisoned.

**Sec. 14-145a. Towing, removal or use of wheel-locking device prohibited except upon express instruction of property owner or lessee or for repossession. Rebate prohibited.** (a) No vehicle shall be towed or removed from private property except (1) upon express instruction of the owner or lessee, or his or her agent, of the property upon which the vehicle is trespassing, or (2) for the purpose of repossession of the motor vehicle by a lending institution.

**Sec. 14-145c. Liability of property owner, lessee or lending institution for improper towing or removal of motor vehicle or use of a wheel-locking device.** Whenever an owner or lessee of private property or a lending institution, or such owner's, lessee's or institution's agent, improperly causes a motor vehicle to be towed or removed from such property or rendered immovable on such property, the owner or lessee of the property or the lending institution shall be liable to the owner of the vehicle for the costs of towing or removal and of storage of the vehicle or for fees charged for removing a wheel-locking device, and for reasonable attorney's fees and court costs, if applicable.

## Georgia

### [Rule 570-38-7-.15 Requests for Nonconsensual Towing](#)

- (1) It shall be unlawful and a violation of these Rules for a towing and storage firm to engage in nonconsensual towing without an authorized contract signed by the property owner or other authorized agent for the property owner of the subject property and the towing company in the form prescribed by the Department. A copy of the contract shall be made available to the Department representatives, upon request. The contract must contain the name, address and phone number of the respective towing company, the location of the impoundment facility, and hours of operation. The contract may contain costs for removal of the vehicle and the charges for storage of towed vehicles, in which case such costs and charges shall not exceed those authorized by this Subchapter. The contract must also contain the names and contact number(s) of the person(s) authorized to request the removal of a vehicle from said property.
- (2) A towing and storage firm shall not perform nonconsensual towing unless the requested nonconsensual towing movement is specifically and individually requested on the day the removal

takes place from the real property owner or his contractually-designated agent. The request may be made by telephone call or in writing in either printed or electronic form. The request must specifically identify and request removal of the vehicle or vehicles to be towed or removed. The real property owner or his contractually-designated agent must receive an original written tow authorization or tow bill dated and signed on the date of the tow by the real property owner or such property owner's designated agent. The tow authorization or tow bill may be transmitted and returned in person at the scene of the tow, by facsimile or by email, on the date of the tow, on forms prescribed by the Department. The tow authorization or bill must be signed by the real property owner or contractually-designated agent and shall include:

- (a) The name of the business or property;
- (b) The name and title of the real property owner or contractually designated agent;
- (c) The name of the party who requested the removal;
- (d) The specific location of the requested removal;
- (e) Vehicle identifying information: make, model, color, license plate state and number; and
- (f) For authorizations transmitted by email, a statement that the transmittal serves as authorization from the business owner to proceed with removal.

Rule 570-38-7-.16 Vehicle Not Towed Upon Operator Returning

- (1) The operator or driver employed by a towing and storage firm summoned to tow away any vehicle from private property shall not tow the vehicle away and shall not charge any fee if:
  - a. The vehicle has not yet been hooked by a hoisting apparatus, including wheel dollies, or loaded by the towing and storage firm onto or behind its wrecker; and
  - b. The operator or owner of the vehicle returns, produces the ignition key to the vehicle and immediately removes the vehicle from the private property.
- (2) The operator or driver employed by a towing and storage firm summoned to tow away any vehicle from private property shall not tow the vehicle away but shall be permitted to charge an operator's fee (but no storage or other fees) as prescribed in the Maximum Rate Tariff prior to releasing such vehicle if:
  - a. The vehicle has not yet left the private property to which the operator or driver employed by the towing and storage firm was summoned;
  - b. The vehicle has been hooked with hoisting apparatus, including wheel dollies, or loaded by the towing and storage firm onto or behind its wrecker; and
  - c. The operator or owner of the vehicle returns, produces the ignition key to the vehicle, and agrees to immediately remove the vehicle from the private property upon payment of the operator's fee authorized by this paragraph and release of the vehicle.

#### Rule 570-38-7-.17 Requirement for Attendant to Release Towed Vehicles

- (1) Towing and storage firms providing nonconsensual towing services shall have an attendant on site or otherwise available at the location of towed vehicles during normal business hours five days of every week and for at least four hours one additional day of every week. Such attendant shall, during such times, be able to provide reasonable access to and release any vehicle towed in accordance with this Subchapter upon the owner meeting the requirements for release described in these Rules.
- (2) Towing and storage firms providing nonconsensual towing services shall have an attendant available by phone 24 hours per day, seven days per week. The attendant shall have the authority and ability to report to the location of towed vehicles in a timely manner and release any vehicle towed in accordance with this Subchapter upon the owner meeting the requirements for release described in these Rules.
- (3) A receipt listing the specific charges for towing and storage of the vehicle shall be issued to the owner or agent claiming the vehicle and the attendant shall retain a copy of the receipt. The receipt must be signed by the owner or agent claiming the vehicle and by the attendant. Such receipt shall identify the vehicle and shall become part of the towing and storage firm's record.

#### Rule 570-38-7-.18 Release of Towed Vehicle; Payment

- (1) Any person seeking the release of a vehicle towed or stored by a towing and storage firm performing nonconsensual towing services shall:
  - (a) Produce a valid driver's license;
  - (b) Produce an ignition key which operates the towed vehicle or otherwise demonstrate the ability to properly start and operate the vehicle;
  - (c) Produce evidence of such person's ownership or right of possession of the towed or stored vehicle, such as a certificate of title, a valid and current registration card, bill of sale, or a lease or rental contract; and
  - (d) Pay all towing charges and storage fees that are in accordance with these Rules and have accrued with respect to the vehicle.
- (2) Towing and storage firms shall accept payment of fees associated with non-consensual towing services in the form of cash, commonly-recognized travelers checks, money orders, certified checks or cashier's checks, at the choice of the vehicle owner or payee. Towing and storage firms may also accept debit cards or credit cards as a form of payment but shall not charge an additional fee for use of such cards.

#### Rule 570-38-7-.19 Receipt Requirement

- (1) A towing and recovery service accepting payment for non-consensual towing services shall issue a receipt to the person making payment that reflects all fees paid in connection with the non-consensual towing services relevant to the vehicle for which payment is being made and for

redemption of the vehicle. The towing and recovery services shall obtain the signature of the person making payment on said receipt.

- (2) Receipts issued in accordance with this Rule shall contain the date and time of the release of the vehicle, total amount charged and a description of the specific charges for towing and storage of the vehicle, the location of the private property from which the vehicle was towed, and the name, address, and telephone number of the towing and storage firm issuing the receipt.
- (3) The towing and recovery service shall keep an office copy of the receipt described by this Rule, which shall become a part of the towing and storage firm's record.

## Missouri

[Missouri Revisor of Statutes - Revised Statutes of Missouri, RSMo Title XIX](#)

### **Title XIX MOTOR VEHICLES, WATERCRAFT AND AVIATION**

304.157 (4) The owner of real property or lessee in lawful possession of the real property or the property or security manager of the real property may authorize a towing company to remove abandoned property or property parked in a restricted or assigned area without authorization by a law enforcement officer only when the owner, lessee or property or security manager of the real property is present. A property or security manager must be a full-time employee of a business entity. An authorization to tow pursuant to this subsection may be made only under any of the following circumstances:

(1) There is displayed, in plain view at all entrances to the property, a sign not less than seventeen by twenty-two inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that unauthorized abandoned property or property parked in a restricted or assigned area will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage, and containing the telephone number of the local traffic law enforcement agency where information can be obtained or a twenty-four-hour staffed emergency information telephone number by which the owner of the abandoned property or property parked in a restricted or assigned area may call to receive information regarding the location of such owner's property;

(2) The abandoned property is left unattended on owner-occupied residential property with four residential units or less, and the owner, lessee or agent of the real property in lawful possession has notified the appropriate law enforcement agency, and ten hours have elapsed since that notification; or

(3) The abandoned property is left unattended on private property, and the owner, lessee or agent of the real property in lawful possession of real property has notified the appropriate law enforcement agency, and ninety-six hours have elapsed since that notification.

## Nevada

[2021 Nevada Revised Statutes, Nevada Codes, Nevada Laws and Nevada Statutes :: US Codes and Statutes :: US Law :: Justia](#)

### **NRS 116.3102 Powers of unit-owners' association; limitations.**

(t) Except as otherwise provided in this paragraph, may direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to [NRS 487.038](#), or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. An association may not direct the removal of a vehicle parked on property owned or leased by the association solely because the registration of the vehicle is expired. In addition to

complying with the requirements of [NRS 487.038](#) and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

- (1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or
- (2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

**NRS 706.4477 Conditions for person other than owner of motor vehicle or law enforcement officer or city or county to request towing; payment of costs by owner; exceptions; hardship tariff.**

1. If towing is requested by a person other than the owner, or an agent of the owner, of the motor vehicle or a law enforcement officer or other person who is employed to enforce the laws, ordinances and codes of a local government:

(a) The person requesting the towing must be the owner of the real property from which the vehicle is towed or an authorized agent of the owner of the real property and must sign a specific request for the towing. Except as otherwise provided in subsection 2, for the purposes of this section, the operator is not an authorized agent of the owner of the real property.

(b) The area from which the vehicle is to be towed must be appropriately posted in accordance with state or local requirements.

(c) Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.

(d) The operator may be directed to terminate the towing by a law enforcement officer.

2. If, pursuant to subsection 1, the owner of the real property or authorized agent of the owner of the real property requests that a vehicle be towed from a residential complex at which the vehicle is located, the owner of the real property or authorized agent of the owner, which may be the tow operator if the tow operator has entered into a contract for that purpose with the owner of the real property:

(a) Must:

(1) Meet the requirements of subsection 1.

(2) Except as otherwise provided in this subparagraph, if the vehicle is being towed pursuant to subparagraph (1) or (2) of paragraph (b), notify the owner or operator of the vehicle of the tow not less than 48 hours before the tow by affixing to the vehicle a sticker which provides the date and time after which the vehicle will be towed. The provisions of this subparagraph do not apply and the vehicle may be immediately towed if it is a vehicle for which a notice was previously affixed:

(I) For the same or a similar reason within the same residential complex.

(II) Three or more times during the immediately preceding 6 months within the same residential complex for any reason, regardless of whether the vehicle was subsequently towed.

(b) May only have a vehicle towed:

(1) Because of a parking violation;

(2) If the vehicle is not registered pursuant to this chapter or [chapter 482](#) of NRS or in any other state; or

(3) If the vehicle is:

(I) Blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(II) Posing an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the residents of the residential complex, which may include, without limitation, if the vehicle is parked in a space that is clearly marked for a specific resident or the use of a specific unit in the residential complex.



- (c) May not have a vehicle towed solely because the registration of the vehicle is expired.
3. If towing is requested by a county or city pursuant to [NRS 244.3605](#) or [268.4122](#), as applicable:
- (a) Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.
- (b) The operator may be directed to terminate the towing by a law enforcement officer.
4. The owner of a motor vehicle towed pursuant to the provisions of subsection 1, 2 or 3:
- (a) Is presumed to have left the motor vehicle on the real property from which the vehicle is towed; and
- (b) Subject to the provisions of subsection 7, is responsible for the cost of removal and storage of the motor vehicle.
5. The owner may rebut the presumption in subsection 4 by showing that:
- (a) The owner transferred the owner's interest in the motor vehicle:
- (1) Pursuant to the provisions set forth in [NRS 482.399](#) to [482.420](#), inclusive; or
- (2) As indicated by a bill of sale for the vehicle that is signed by the owner; or
- (b) The vehicle is stolen, if the owner submits evidence that, before the discovery of the vehicle, the owner filed an affidavit with the Department or a written report with an appropriate law enforcement agency alleging the theft of the vehicle.
6. An operator shall not charge any fee or cost for the storage of the motor vehicle until at least 48 hours after the motor vehicle arrives and is registered at the place of storage. If the motor vehicle arrives at the place of storage after the regular business hours of the place of storage, the 48-hour period begins when the regular business hours of the place of storage next begin.
7. The owner of the vehicle shall pay a hardship tariff for the cost of removal and storage of the motor vehicle if:
- (a) A vehicle has been towed pursuant to subparagraph (2) of paragraph (b) of subsection 2;
- (b) The owner of the vehicle does not provide proof that the vehicle was registered pursuant to this chapter or [chapter 482](#) of NRS or in any other state at the time the vehicle was towed; and
- (c) The owner, for reasons outside of his or her control as determined by the regulations adopted pursuant to this section, is incapable of paying the normal rate charged for the removal and storage of the motor vehicle.
- È The Authority shall adopt regulations to carry out the provisions of this section, including, without limitation, establishing a range of hardship tariffs a person may pay pursuant to this section and setting forth what qualifies as a reason that is outside of the control of the owner.
8. As used in this section:
- (a) "Parking violation" means a violation of any:
- (1) State or local law or ordinance governing parking; or
- (2) Parking rule promulgated by the owner or manager of the residential complex that applies to vehicles on the property of the residential complex.
- (b) "Provide proof" includes, without limitation, providing current registration documents in a physical format or in an electronic format as set forth in [NRS 482.255](#) that predate the date on which the vehicle was towed.
- (c) "Residential complex" means a group of apartments, condominiums or townhomes intended for use as residential units and for which a common parking area is provided, regardless of whether each resident or unit has been assigned a specific parking space in the common parking area.
- (Added to NRS by [1995, 1511](#); A [1995, 1513](#); [1997, 2683](#); [2009, 1306](#); [2013, 1880](#); [2017, 3186](#); [2019, 1168](#); [2021, 1434](#))

## New Jersey

[Chapter-45A-Subchapter-31-Private-Property-and-Nonconsensual-Towing.pdf](#)  
([njconsumeraffairs.gov](http://njconsumeraffairs.gov))

### 13:45A-31.6 Towing motor vehicles from private property

(a) A private property towing company shall not remove a motor vehicle from private property without the consent of the owner or operator of the motor vehicle, unless:

1. The private property towing company has entered into a written contract with the owner of the private property to provide private property towing services;
2. The owner of the private property has posted a sign, in a conspicuous place at each vehicular entrance, at least 36 inches high and 36 inches wide stating:
  - i. The purposes for which parking is authorized and the times during which such parking is permitted;
  - ii. That unauthorized parking is prohibited and unauthorized motor vehicles will be towed at the owner's expense;
  - iii. The name, address and telephone number of the private property towing company that will perform the private property towing;
  - iv. The charges for the private property towing and storage of towed motor vehicles;
  - v. The street address of the storage facility where towed motor vehicles can be redeemed after payment of the posted charges and the times during which a motor vehicle may be redeemed; and
  - vi. That a consumer may contact the Division of Consumer Affairs by calling 1-800-242-5846 Private Property and Non-Consensual Towing Companies NJAC 13:45A-31.1 to 31.10 prompt number 4;
3. The property owner has authorized the private property towing company to remove the motor vehicle; and
4. The private property towing company tows the motor vehicle to a secure storage facility having the capacity to receive it that is nearest to the site from which the motor vehicle is towed.

## New Mexico

### [18.3.12 NMAC](#)

#### Section 18.3.12.14 - AUTHORIZATION AND PROCEDURE FOR MOVING MOTOR VEHICLES

A. A towing service shall only perform the following tows:

(4) Trespass tows. No towing service shall attach hoisting or towing devices or move, tow or molest in any way, any motor vehicle illegally parked on property other than a public roadway without having first obtained written authorization from the owner or lessee of the property, or the owner's or lessee's agent. Written authorization shall include the name and signature of the owner or lessee of the property or the name and signature of the property owner's or lessee's agent if different, the location of the private property, the amount of time the motor vehicle has been on the property, a description of the vehicle, the date and time the towing service removed the vehicle from the property, and a statement by the owner, lessee or agent that the vehicle is illegally parked.

(a) Before towing a motor vehicle that is illegally parked on private property, the towing service shall take a digital photograph or photographs of the motor vehicle showing its position on the private property.

(b) No towing service shall attach hoisting or towing devices or move, tow or molest in any way, any motor vehicle illegally parked on commercial property or at an apartment unless the property contains visible signs notifying the public that illegally parked motor vehicles may be towed. The visible signs shall specify

the exact time periods (starting and ending hours) when the vehicle is determined to be "illegally parked" on commercial property or at an apartment house. Before towing a motor vehicle that is illegally parked on private commercial property or at an apartment, the towing service shall take a digital photograph or photographs of the signage notifying the public that illegally parked motor vehicles may be towed.

## Portland

### [7.24.080 Prohibitions.](#)

PPI towers will not:

- A.** Perform any PPI tows within the city limits of Portland, or from City-owned/operated property, unless the tower is registered with the City of Portland and in compliance with all provisions of this Chapter and administrative rules.
- B.** Charge any fee not listed in, or in excess of, those included in the fee schedule established by the Director.
- C.** Require any vehicle owner/owner's agent to make any statement or sign any document promising not to dispute validity of the tow or fees assessed or relieving the PPI tower from responsibility for the condition of the vehicle or its contents.
- D.** Require any vehicle owner/owner's agent to pay any fee, except a gate fee if after hours, as a condition of allowing them to inspect their vehicle or remove an animal or personal belongings of an emergency nature, within 15 days of the tow.
- E.** Solicit PPI towing business by means of payment of a gratuity, commission or any other consideration, except as provided in this PPI Code, to the private property owner, operator, manager or employee. This violation may result in revocation of the tower's PPI permit, at the Director's discretion.
- F.** Remove a vehicle from a private parking facility unless the hookup has been completed and all safety equipment has been attached.
- G.** Use predatory practices, as defined in PPI administrative rules, to secure PPI tows.
- H.** Release a vehicle designated as a PPI Police tow without a release or other authorization from the appropriate police agency.
- I.** Assess or collect a penalty or surcharge fee, in lieu of towing, unless the parking lot is registered as a pay and park facility in compliance with Chapter 7.25 "Pay and Park and Non-Pay Private Parking Facilities."
- J.** Make any false statements of material fact, misrepresent information in any document or omit disclosure of material fact in performance of activities regulated by this Code.
- K.** Pursuant to ORS 90.485, PPI towers shall not remove a legally parked vehicle because the vehicle's registration has expired or is otherwise invalid.
- L.** Property owners or operators are prohibited from knowingly allowing an unpermitted PPI tower to impound vehicles from any property within the Portland city limits.
- M.** Property owners or operators may not require, solicit or accept payment from any PPI tower, nor from any person acting on behalf of a PPI tower, in exchange for authorization to tow from a property.
- N.** Pursuant to ORS 87.186, possessory liens by PPI towers may be foreclosed only by public auction held within the county in which the vehicle was towed.
- O.** No person shall attach a mechanical boot or any other immobilization device to any vehicle parked on private property or public right-of-way without consent of the vehicle owner.

## Tennessee

### [TN Code § 55-16-112 \(2021\)](#)

55-16-112. Written Authorization Required for Towing or Storage of Motor Vehicle

- a. Notwithstanding any other provision of this part or of title 66, chapter 19, part 1, in order for a garagekeeper or a towing firm to tow or to store a vehicle the garagekeeper or towing firm shall obtain an express written authorization for towing and storage of each vehicle from a law enforcement officer with appropriate jurisdiction, or from the owner of the vehicle, or from the owner, or the authorized agent of the owner, of the private property from which the vehicle is to be towed. The authorization shall include all of the information required by § 66-19-103(d). In addition to any other penalty provided by this part or by title 66, chapter 19, part 1, a violation of this section is a Class C misdemeanor.

66-19-103. Garagekeeper's or Towing Firm's Lien

(d) Any authorization made by a police department to tow a vehicle shall be made in writing. Such authorization shall include:

- a. The name of the officer giving authorization;
  - b. The year, make and model, and color of the vehicle to be towed;
  - c. The reason for the tow;
  - d. The license plate number, if any; and
  - e. The vehicle identification number, if it is ascertainable.
- b. A copy of such authorization shall be posted with the vehicle by the officer giving authorization, and shall remain with the vehicle until the vehicle is claimed by the owner.

## Utah

72-9-603

- (8) For private property where parking is enforced under Subsection [\(4\)\(a\)\(ii\)](#):
  - (a) a tow truck motor carrier may not:
    - (i) patrol and monitor the property;
    - (ii) perform a tow truck service without the written or verbal request of the property owner or the property owner's agent; or
    - (iii) act as the property owner's agent to request a tow truck service; and
  - (b) the property owner shall ensure that each entrance to the property has a clearly visible sign located on the property that is 24 inches tall by 18 inches wide with a 1/2 inch white, reflective border, and has:
    - (i) at the top of the sign, a blue background with a white, reflective towing logo that is at least four inches tall and 16 inches wide that depicts an entire tow truck, a tow hook, and an entire vehicle being towed;

- (ii) immediately below the towing logo described in Subsection [\(8\)\(b\)\(i\)](#), a blue background with white, reflective letters at least two inches tall with the capitalized words "Towing Enforced";
  - (iii) in the middle of the sign, a red background with white, reflective letters at least one inch tall indicating:
    - (A) who is authorized to park or restricted from parking at the property; and
    - (B) any type of vehicle prohibited from parking at the property; and
  - (iv) at the bottom of the sign, a white, reflective background with red letters at least one inch tall indicating:
    - (A) either:
      - (I) the name and telephone number of the property owner or the property owner's agent who is authorized to request a tow truck service; or
      - (II) the name and telephone number of the tow truck motor carrier that provides tow truck services for the property; and
    - (B) the Internet web address "tow.utah.gov".
- (19) When a tow truck motor carrier or impound lot is in possession of a vehicle, vessel, or outboard motor as a result of a tow service that was performed without the consent of the owner, and that was not ordered by a peace officer or a person acting on behalf of a law enforcement agency, the tow truck motor carrier or impound yard shall make personnel available:
- (a) by phone 24 hours a day, seven days a week; and
  - (b) to release the impounded vehicle, vessel, or outboard motor to the owner within one hour of when the owner calls the tow truck motor carrier or impound yard.

## Washington

RCW 46.55.035 Prohibited acts—Penalty. (1) No registered tow truck operator may:

- (a) Except as authorized under RCW 46.55.037, ask for or receive any compensation, gratuity, reward, or promise thereof from a person having control or possession of private property or from an agent of the person authorized to sign an impound authorization, for or on account of the impounding of a vehicle;
  - (b) Be beneficially interested in a contract, agreement, or understanding that may be made by or between a person having control or possession of private property and an agent of the person authorized to sign an impound authorization;
  - (c) Have a financial, equitable, or ownership interest in a firm, partnership, association, or corporation whose functions include acting as an agent or a representative of a property owner for the purpose of signing impound authorizations;
  - (d) Enter into any contract or agreement or offer any program that provides an incentive to a person authorized to order a private impound under RCW 46.55.080 that is related to the authorization of an impound or a number of impounds.
- (i) The incentives prohibited by this section may be either monetary or nonmonetary things of value, such as gifts or prizes which are contingent on, or as a reward for the authorization of impounds.

- (ii) Gifts of de minimis value that are given in the ordinary course of business and are not tied to any specific decision to authorize an impound or impounds are not prohibited. Permitted gifts would include promotional items such as pens, calendars, cups, and other items labeled with the registered tow truck operator's business information, holiday gifts such as cookies or candy, flowers for occasions such as illness or death, or the cost of a single meal for one person when discussing business.
- (iii) The provision of the actual physical signs required by this chapter to be posted on private property and the labor and materials for placing them is not a violation of this section.
- (2) This section does not prohibit the registered tow truck operator from collecting the costs of towing, storage, tolls or ferry fares paid, or other services rendered during the course of towing, removing, impounding, or storing of an impounded vehicle as provided by RCW 46.55.120.
- (3) A violation of this section is a gross misdemeanor. [2012 c 18 § 1; 2010 c 56 § 1; 1992 c 18 § 1; 1989 c 111 § 4.]

RCW 46.55.080 Law enforcement, authorized regional transit authority representative, other public official impound, private impound—Master log—Certain associations restricted. (1) If a vehicle is in violation of the time restrictions of RCW 46.55.010(14), it may be impounded by a registered tow truck operator at the direction of a law enforcement officer, authorized regional transit authority representative under the conditions described in RCW

46.55.010(14)(a)(iv), or other public official with jurisdiction if the vehicle is on public property, or at the direction of the property owner or an agent if it is on private property. A law enforcement officer may also direct the impoundment of a vehicle pursuant to a writ or court order.

(2) The person requesting a private impound or a law enforcement officer, authorized regional transit authority representative, or public official requesting a public impound shall provide a signed authorization for the impound at the time and place of the impound to the registered tow truck operator before the operator may proceed with the impound. A registered tow truck operator, employee, or his or her agent may not serve as an agent of a property owner for the purposes of signing an impound authorization or, independent of the property owner, identify a vehicle for impound.

(3) In the case of a private impound, the impound authorization shall include the following statement: "A person authorizing this impound, if the impound is found in violation of chapter 46.55 RCW, may be held liable for the costs incurred by the vehicle owner."

(4) A registered tow truck operator shall record and keep in the operator's files the date and time that a vehicle is put in the operator's custody and released. The operator shall make an entry into a master log regarding transactions relating to impounded vehicles. The operator shall make this master log available, upon request, to representatives of the department or the state patrol.

(5) A person who engages in or offers to engage in the activities of a registered tow truck operator may not be associated in any way with a person or business whose main activity is authorizing the impounding of vehicles. [2023 c 326 § 2. Prior: 2022 c 186 § 709; 2018 c 22 § 12; 1999 c 398 § 4; 1989 c 111 § 8; 1987 c 311 § 5; 1985 c 377 § 8.]



**CHAPTER 480**

AN ACT

SB 117

Relating to towing; creating new provisions; amending ORS 90.425, 90.485, 98.805, 98.812, 98.830, 98.840, 98.852, 98.854, 98.856, 98.858, 98.861, 646.608 and 822.215; and repealing ORS 98.835.

**Be It Enacted by the People of the State of Oregon:**

**DISPOSITION OF  
UNLAWFULLY PARKED VEHICLES  
AND ABANDONED VEHICLES**

**SECTION 1.** ORS 98.805 is amended to read:

98.805. As used in this section and ORS 98.810 to 98.818, 98.830[ 98.835] and 98.840:

(1) "Owner of a parking facility" means:

(a) The owner, lessee or person in lawful possession of a private parking facility; or

(b) Any officer or agency of this state with authority to control or operate a parking facility.

(2) "Owner of proscribed property" means the owner, lessee or person in lawful possession of proscribed property.

(3) "Parking facility" means any property used for vehicle parking.

(4) "Proscribed property" means any part of private property:

(a) Where a reasonable person would conclude that parking is not normally permitted at all or where a land use regulation prohibits parking; or

(b) That is used primarily for parking at a dwelling unit. As used in this paragraph, "dwelling unit" means a single-family residential dwelling or a duplex.

(5) "Tower" means a person issued a towing business certificate under ORS 822.205.

(6) "Vehicle" has the meaning given that term in ORS 801.590.

**SECTION 2.** ORS 98.812 is amended to read:

98.812. (1) If a vehicle has been left or parked in violation of ORS 98.810, the owner of the parking facility or the owner of the proscribed property may have a tower tow the vehicle from the parking facility or the proscribed property and place the vehicle in storage at a secure location under the control of the tower.

[(2) Prior to towing a vehicle under this section, a tower who tows a vehicle at the request of an owner of a parking facility shall take at least one photograph of the vehicle and record the time and date of the photograph. A photograph must show the vehicle left or parked in violation of ORS 98.810. The tower shall maintain for at least two years, in electronic or printed form, each photograph taken along with the date and time of the photograph.]

[(3) A tower who tows a vehicle at the request of an owner of a parking facility or the owner of proscribed property under this section shall provide to

*the owner or operator of the vehicle the information required in ORS 98.856 in the manner provided in ORS 98.856.]*

[(4)] (2) A tower is entitled to a lien on a towed vehicle and its contents for the tower's just and reasonable charges. **The tower [and] may retain possession [thereof] of the towed vehicle and its contents** until the just and reasonable charges for the towage, care and storage of the towed vehicle have been paid if the tower complies with the following requirements:

(a) The tower shall notify the local law enforcement agency of the location of the towed vehicle within one hour after the towed vehicle is placed in storage;

(b) If the towed vehicle is registered in Oregon, the tower shall give notice, within 15 days after the towed vehicle is placed in storage, to the owner of the towed vehicle or any other person with an interest in the towed vehicle, as indicated by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted within the 15-day period, but need not be received within that period, but within a reasonable time. If the tower fails to comply with the notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable expenses incurred within the 15-day period for towage, care and storage of the towed vehicle; and

(c) If the towed vehicle is not registered in Oregon, the tower shall, within 15 days after the towed vehicle is placed in storage, notify and request the title information and the name and address of the owner of the towed vehicle from the **records of the** motor vehicle agency for the state in which the towed vehicle is registered. The tower shall have 15 days from the date of receipt of the information [from] **contained in the records of the** state motor vehicle agency to notify the owner of the towed vehicle or any other person with an interest in the towed vehicle, as indicated by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted within 15 days from the receipt of [information from] **the information contained in the records of the** state motor vehicle agency, but need not be received within that period, but within a reasonable time. If the tower fails to comply with the notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable expenses incurred within the period between storage of the towed vehicle and receipt of [information from] **the information contained in the records of the** state motor vehicle agency for towage, care and storage of the towed vehicle.

[(5)] (3) The lien created by subsection [(4)] (2) of this section may be foreclosed only in the manner provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS 87.152.

**SECTION 3. ORS 98.835 is repealed.**

**SECTION 4.** ORS 98.830 is amended to read:



98.830. (1) A person who is the owner, or is in lawful possession, of private property on which a vehicle has been abandoned may have a tower tow the vehicle from the property if:

[(1)] (a) The person affixes a notice to the vehicle stating that the vehicle will be towed if it is not removed[.];

(b) The notice required by paragraph (a) of this subsection *[must remain]* **remains** on the vehicle for **at least** 72 hours before the vehicle *[may be removed.]* **is removed; and**

[(2)] (c) The person fills out and signs a form that includes:

[(a)] (A) A description of the vehicle to be towed;

[(b)] (B) The location of the property from which the vehicle will be towed; and

[(c)] (C) A statement that the person has complied with *[subsection (1) of this section]* **paragraphs (a) and (b) of this subsection.**

(2) A tower who tows a vehicle pursuant to this section is immune from civil liability for towing the vehicle if the tower has a form described in subsection (1) of this section, filled out by a person purporting to be the owner or a person in lawful possession of the private property from which the vehicle is towed. This subsection does not grant immunity for any loss, damage or injury arising out of any negligent or willful damage to, or destruction of, the vehicle that occurs during the course of the towing.

(3) A tower is entitled to a lien on a vehicle towed under this section and its contents for the tower's just and reasonable charges. The tower may retain possession of the towed vehicle and its contents until the just and reasonable charges for the towage, care and storage have been paid if the tower complies with the requirements of ORS 98.812 (2).

(4) The lien created by subsection (3) of this section may be foreclosed only in the manner provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS 87.152.

#### **SECTION 5.** ORS 98.840 is amended to read:

98.840. The procedure authorized by ORS 98.830 *[and 98.835]* for removal of abandoned vehicles from private property may be used by *[persons described in ORS 98.805]* **an owner of a parking facility or an owner of proscribed property** as an alternative to the procedures described in ORS 98.810 to 98.818.

### **INVOLUNTARY LOSS OF USE OF MOTOR VEHICLES**

#### **SECTION 6.** ORS 98.852 is amended to read:

98.852. As used in ORS 98.854 to 98.862:

(1) **"Business day" means Mondays through Friday, excluding legal holidays.**

[(1)] (2) "Consideration" has the meaning given that term in ORS 171.725.

[(2)] (3) "Motor vehicle" has the meaning given that term in ORS 801.360.

[(3)] (4) "Parking facility" has the meaning given that term in ORS 98.805.

(5) **"Personal property of an emergency nature" includes, but is not limited to, prescription medication, eyeglasses, clothing, identification, a wallet, a purse, a credit card, a checkbook, cash and child safety car and booster seats.**

[(4)] (6) "Tower" means a person that:

(a) Owns or operates a tow vehicle for profit; or

(b) Is employed by a person that owns or operates a tow vehicle for profit.

[(5)] (7) "Tow vehicle" has the meaning given that term in ORS 801.530.

#### **SECTION 7.** ORS 98.854 is amended to read:

98.854. [(1)] A tower may not:

(1)(a) **Tow a motor vehicle from a parking facility unless there is a sign displayed in plain view at the parking facility that, using clear and conspicuous language, prohibits or restricts public parking at the parking facility.**

(b) **Notwithstanding paragraph (a) of this subsection, a tower may tow a motor vehicle from a parking facility with the prior consent of the owner or operator of the motor vehicle.**

[(a)] (2) Except as provided in *[subsection (3) of this section]* **section 9 of this 2017 Act**, tow a motor vehicle from a parking facility without first contacting the owner of the parking facility or the owner's agent at the time of the tow **and receiving signed authorization from the owner of the parking facility or the owner's agent that the tower should tow the motor vehicle.** The tower shall maintain for at least two years, in electronic or printed form, each signed authorization received under this subsection. Upon request, the tower shall provide a copy of the signed authorization to the owner or operator of the motor vehicle at no additional charge.

(3) **Serve as an agent of an owner of a parking facility for the purpose of signing an authorization required by subsection (2) of this section.**

[(b)] (4) **Tow a motor vehicle from a parking facility if the owner of the parking facility [owner] or the owner's agent is an employee of a tower.**

[(c)] **Tow a motor vehicle without providing to the owner or operator of the motor vehicle the information required under ORS 98.856 in the manner required under ORS 98.856.]**

[(d)] (5) **Charge more than a price disclosed under ORS 98.856 when towing a motor vehicle [with] without the prior consent or authorization of the owner or operator of the motor vehicle.**

[(e)] (6) **Charge more than an amount set under ORS 98.859 when towing a motor vehicle without the prior consent or authorization of the owner or operator of the motor vehicle.**

[(f)] (7) **Solicit towing business at, or within 1,000 feet of, the site of a motor vehicle accident, unless the tower tows the motor vehicle pursuant to**

a prenegotiated payment agreement between the tower and a motor vehicle road service company.

*[(g)] (8) [Except as provided in subsection (2) of this section,] Park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business.*

*[(h)] (9) Provide consideration to obtain the privilege of towing motor vehicles from a parking facility. For the purposes of this paragraph, the provision of:*

*[(A)] (a) Signs by a tower under ORS 98.862 does not constitute consideration.*

*[(B)] (b) Goods or services by a tower below fair market value constitutes consideration.*

*[(i)] (10) Require, as a condition of towing a motor vehicle or releasing a motor vehicle or personal property in the motor vehicle, that the owner or operator of the motor vehicle agree not to dispute:*

*[(A)] (a) The reason for the tow;*

*[(B)] (b) The validity or amount of charges; or*

*[(C)] (c) The responsibility of the tower for the condition of the motor vehicle or personal property in the motor vehicle.*

*[(j)] (11) Hold a towed motor vehicle for more than 24 hours without:*

*[(A)] (a) Taking an inventory of all personal property in the motor vehicle that is visible from the exterior of the motor vehicle; and*

*[(B)] (b) Holding the personal property in the motor vehicle in a secure manner.*

*[(k)] (12) Accept cash as a method of payment for towing services unless the tower provides exact change not later than the end of the business day following receipt of payment.*

*[(L)] (13) Operate in a city or county without a license issued by the city or county if required by ORS 98.861.*

*[(m)] (14) Charge for the hookup and release of a motor vehicle except as provided in [ORS 98.856] **section 9 of this 2017 Act.***

*[(2) A tower may park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business if the tower provides notice of the hours during which monitoring occurs on signs that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility.]*

*[(3) A tower may tow a motor vehicle if the motor vehicle:]*

*[(a) Blocks or prevents access by emergency vehicles;]*

*[(b) Blocks or prevents entry to the premises;]*

*[(c) Blocks a parked motor vehicle;]*

*[(d) Violates a prominently posted no parking sign that warns that parking is prohibited 24 hours a day; or]*

*[(e) Parks without permission in a parking facility used for residents of an apartment and:]*

*[(A) There are more residential units than there are parking spaces;]*

*[(B) The landlord has issued parking tags or other devices that identify vehicles that are authorized to be parked on the premises; and]*

*[(C) There are signs posted that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility prohibiting or restricting public parking on the parking facility.]*

**SECTION 8. Section 9 of this 2017 Act is added to and made a part of ORS 98.854 to 98.862.**

**SECTION 9. (1) A tower may tow a motor vehicle if the motor vehicle:**

**(a) Blocks or prevents access by emergency vehicles;**

**(b) Blocks or prevents entry to the premises;**

**(c) Blocks a parked motor vehicle; or**

**(d) Parks without permission in a parking facility used for residents of an apartment and:**

**(A) There are more residential units than there are parking spaces;**

**(B) The landlord has issued parking tags or other devices that identify vehicles that are authorized to be parked on the premises; and**

**(C) There are signs posted that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility prohibiting or restricting public parking on the parking facility.**

**(2) Prior to towing a motor vehicle pursuant to ORS 98.812, a tower shall take at least one photograph of the motor vehicle and record the time and date of the photograph. The photograph must show the motor vehicle as it was left or parked at the time the tower arrived to conduct the tow. The tower shall maintain for at least two years, in electronic or printed form, each photograph taken along with the date and time of the photograph. Upon request, the tower shall provide a copy of any photographs to the owner or operator of the motor vehicle at no additional charge.**

**(3)(a) If the owner or operator of the motor vehicle is present at the time of the tow, the tower shall release the motor vehicle at no charge unless the hookup is complete. If the hookup is complete, the tower shall release the motor vehicle and may charge the owner or operator of the motor vehicle a fee that does not exceed the charge to hook up for that type of tow as listed in a written statement described in ORS 98.856.**

**(b) For purposes of this subsection, a hookup is complete if the motor vehicle to be towed has been loaded onto a tow vehicle, or if any part of the motor vehicle has been placed on or connected to an assembly that is part of a tow vehicle, such that the tow vehicle is capable of being in motion with the motor vehicle in tow.**

**(4) A tower who controls or has access to multiple storage facilities must tow a motor vehicle to the tower's storage facility with available space that is located in the same county as**

**and is closest to where the motor vehicle was hooked up to the tow vehicle.**

**SECTION 10.** ORS 98.856 is amended to read:

98.856. *[(1) If the owner or operator of the motor vehicle is present at the time of the tow, the tower shall release the motor vehicle at no charge unless the hookup is complete. If the hookup is complete, the tower shall release the motor vehicle and may charge the owner or operator of the motor vehicle a fee that does not exceed the charge to hook up for that type of tow as listed in a written statement described in subsection (2)(a) of this section.]*

*[(2)] (1)* A tower shall disclose to the owner or operator of a motor vehicle in a conspicuous written statement of at least 10-point boldfaced type:

(a) The prices the tower charges for **all the goods and services that the tower offers;**

(b) The location where the tower will:

(A) Store the motor vehicle and personal property in the motor vehicle; or

(B) Tow the motor vehicle, if the tower is towing the motor vehicle to a location other than a location under the control of the tower;

(c) The telephone number and any other means of contacting the tower, and the hours of availability at that telephone number and at the other means of contacting the tower;

(d) The methods of payment that the tower accepts; and

(e) That, if the owner or operator of the motor vehicle pays for the tow with cash, the tower will provide, in person or by mail, exact change not later than the end of the business day following receipt of payment.

*[(3)] (2)* If the owner or operator is present at the time of the tow, the tower shall provide the information required under *[subsection (2) of]* this section to the owner or operator of the motor vehicle before towing the motor vehicle.

*[(4)] (3)* If the owner or operator of the motor vehicle is not present at the time of the tow, the tower shall provide the information required under *[subsection (2) of]* this section to the owner or person in lawful possession of the motor vehicle prior to the time the owner or person in lawful possession of the motor vehicle redeems the motor vehicle.

*[(5)(a) As used in this subsection, "business day" means Monday through Friday, excluding legal holidays.]*

*[(b)] (4)* If the owner or operator of the motor vehicle is not present at the time of the tow:

*[(A)] (a)* Within five business days from the date of the tow, the tower shall request the name and address of the owner of the motor vehicle from the **records of the state motor vehicle agency** for the state in which the motor vehicle is registered.

*[(B)] (b)* The tower shall provide the information required under *[subsection (2) of]* this section to the owner of the motor vehicle by mail by the end of the first business day following receipt of the information *[from]* **contained in the records of the state motor vehicle agency.**

*[(C)] (c)* If the owner of the motor vehicle or a person in lawful possession of the motor vehicle redeems the motor vehicle or contacts the tower prior to five business days after the tow, the tower is not required to contact the state motor vehicle agency.

*[(6)] (5)* If the owner or operator of the motor vehicle is not present at the time of the tow but the owner or operator of the motor vehicle requested the tow and arranged to pay the tower directly, the tower may obtain the name and address of the owner of the motor vehicle from the owner or operator of the motor vehicle and may provide the information required under *[subsection (2) of]* this section:

(a) Within five business days after the tow; or

(b) With a copy of the invoice for the tow or upon receipt of payment, whichever first occurs.

**SECTION 11.** ORS 98.858 is amended to read:

98.858. (1) A tower in physical possession of a motor vehicle shall permit the owner or person in lawful possession of a motor vehicle the tower has towed to:

(a) Redeem the motor vehicle:

(A) Between 8 a.m. and 6 p.m. *[Monday through Friday, excluding legal holidays]* **on business days;**

(B) At all other hours, within 60 minutes after asking the tower to release the motor vehicle; and

(C) Within 30 minutes of a time mutually agreed upon between the tower and the owner or person in lawful possession of the motor vehicle;

(b) Contact the tower at any time to receive information about the location of the motor vehicle and instructions for obtaining release of the motor vehicle; and

(c) Obtain all personal property of an emergency nature in the motor vehicle within the time allowed under paragraph (a) of this subsection.

(2) A tower may not charge the owner or person in lawful possession of the motor vehicle a fee in any amount to obtain personal property of an emergency nature except for a gate fee between the hours of 6 p.m. and 8 a.m. *[Monday through Friday]* **on business days**, or on a Saturday, a Sunday or a legal holiday.

*[(3) As used in this section, "personal property of an emergency nature" includes but is not limited to prescription medication, eyeglasses, clothing, identification, a wallet, a purse, a credit card, a checkbook, cash and child safety car and booster seats.]*

**SECTION 12.** ORS 98.861 is amended to read:

98.861. (1) Subject to subsection (5) of this section:

(a) A tower may not tow vehicles parked within the boundaries of a city without a license issued by the city, if the city has established the maximum rates that a tower may charge under ORS 98.859.

(b) A tower may not tow vehicles parked within the boundaries of a county without a license issued by the county, if the county has established the maximum rates that a tower may charge under ORS 98.859. The tower is not required to obtain a license from a county when the tower tows a vehicle that



is parked within the boundaries of a city located within the county and the tower is licensed by that city.

(2) Application for a license under this section must be made in writing in the form prescribed by the city or county, and must contain the name and address of the applicant and any other information that the city or county may require.

(3) The fee for issuing a license under this section shall be established by the city or county, but may not exceed the cost of administering the licensing program and administering ORS 98.859.

(4) A license issued under this section expires annually on December 31 or on a date that may be specified by the city or county by ordinance.

(5) The requirement to get a license under this section applies only to towers that tow a motor vehicle without the prior consent or authorization of the owner or operator of the motor vehicle.

(6) A city or county may suspend or revoke a license issued under this section for violation of ORS 98.854, **98.856** or 98.859 or **section 9 of this 2017 Act**.

**NOTE:** Sections 13 and 14 were deleted by amendment. Subsequent sections were not renumbered.

## UNLAWFUL TRADE PRACTICES ACT

### **SECTION 15.** ORS 646.608 is amended to read:

646.608. (1) A person engages in an unlawful practice if in the course of the person's business, vocation or occupation the person does any of the following:

(a) Passes off real estate, goods or services as the real estate, goods or services of another.

(b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of real estate, goods or services.

(c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another.

(d) Uses deceptive representations or designations of geographic origin in connection with real estate, goods or services.

(e) Represents that real estate, goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, quantities or qualities that the real estate, goods or services do not have or that a person has a sponsorship, approval, status, qualification, affiliation, or connection that the person does not have.

(f) Represents that real estate or goods are original or new if the real estate or goods are deteriorated, altered, reconditioned, reclaimed, used or secondhand.

(g) Represents that real estate, goods or services are of a particular standard, quality, or grade, or that real estate or goods are of a particular style or model, if the real estate, goods or services are of another.

(h) Disparages the real estate, goods, services, property or business of a customer or another by false or misleading representations of fact.

(i) Advertises real estate, goods or services with intent not to provide the real estate, goods or services as advertised, or with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity.

(j) Makes false or misleading representations of fact concerning the reasons for, existence of, or amounts of price reductions.

(k) Makes false or misleading representations concerning credit availability or the nature of the transaction or obligation incurred.

(L) Makes false or misleading representations relating to commissions or other compensation to be paid in exchange for permitting real estate, goods or services to be used for model or demonstration purposes or in exchange for submitting names of potential customers.

(m) Performs service on or dismantles any goods or real estate if the owner or apparent owner of the goods or real estate does not authorize the service or dismantling.

(n) Solicits potential customers by telephone or door to door as a seller unless the person provides the information required under ORS 646.611.

(o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate, discount or other value is contingent upon an event occurring after the time the customer enters into the transaction.

(p) Makes any false or misleading statement about a prize, contest or promotion used to publicize a product, business or service.

(q) Promises to deliver real estate, goods or services within a certain period of time with intent not to deliver the real estate, goods or services as promised.

(r) Organizes or induces or attempts to induce membership in a pyramid club.

(s) Makes false or misleading representations of fact concerning the offering price of, or the person's cost for real estate, goods or services.

(t) Concurrent with tender or delivery of any real estate, goods or services fails to disclose any known material defect or material nonconformity.

(u) Engages in any other unfair or deceptive conduct in trade or commerce.

(v) Violates any of the provisions relating to auction sales, consignment sales, auctioneers, consignees or auction marts under ORS 698.640, whether in a commercial or noncommercial situation.

(w) Manufactures mercury fever thermometers.

(x) Sells or supplies mercury fever thermometers unless the thermometer is required by federal law, or is:

(A) Prescribed by a person licensed under ORS chapter 677; and

(B) Supplied with instructions on the careful handling of the thermometer to avoid breakage and on the proper cleanup of mercury should breakage occur.

(y) Sells a thermostat that contains mercury unless the thermostat is labeled in a manner to inform the purchaser that mercury is present in the thermostat and that the thermostat may not be disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the mercury does not become part of the solid waste stream or wastewater. For purposes of this paragraph, "thermostat" means a device commonly used to sense and, through electrical communication with heating, cooling or ventilation equipment, control room temperature.

(z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains mercury light switches.

(aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.

(bb) Violates ORS 646A.070 (1).

(cc) Violates any requirement of ORS 646A.030 to 646A.040.

(dd) Violates the provisions of ORS 128.801 to 128.898.

(ee) Violates ORS 646.883 or 646.885.

(ff) Violates ORS 646.569.

(gg) Violates the provisions of ORS 646A.142.

(hh) Violates ORS 646A.360.

(ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.

(jj) Violates ORS 646.563.

(kk) Violates ORS 759.690 or any rule adopted pursuant thereto.

(LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant thereto.

(mm) Violates ORS 646A.210 or 646A.214.

(nn) Violates any provision of ORS 646A.124 to 646A.134.

(oo) Violates ORS 646A.095.

(pp) Violates ORS 822.046.

(qq) Violates ORS 128.001.

(rr) Violates ORS 646A.800 (2) to (4).

(ss) Violates ORS 646A.090 (2) to (4).

(tt) Violates ORS 87.686.

(uu) Violates ORS 646A.803.

(vv) Violates ORS 646A.362.

(ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.

(xx) Violates ORS 180.440 (1) or 180.486 (1).

(yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.

(zz) Violates ORS 87.007 (2) or (3).

(aaa) Violates ORS 92.405 (1), (2) or (3).

(bbb) Engages in an unlawful practice under ORS 646.648.

(ccc) Violates ORS 646A.365.

(ddd) Violates ORS 98.854, **98.856** or 98.858 **or section 9 of this 2017 Act** or a rule adopted under ORS 98.864.

(eee) Sells a gift card in violation of ORS 646A.276.

(fff) Violates ORS 646A.102, 646A.106 or 646A.108.

(ggg) Violates ORS 646A.430 to 646A.450.

(hhh) Violates a provision of ORS 744.318 to 744.384.

(iii) Violates a provision of ORS 646A.702 to 646A.720.

(jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration described in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the subject of the violation.

(kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.

(LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as in effect on January 1, 2010.

(mmm) Violates a provision of ORS 646A.480 to 646A.495.

(nnn) Violates ORS 646A.082.

(ooo) Violates ORS 646.647.

(ppp) Violates ORS 646A.115.

(qqq) Violates a provision of ORS 646A.405.

(rrr) Violates ORS 646A.092.

(sss) Violates a provision of ORS 646.644.

(ttt) Violates a provision of ORS 646A.295.

(uuu) Violates ORS 646A.564.

(vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as defined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to do so or unless the person is an active member of the Oregon State Bar.

(www) Violates ORS 702.012, 702.029, 702.032 or 702.054.

(xxx) Violates ORS 646A.806.

(yyy) Violates ORS 646A.810 (2).

(zzz) Violates a provision of sections 1 to 7, chapter 523, Oregon Laws 2015.

(2) A representation under subsection (1) of this section or ORS 646.607 may be any manifestation of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.

(3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prosecuting attorney need not prove competition between the parties or actual confusion or misunderstanding.

(4) An action or suit may not be brought under subsection (1)(u) of this section unless the Attorney General has first established a rule in accordance with the provisions of ORS chapter 183 declaring the conduct to be unfair or deceptive in trade or commerce.

(5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or suit is brought under subsection (1)(xx) of this section by a

person other than a prosecuting attorney, relief is limited to an injunction and the prevailing party may be awarded reasonable attorney fees.

**SECTION 16.** ORS 646.608, as amended by section 10, chapter 523, Oregon Laws 2015, is amended to read:

646.608. (1) A person engages in an unlawful practice if in the course of the person's business, vocation or occupation the person does any of the following:

(a) Passes off real estate, goods or services as the real estate, goods or services of another.

(b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of real estate, goods or services.

(c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another.

(d) Uses deceptive representations or designations of geographic origin in connection with real estate, goods or services.

(e) Represents that real estate, goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, quantities or qualities that the real estate, goods or services do not have or that a person has a sponsorship, approval, status, qualification, affiliation, or connection that the person does not have.

(f) Represents that real estate or goods are original or new if the real estate or goods are deteriorated, altered, reconditioned, reclaimed, used or secondhand.

(g) Represents that real estate, goods or services are of a particular standard, quality, or grade, or that real estate or goods are of a particular style or model, if the real estate, goods or services are of another.

(h) Disparages the real estate, goods, services, property or business of a customer or another by false or misleading representations of fact.

(i) Advertises real estate, goods or services with intent not to provide the real estate, goods or services as advertised, or with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity.

(j) Makes false or misleading representations of fact concerning the reasons for, existence of, or amounts of price reductions.

(k) Makes false or misleading representations concerning credit availability or the nature of the transaction or obligation incurred.

(L) Makes false or misleading representations relating to commissions or other compensation to be paid in exchange for permitting real estate, goods or services to be used for model or demonstration purposes or in exchange for submitting names of potential customers.

(m) Performs service on or dismantles any goods or real estate if the owner or apparent owner of the goods or real estate does not authorize the service or dismantling.

(n) Solicits potential customers by telephone or door to door as a seller unless the person provides the information required under ORS 646.611.

(o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate, discount or other value is contingent upon an event occurring after the time the customer enters into the transaction.

(p) Makes any false or misleading statement about a prize, contest or promotion used to publicize a product, business or service.

(q) Promises to deliver real estate, goods or services within a certain period of time with intent not to deliver the real estate, goods or services as promised.

(r) Organizes or induces or attempts to induce membership in a pyramid club.

(s) Makes false or misleading representations of fact concerning the offering price of, or the person's cost for real estate, goods or services.

(t) Concurrent with tender or delivery of any real estate, goods or services fails to disclose any known material defect or material nonconformity.

(u) Engages in any other unfair or deceptive conduct in trade or commerce.

(v) Violates any of the provisions relating to auction sales, consignment sales, auctioneers, consignees or auction marts under ORS 698.640, whether in a commercial or noncommercial situation.

(w) Manufactures mercury fever thermometers.

(x) Sells or supplies mercury fever thermometers unless the thermometer is required by federal law, or is:

(A) Prescribed by a person licensed under ORS chapter 677; and

(B) Supplied with instructions on the careful handling of the thermometer to avoid breakage and on the proper cleanup of mercury should breakage occur.

(y) Sells a thermostat that contains mercury unless the thermostat is labeled in a manner to inform the purchaser that mercury is present in the thermostat and that the thermostat may not be disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the mercury does not become part of the solid waste stream or wastewater. For purposes of this paragraph, "thermostat" means a device commonly used to sense and, through electrical communication with heating, cooling or ventilation equipment, control room temperature.

(z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains mercury light switches.

(aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.



(bb) Violates ORS 646A.070 (1).  
 (cc) Violates any requirement of ORS 646A.030 to 646A.040.  
 (dd) Violates the provisions of ORS 128.801 to 128.898.  
 (ee) Violates ORS 646.883 or 646.885.  
 (ff) Violates ORS 646.569.  
 (gg) Violates the provisions of ORS 646A.142.  
 (hh) Violates ORS 646A.360.  
 (ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.  
 (jj) Violates ORS 646.563.  
 (kk) Violates ORS 759.690 or any rule adopted pursuant thereto.  
 (LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant thereto.  
 (mm) Violates ORS 646A.210 or 646A.214.  
 (nn) Violates any provision of ORS 646A.124 to 646A.134.  
 (oo) Violates ORS 646A.095.  
 (pp) Violates ORS 822.046.  
 (qq) Violates ORS 128.001.  
 (rr) Violates ORS 646A.800 (2) to (4).  
 (ss) Violates ORS 646A.090 (2) to (4).  
 (tt) Violates ORS 87.686.  
 (uu) Violates ORS 646A.803.  
 (vv) Violates ORS 646A.362.  
 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.  
 (xx) Violates ORS 180.440 (1) or 180.486 (1).  
 (yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.  
 (zz) Violates ORS 87.007 (2) or (3).  
 (aaa) Violates ORS 92.405 (1), (2) or (3).  
 (bbb) Engages in an unlawful practice under ORS 646.648.  
 (ccc) Violates ORS 646A.365.  
 (ddd) Violates ORS 98.854, **98.856** or 98.858 or **section 9 of this 2017 Act** or a rule adopted under ORS 98.864.  
 (eee) Sells a gift card in violation of ORS 646A.276.  
 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.  
 (ggg) Violates ORS 646A.430 to 646A.450.  
 (hhh) Violates a provision of ORS 744.318 to 744.384.  
 (iii) Violates a provision of ORS 646A.702 to 646A.720.  
 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration described in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the subject of the violation.  
 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.  
 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as in effect on January 1, 2010.  
 (mmm) Violates a provision of ORS 646A.480 to 646A.495.

(nnn) Violates ORS 646A.082.  
 (ooo) Violates ORS 646.647.  
 (ppp) Violates ORS 646A.115.  
 (qqq) Violates a provision of ORS 646A.405.  
 (rrr) Violates ORS 646A.092.  
 (sss) Violates a provision of ORS 646.644.  
 (ttt) Violates a provision of ORS 646A.295.  
 (uuu) Violates ORS 646A.564.  
 (vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as defined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to do so or unless the person is an active member of the Oregon State Bar.  
 (www) Violates ORS 702.012, 702.029, 702.032 or 702.054.  
 (xxx) Violates ORS 646A.806.  
 (yyy) Violates ORS 646A.810 (2).  
 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifestation of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.  
 (3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prosecuting attorney need not prove competition between the parties or actual confusion or misunderstanding.  
 (4) An action or suit may not be brought under subsection (1)(u) of this section unless the Attorney General has first established a rule in accordance with the provisions of ORS chapter 183 declaring the conduct to be unfair or deceptive in trade or commerce.  
 (5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or suit is brought under subsection (1)(xx) of this section by a person other than a prosecuting attorney, relief is limited to an injunction and the prevailing party may be awarded reasonable attorney fees.

## CONFORMING AMENDMENTS

**SECTION 17.** ORS 90.425 is amended to read:  
 90.425. (1) As used in this section:

(a) "Current market value" means the amount in cash, as determined by the county assessor, that could reasonably be expected to be paid for a manufactured dwelling or floating home by an informed buyer to an informed seller, each acting without compulsion in an arm's-length transaction occurring on the assessment date for the tax year or on the date of a subsequent reappraisal by the county assessor.

(b) "Dispose of the personal property" means that, if reasonably appropriate, the landlord may throw away the property or may give it without consideration to a nonprofit organization or to a person unrelated to the landlord. The landlord may not retain the property for personal use or benefit.

(c) "Goods" includes those goods left inside a recreational vehicle, manufactured dwelling or floating home or left upon the rental space outside a recreational vehicle, manufactured dwelling or float-



ing home, whether the recreational vehicle, dwelling or home is located inside or outside of a facility.

(d) "Lienholder" means any lienholder of an abandoned recreational vehicle, manufactured dwelling or floating home, if the lien is of record or the lienholder is actually known to the landlord.

(e) "Of record" means:

(A) For a recreational vehicle that is not a manufactured structure as defined in ORS 446.561, that a security interest has been properly recorded with the Department of Transportation pursuant to ORS 802.200 (1)(a)(A) and 803.097.

(B) For a manufactured dwelling or recreational vehicle that is a manufactured structure as defined in ORS 446.561, that a security interest has been properly recorded for the manufactured dwelling or recreational vehicle in the records of the Department of Consumer and Business Services pursuant to ORS 446.611 or on a certificate of title issued by the Department of Transportation prior to May 1, 2005.

(C) For a floating home, that a security interest has been properly recorded with the State Marine Board pursuant to ORS 830.740 to 830.755 for a home registered and titled with the board pursuant to ORS 830.715.

(f) "Owner" means any owner of an abandoned recreational vehicle, manufactured dwelling or floating home, if different from the tenant and either of record or actually known to the landlord.

(g) "Personal property" means goods, vehicles and recreational vehicles and includes manufactured dwellings and floating homes not located in a facility. "Personal property" does not include manufactured dwellings and floating homes located in a facility and therefore subject to being stored, sold or disposed of as provided under ORS 90.675.

(2) A landlord is responsible for abandoned personal property and shall store, sell or dispose of abandoned personal property as provided by this section. This section governs the rights and obligations of landlords, tenants and any lienholders or owners in any personal property abandoned or left upon the premises by the tenant or any lienholder or owner in the following circumstances:

(a) The tenancy has ended by termination or expiration of a rental agreement or by relinquishment or abandonment of the premises and the landlord reasonably believes under all the circumstances that the tenant has left the personal property upon the premises with no intention of asserting any further claim to the premises or to the personal property;

(b) The tenant has been absent from the premises continuously for seven days after termination of a tenancy by a court order that has not been executed; or

(c) The landlord receives possession of the premises from the sheriff following restitution pursuant to ORS 105.161.

(3) Prior to storing, selling or disposing of the tenant's personal property under this section, the landlord must give a written notice to the tenant that must be:

(a) Personally delivered to the tenant; or  
(b) Sent by first class mail addressed and mailed to the tenant at:

(A) The premises;

(B) Any post-office box held by the tenant and actually known to the landlord; and

(C) The most recent forwarding address if provided by the tenant or actually known to the landlord.

(4)(a) In addition to the notice required by subsection (3) of this section, in the case of an abandoned recreational vehicle, manufactured dwelling or floating home, a landlord shall also give a copy of the notice described in subsection (3) of this section to:

(A) Any lienholder of the recreational vehicle, manufactured dwelling or floating home;

(B) Any owner of the recreational vehicle, manufactured dwelling or floating home;

(C) The tax collector of the county where the manufactured dwelling or floating home is located; and

(D) The assessor of the county where the manufactured dwelling or floating home is located.

(b) The landlord shall give the notice copy required by this subsection by personal delivery or first class mail, except that for any lienholder, mail service must be both by first class mail and by certified mail with return receipt requested.

(c) A notice to lienholders under paragraph (a)(A) of this subsection must be sent to each lienholder at each address:

(A) Actually known to the landlord;

(B) Of record; and

(C) Provided to the landlord by the lienholder in a written notice that identifies the personal property subject to the lien and that was sent to the landlord by certified mail with return receipt requested within the preceding five years. The notice must identify the personal property by describing the physical address of the property.

(5) The notice required under subsection (3) of this section must state that:

(a) The personal property left upon the premises is considered abandoned;

(b) The tenant or any lienholder or owner must contact the landlord by a specified date, as provided in subsection (6) of this section, to arrange for the removal of the abandoned personal property;

(c) The personal property is stored at a place of safekeeping, except that if the property includes a manufactured dwelling or floating home, the dwelling or home must be stored on the rented space;

(d) The tenant or any lienholder or owner, except as provided by subsection (18) of this section, may arrange for removal of the personal property by contacting the landlord at a described telephone number or address on or before the specified date;

(e) The landlord shall make the personal property available for removal by the tenant or any lienholder or owner, except as provided by subsection (18) of this section, by appointment at reasonable times;

(f) If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of this section, the landlord may require payment of removal and storage charges, as provided by subsection (7)(d) of this section, prior to releasing the personal property to the tenant or any lienholder or owner;

(g) If the personal property is considered to be abandoned pursuant to subsection (2)(c) of this section, the landlord may not require payment of storage charges prior to releasing the personal property;

(h) If the tenant or any lienholder or owner fails to contact the landlord by the specified date, or after that contact, fails to remove the personal property within 30 days for recreational vehicles, manufactured dwellings and floating homes or 15 days for all other personal property, the landlord may sell or dispose of the personal property. If the landlord reasonably believes that the personal property will be eligible for disposal pursuant to subsection (10)(b) of this section and the landlord intends to dispose of the property if the property is not claimed, the notice shall state that belief and intent; and

(i) If the personal property includes a recreational vehicle, manufactured dwelling or floating home and if applicable, there is a lienholder or owner that has a right to claim the recreational vehicle, dwelling or home, except as provided by subsection (18) of this section.

(6) For purposes of subsection (5) of this section, the specified date by which a tenant, lienholder or owner must contact a landlord to arrange for the disposition of abandoned personal property is:

(a) For abandoned recreational vehicles, manufactured dwellings or floating homes, not less than 45 days after personal delivery or mailing of the notice; or

(b) For all other abandoned personal property, not less than five days after personal delivery or eight days after mailing of the notice.

(7) After notifying the tenant as required by subsection (3) of this section, the landlord:

(a) Shall store any abandoned manufactured dwelling or floating home on the rented space and shall exercise reasonable care for the dwelling or home;

(b) Shall store all other abandoned personal property of the tenant, including goods left inside a recreational vehicle, manufactured dwelling or floating home or left upon the rented space outside a recreational vehicle, dwelling or home, in a place of safekeeping and shall exercise reasonable care for the personal property, except that the landlord may:

(A) Promptly dispose of rotting food; and

(B) Allow an animal control agency to remove any abandoned pets or livestock. If an animal control agency will not remove the abandoned pets or livestock, the landlord shall exercise reasonable care for the animals given all the circumstances, including the type and condition of the animals, and may give the animals to an agency that is willing and able to care for the animals, such as a humane society or similar organization;

(c) Except for manufactured dwellings and floating homes, may store the abandoned personal property at the dwelling unit, move and store it elsewhere on the premises or move and store it at a commercial storage company or other place of safekeeping; and

(d) Is entitled to reasonable or actual storage charges and costs incidental to storage or disposal, including any cost of removal to a place of storage. In the case of an abandoned manufactured dwelling or floating home, the storage charge may be no greater than the monthly space rent last payable by the tenant.

(8) If a tenant, lienholder or owner, upon the receipt of the notice provided by subsection (3) or (4) of this section or otherwise, responds by actual notice to the landlord on or before the specified date in the landlord's notice that the tenant, lienholder or owner intends to remove the personal property from the premises or from the place of safekeeping, the landlord must make that personal property available for removal by the tenant, lienholder or owner by appointment at reasonable times during the 15 days or, in the case of a recreational vehicle, manufactured dwelling or floating home, 30 days following the date of the response, subject to subsection (18) of this section. If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of this section, but not pursuant to subsection (2)(c) of this section, the landlord may require payment of removal and storage charges, as provided in subsection (7)(d) of this section, prior to allowing the tenant, lienholder or owner to remove the personal property. Acceptance by a landlord of such payment does not operate to create or reinstate a tenancy or create a waiver pursuant to ORS 90.412 or 90.417.

(9) Except as provided in subsections (18) to (20) of this section, if the tenant, lienholder or owner of a recreational vehicle, manufactured dwelling or floating home does not respond within the time provided by the landlord's notice, or the tenant, lienholder or owner does not remove the personal property within the time required by subsection (8) of this section or by any date agreed to with the landlord, whichever is later, the tenant's, lienholder's or owner's personal property is conclusively presumed to be abandoned. The tenant and any lienholder or owner that have been given notice pursuant to subsection (3) or (4) of this section shall, except with regard to the distribution of sale proceeds pursuant to subsection (13) of this section, have no further right, title or interest to the personal property and may not claim or sell the property.

(10) If the personal property is presumed to be abandoned under subsection (9) of this section, the landlord then may:

(a) Sell the personal property at a public or private sale, provided that prior to the sale of a recreational vehicle, manufactured dwelling or floating home:

(A) The landlord may seek to transfer ownership of record of the personal property by complying with the requirements of the appropriate state agency; and

(B) The landlord shall:

(i) Place a notice in a newspaper of general circulation in the county in which the recreational vehicle, manufactured dwelling or floating home is located. The notice shall state:

(I) That the recreational vehicle, manufactured dwelling or floating home is abandoned;

(II) The tenant's and owner's name, if of record or actually known to the landlord;

(III) The address and any space number where the recreational vehicle, manufactured dwelling or floating home is located, and any plate, registration or other identification number for a recreational vehicle or floating home noted on the certificate of title, if actually known to the landlord;

(IV) Whether the sale is by private bidding or public auction;

(V) Whether the landlord is accepting sealed bids and, if so, the last date on which bids will be accepted; and

(VI) The name and telephone number of the person to contact to inspect the recreational vehicle, manufactured dwelling or floating home;

(ii) At a reasonable time prior to the sale, give a copy of the notice required by sub-subparagraph (i) of this subparagraph to the tenant and to any lienholder and owner, by personal delivery or first class mail, except that for any lienholder, mail service must be by first class mail with certificate of mailing;

(iii) Obtain an affidavit of publication from the newspaper to show that the notice required under sub-subparagraph (i) of this subparagraph ran in the newspaper at least one day in each of two consecutive weeks prior to the date scheduled for the sale or the last date bids will be accepted; and

(iv) Obtain written proof from the county that all property taxes and assessments on the manufactured dwelling or floating home have been paid or, if not paid, that the county has authorized the sale, with the sale proceeds to be distributed pursuant to subsection (13) of this section;

(b) Destroy or otherwise dispose of the personal property if the landlord determines that:

(A) For a manufactured dwelling or floating home, the current market value of the property is \$8,000 or less as determined by the county assessor; or

(B) For all other personal property, the reasonable current fair market value is \$1,000 or less or so low that the cost of storage and conducting a public sale probably exceeds the amount that would be realized from the sale; or

(c) Consistent with paragraphs (a) and (b) of this subsection, sell certain items and destroy or otherwise dispose of the remaining personal property.

(11)(a) A public or private sale authorized by this section must:

(A) For a recreational vehicle, manufactured dwelling or floating home, be conducted consistent with the terms listed in subsection (10)(a)(B)(i) of this section. Every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable; or

(B) For all other personal property, be conducted under the provisions of ORS 79.0610.

(b) If there is no buyer at a sale of a manufactured dwelling or floating home, the personal property is considered to be worth \$8,000 or less, regardless of current market value, and the landlord shall destroy or otherwise dispose of the personal property.

(12) Notwithstanding ORS 446.155 (1) and (2), unless a landlord intentionally misrepresents the condition of a manufactured dwelling or floating home, the landlord is not liable for the condition of the dwelling or home to:

(a) A buyer of the dwelling or home at a sale pursuant to subsection (10)(a) of this section, with or without consideration; or

(b) A person or nonprofit organization to whom the landlord gives the dwelling or home pursuant to subsection (1)(b), (10)(b) or (11)(b) of this section.

(13)(a) The landlord may deduct from the proceeds of the sale:

(A) The reasonable or actual cost of notice, storage and sale; and

(B) Unpaid rent.

(b) If the sale was of a manufactured dwelling or floating home, after deducting the amounts listed in paragraph (a) of this subsection, the landlord shall remit the remaining proceeds, if any, to the county tax collector to the extent of any unpaid property taxes and assessments owed on the dwelling or home.

(c) If the sale was of a recreational vehicle, manufactured dwelling or floating home, after deducting the amounts listed in paragraphs (a) and (b) of this subsection, if applicable, the landlord shall remit the remaining proceeds, if any, to any lienholder to the extent of any unpaid balance owed on the lien on the recreational vehicle, dwelling or home.

(d) After deducting the amounts listed in paragraphs (a), (b) and (c) of this subsection, if applicable, the landlord shall remit to the tenant or owner the remaining proceeds, if any, together with an itemized accounting.

(e) If the tenant or owner cannot after due diligence be found, the landlord shall deposit the remaining proceeds with the county treasurer of the county in which the sale occurred. If not claimed within three years, the deposited proceeds revert to the general fund of the county and are available for general purposes.

(14) The county tax collector shall cancel all unpaid property taxes and assessments owed on a manufactured dwelling or floating home, as provided under ORS 311.790, only under one of the following circumstances:



(a) The landlord disposes of the manufactured dwelling or floating home after a determination described in subsection (10)(b) of this section.

(b) There is no buyer of the manufactured dwelling or floating home at a sale described under subsection (11) of this section.

(c)(A) There is a buyer of the manufactured dwelling or floating home at a sale described under subsection (11) of this section;

(B) The current market value of the manufactured dwelling or floating home is \$8,000 or less; and

(C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments owed on the dwelling or home after distribution of the proceeds pursuant to subsection (13) of this section.

(d)(A) The landlord buys the manufactured dwelling or floating home at a sale described under subsection (11) of this section;

(B) The current market value of the manufactured dwelling or floating home is more than \$8,000;

(C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments owed on the manufactured dwelling or floating home after distribution of the proceeds pursuant to subsection (13) of this section; and

(D) The landlord disposes of the manufactured dwelling or floating home.

(15) The landlord is not responsible for any loss to the tenant, lienholder or owner resulting from storage of personal property in compliance with this section unless the loss was caused by the landlord's deliberate or negligent act. In the event of a deliberate and malicious violation, the landlord is liable for twice the actual damages sustained by the tenant, lienholder or owner.

(16) Complete compliance in good faith with this section shall constitute a complete defense in any action brought by a tenant, lienholder or owner against a landlord for loss or damage to such personal property disposed of pursuant to this section.

(17) If a landlord does not comply with this section:

(a) The tenant is relieved of any liability for damage to the premises caused by conduct that was not deliberate, intentional or grossly negligent and for unpaid rent and may recover from the landlord up to twice the actual damages sustained by the tenant;

(b) A lienholder or owner aggrieved by the non-compliance may recover from the landlord the actual damages sustained by the lienholder or owner. ORS 90.255 does not authorize an award of attorney fees to the prevailing party in any action arising under this paragraph; and

(c) A county tax collector aggrieved by the non-compliance may recover from the landlord the actual damages sustained by the tax collector, if the non-compliance is part of an effort by the landlord to defraud the tax collector. ORS 90.255 does not authorize an award of attorney fees to the prevailing party in any action arising under this paragraph.

(18) In the case of an abandoned recreational vehicle, manufactured dwelling or floating home, the provisions of this section regarding the rights and responsibilities of a tenant to the abandoned vehicle, dwelling or home also apply to any lienholder except that the lienholder may not sell or remove the vehicle, dwelling or home unless:

(a) The lienholder has foreclosed its lien on the recreational vehicle, manufactured dwelling or floating home;

(b) The tenant or a personal representative or designated person described in subsection (20) of this section has waived all rights under this section pursuant to subsection (26) of this section; or

(c) The notice and response periods provided by subsections (6) and (8) of this section have expired.

(19)(a) In the case of an abandoned manufactured dwelling or floating home but not including a dwelling or home abandoned following a termination pursuant to ORS 90.429 and except as provided by subsection (20)(d) and (e) of this section, if a lienholder makes a timely response to a notice of abandoned personal property pursuant to subsections (6) and (8) of this section and so requests, a landlord shall enter into a written storage agreement with the lienholder providing that the dwelling or home may not be sold or disposed of by the landlord for up to 12 months. A storage agreement entitles the lienholder to store the personal property on the previously rented space during the term of the agreement, but does not entitle anyone to occupy the personal property.

(b) The lienholder's right to a storage agreement arises upon the failure of the tenant, owner or, in the case of a deceased tenant, the personal representative, designated person, heir or devisee to remove or sell the dwelling or home within the allotted time.

(c) To exercise the right to a storage agreement under this subsection, in addition to contacting the landlord with a timely response as described in paragraph (a) of this subsection, the lienholder must enter into the proposed storage agreement within 60 days after the landlord gives a copy of the agreement to the lienholder. The landlord shall give a copy of the proposed storage agreement to the lienholder in the same manner as provided by subsection (4)(b) of this section. The landlord may include a copy of the proposed storage agreement with the notice of abandoned property required by subsection (4) of this section. A lienholder enters into a storage agreement by signing a copy of the agreement provided by the landlord and personally delivering or mailing the signed copy to the landlord within the 60-day period.

(d) The storage agreement may require, in addition to other provisions agreed to by the landlord and the lienholder, that:

(A) The lienholder make timely periodic payment of all storage charges, as described in subsection (7)(d) of this section, accruing from the commencement of the 45-day period described in subsection (6) of this section. A storage charge may include a util-

ity or service charge, as described in ORS 90.532, if limited to charges for electricity, water, sewer service and natural gas and if incidental to the storage of personal property. A storage charge may not be due more frequently than monthly;

(B) The lienholder pay a late charge or fee for failure to pay a storage charge by the date required in the agreement, if the amount of the late charge is no greater than for late charges described in the rental agreement between the landlord and the tenant; and

(C) The lienholder maintain the personal property and the space on which the personal property is stored in a manner consistent with the rights and obligations described in the rental agreement between the landlord and the tenant.

(e) During the term of an agreement described under this subsection, the lienholder has the right to remove or sell the property, subject to the provisions of the lien. Selling the property includes a sale to a purchaser who wishes to leave the dwelling or home on the rented space and become a tenant, subject to any conditions previously agreed to by the landlord and tenant regarding the landlord's approval of a purchaser or, if there was no such agreement, any reasonable conditions by the landlord regarding approval of any purchaser who wishes to leave the dwelling or home on the rented space and become a tenant. The landlord also may condition approval for occupancy of any purchaser of the property upon payment of all unpaid storage charges and maintenance costs.

(f)(A) If the lienholder violates the storage agreement, the landlord may terminate the agreement by giving at least 90 days' written notice to the lienholder stating facts sufficient to notify the lienholder of the reason for the termination. Unless the lienholder corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the dwelling or home without further notice to the lienholder.

(B) After a landlord gives a termination notice pursuant to subparagraph (A) of this paragraph for failure of the lienholder to pay a storage charge and the lienholder corrects the violation, if the lienholder again violates the storage agreement by failing to pay a subsequent storage charge, the landlord may terminate the agreement by giving at least 30 days' written notice to the lienholder stating facts sufficient to notify the lienholder of the reason for termination. Unless the lienholder corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the property without further notice to the lienholder.

(C) A lienholder may terminate a storage agreement at any time upon at least 14 days' written notice to the landlord and may remove the property from the rented space if the lienholder has paid all storage charges and other charges as provided in the agreement.

(g) Upon the failure of a lienholder to enter into a storage agreement as provided by this subsection

or upon termination of an agreement, unless the parties otherwise agree or the lienholder has sold or removed the manufactured dwelling or floating home, the landlord may sell or dispose of the property pursuant to this section without further notice to the lienholder.

(20) If the personal property is a manufactured dwelling or floating home and is considered abandoned as a result of the death of a tenant who was the only tenant and who owned the dwelling or home, this section applies, except as follows:

(a) The following persons have the same rights and responsibilities regarding the abandoned dwelling or home as a tenant:

(A) Any personal representative named in a will or appointed by a court to act for the deceased tenant.

(B) Any person designated in writing by the tenant to be contacted by the landlord in the event of the tenant's death.

(b) The notice required by subsection (3) of this section must be:

(A) Sent by first class mail to the deceased tenant at the premises; and

(B) Personally delivered or sent by first class mail to any personal representative or designated person, if actually known to the landlord.

(c) The notice described in subsection (5) of this section must refer to any personal representative or designated person, instead of the deceased tenant, and must incorporate the provisions of this subsection.

(d) If a personal representative, designated person or other person entitled to possession of the property, such as an heir or devisee, responds by actual notice to a landlord within the 45-day period provided by subsection (6) of this section and so requests, the landlord shall enter into a written storage agreement with the representative or person providing that the dwelling or home may not be sold or disposed of by the landlord for up to 90 days or until conclusion of any probate proceedings, whichever is later. A storage agreement entitles the representative or person to store the personal property on the previously rented space during the term of the agreement, but does not entitle anyone to occupy the personal property. If such an agreement is entered, the landlord may not enter a similar agreement with a lienholder pursuant to subsection (19) of this section until the agreement with the personal representative or designated person ends.

(e) If a personal representative or other person requests that a landlord enter into a storage agreement, subsection (19)(c), (d) and (f)(C) of this section applies, with the representative or person having the rights and responsibilities of a lienholder with regard to the storage agreement.

(f) During the term of an agreement described under paragraph (d) of this subsection, the representative or person has the right to remove or sell the dwelling or home, including a sale to a purchaser or a transfer to an heir or devisee where the purchaser, heir or devisee wishes to leave the dwelling or home

on the rented space and become a tenant, subject to any conditions previously agreed to by the landlord and tenant regarding the landlord's approval for occupancy of a purchaser, heir or devisee or, if there was no such agreement, any reasonable conditions by the landlord regarding approval for occupancy of any purchaser, heir or devisee who wishes to leave the dwelling or home on the rented space and become a tenant. The landlord also may condition approval for occupancy of any purchaser, heir or devisee of the dwelling or home upon payment of all unpaid storage charges and maintenance costs.

(g) If the representative or person violates the storage agreement, the landlord may terminate the agreement by giving at least 30 days' written notice to the representative or person stating facts sufficient to notify the representative or person of the reason for the termination. Unless the representative or person corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the dwelling or home without further notice to the representative or person.

(h) Upon the failure of a representative or person to enter into a storage agreement as provided by this subsection or upon termination of an agreement, unless the parties otherwise agree or the representative or person has sold or removed the manufactured dwelling or floating home, the landlord may sell or dispose of the property pursuant to this section without further notice to the representative or person.

(21) If the personal property is other than a manufactured dwelling or floating home and is considered abandoned as a result of the death of a tenant who was the only tenant and who owned the personal property, this section applies except as follows:

(a) The following persons have the same rights and responsibilities regarding the abandoned personal property as a tenant:

(A) An heir or devisee.

(B) Any personal representative named in a will or appointed by a court to act for the deceased tenant.

(C) Any person designated in writing by the tenant to be contacted by the landlord in the event of the tenant's death.

(b) The notice required by subsection (3) of this section must be:

(A) Sent by first class mail to the deceased tenant at the premises;

(B) Personally delivered or sent by first class mail to any heir, devisee, personal representative or designated person, if actually known to the landlord; and

(C) Sent by first class mail to the attention of an estate administrator of the Department of State Lands.

(c) The notice described in subsection (5) of this section must refer to the heir, devisee, personal representative, designated person or estate administrator of the department, instead of the deceased

tenant, and must incorporate the provisions of this subsection.

(d) The landlord shall allow a person that is an heir, devisee or personal representative of the tenant, or an estate administrator of the department, to remove the personal property if the person contacts the landlord within the period provided by subsection (6) of this section, complies with the requirements of this section and provides the landlord with reasonable evidence that the person is an heir, devisee or personal representative, or an estate administrator of the department.

(e) If neither an heir, devisee nor personal representative of the tenant, nor an estate administrator of the department, contacts the landlord within the time period provided by subsection (6) of this section, the landlord shall allow removal of the personal property by the designated person of the tenant, if the designated person contacts the landlord within that period and complies with the requirements of this section and provides the landlord with reasonable evidence that the person is the designated person.

(f) A landlord who allows removal of personal property under this subsection is not liable to another person that has a claim or interest in the personal property.

(22) If a governmental agency determines that the condition of a manufactured dwelling, floating home or recreational vehicle abandoned under this section constitutes an extreme health or safety hazard under state or local law and the agency determines that the hazard endangers others in the immediate vicinity and requires quick removal of the property, the landlord may sell or dispose of the property pursuant to this subsection. The landlord shall comply with all provisions of this section, except as follows:

(a) The date provided in subsection (6) of this section by which a tenant, lienholder, owner, personal representative or designated person must contact a landlord to arrange for the disposition of the property must be not less than 15 days after personal delivery or mailing of the notice required by subsection (3) of this section.

(b) The date provided in subsections (8) and (9) of this section by which a tenant, lienholder, owner, personal representative or designated person must remove the property must be not less than seven days after the tenant, lienholder, owner, personal representative or designated person contacts the landlord.

(c) The notice required by subsection (3) of this section must be as provided in subsection (5) of this section, except that:

(A) The dates and deadlines in the notice for contacting the landlord and removing the property must be consistent with this subsection;

(B) The notice must state that a governmental agency has determined that the property constitutes an extreme health or safety hazard and must be removed quickly; and



(C) The landlord shall attach a copy of the agency's determination to the notice.

(d) If the tenant, a lienholder, owner, personal representative or designated person does not remove the property within the time allowed, the landlord or a buyer at a sale by the landlord under subsection (11) of this section shall promptly remove the property from the facility.

(e) A landlord is not required to enter into a storage agreement with a lienholder, owner, personal representative or designated person pursuant to subsection (19) of this section.

(23)(a) If an official or agency referred to in ORS 453.876 notifies the landlord that the official or agency has determined that all or part of the premises is unfit for use as a result of the presence of an illegal drug manufacturing site involving methamphetamine, and the landlord complies with this subsection, the landlord is not required to comply with subsections (1) to (22) and (24) to (27) of this section with regard to personal property left on the portion of the premises that the official or agency has determined to be unfit for use.

(b) Upon receiving notice from an official or agency determining the premises to be unfit for use, the landlord shall promptly give written notice to the tenant as provided in subsection (3) of this section. The landlord shall also attach a copy of the notice in a secure manner to the main entrance of the dwelling unit. The notice to the tenant shall include a copy of the official's or agency's notice and state:

(A) That the premises, or a portion of the premises, has been determined by an official or agency to be unfit for use due to contamination from the manufacture of methamphetamine and that as a result subsections (1) to (22) and (24) to (27) of this section do not apply to personal property left on any portion of the premises determined to be unfit for use;

(B) That the landlord has hired, or will hire, a contractor to assess the level of contamination of the site and to decontaminate the site;

(C) That upon hiring the contractor, the landlord will provide to the tenant the name, address and telephone number of the contractor; and

(D) That the tenant may contact the contractor to determine whether any of the tenant's personal property may be removed from the premises or may be decontaminated at the tenant's expense and then removed.

(c) To the extent consistent with rules of the Department of Human Services, the contractor may release personal property to the tenant.

(d) If the contractor and the department determine that the premises or the tenant's personal property is not unfit for use, upon notification by the department of the determination, the landlord shall comply with subsections (1) to (22) and (24) to (27) of this section for any personal property left on the premises.

(e) Except as provided in paragraph (d) of this subsection, the landlord is not responsible for stor-

ing or returning any personal property left on the portion of the premises that is unfit for use.

(24) In the case of an abandoned recreational vehicle, manufactured dwelling or floating home that is owned by someone other than the tenant, the provisions of this section regarding the rights and responsibilities of a tenant to the abandoned vehicle, dwelling or home also apply to that owner, with regard only to the vehicle, dwelling or home, and not to any goods left inside or outside the vehicle, dwelling or home.

(25) In the case of an abandoned motor vehicle, the procedure authorized by ORS 98.830 [and 98.835] for removal of abandoned motor vehicles from private property may be used by a landlord as an alternative to the procedures required in this section.

(26)(a) A landlord may sell or dispose of a tenant's abandoned personal property without complying with subsections (1) to (25) and (27) of this section if, after termination of the tenancy or no more than seven days prior to the termination of the tenancy, the following parties so agree in a writing entered into in good faith:

(A) The landlord;

(B) The tenant, or for an abandonment as the result of the death of a tenant who was the only tenant, the personal representative, designated person or other person entitled to possession of the personal property, such as an heir or devisee, as described in subsection (20) or (21) of this section; and

(C) In the case of a manufactured dwelling, floating home or recreational vehicle, any owner and any lienholder.

(b) A landlord may not, as part of a rental agreement, require a tenant, a personal representative, a designated person or any lienholder or owner to waive any right provided by this section.

(27) Until personal property is conclusively presumed to be abandoned under subsection (9) of this section, a landlord does not have a lien pursuant to ORS 87.152 for storing the personal property.

#### **SECTION 18.** ORS 90.485 is amended to read:

90.485. (1) A landlord may have a motor vehicle removed from the premises only in compliance with this section and either ORS 98.810 to 98.818 or ORS 98.830[ 98.835] and 98.840.

(2) Except as provided in ORS 90.425 regarding abandoned vehicles, a landlord may have a motor vehicle removed from the premises without notice to the owner or operator of the vehicle only if the vehicle:

(a) Blocks or prevents access by emergency vehicles;

(b) Blocks or prevents entry to the premises;

(c) Violates a prominently posted parking prohibition;

(d) Blocks or is unlawfully parked in a space reserved for persons with disabilities;

(e) Is parked in an area not intended for motor vehicles including, but not limited to, sidewalks, lawns and landscaping;



(f) Is parked in a space reserved for tenants but is not assigned to a tenant and does not display a parking tag or other device, as provided by subsection (3) of this section; or

(g) Is parked in a specific space assigned to a tenant, as provided by subsection (4) of this section.

(3) A landlord may have a motor vehicle removed from the premises under subsection (2)(f) of this section only if the landlord:

(a) Provides parking tags or other devices that identify vehicles that are authorized to be parked on the premises;

(b) Provides a tenant with parking tags or other devices to be used on a vehicle other than the tenant's primary vehicle if the tenant wants to park a vehicle on the premises in lieu of the tenant's primary vehicle; and

(c) Enters into written agreements with the owners or operators of vehicles authorized to park on the premises that:

(A) Authorize the landlord to have a vehicle removed from the premises without notice for failing to display the parking tag, sticker or other device;

(B) Unless the information is disclosed on prominent signs posted on the premises, disclose to the owners or operators of authorized vehicles the name, address and contact information of the tow company that is authorized to remove vehicles from the premises; and

(C) Specify whether guest parking is allowed and, if guest parking is allowed, describe methods for identifying guest parking spaces or identifying authorized guest vehicles.

(4) If a landlord assigns a specific parking space to a tenant, the landlord may have a vehicle towed under subsection (2)(g) of this section from the assigned parking space only with the agreement of the tenant at the time of the tow. The landlord may not require the tenant to agree to towing.

(5) If guest parking is allowed, the landlord shall post a sign in each designated guest parking space that is clearly readable by an operator of motor vehicle and that specifies any rules, restrictions or limitations on parking in the designated guest parking space.

(6) A landlord may have a motor vehicle that is inoperable, but otherwise parked in compliance with an agreement between the landlord and the owner or operator of the vehicle, removed from the premises if the landlord affixes a prominent notice to the vehicle stating that the vehicle will be towed if the vehicle is not removed or otherwise brought into compliance with the agreement. The landlord must affix the notice required by this subsection at least 72 hours before the vehicle may be removed.

(7) A landlord may not have a motor vehicle removed under this section because the vehicle's registration has expired or is otherwise invalid.

(8) This section does not:

(a) Apply to a landlord of a facility.

(b) Affect the obligations imposed on a landlord under ORS 98.810 to 98.818 or under ORS 98.830[, 98.835] and 98.840.

#### **SECTION 19.** ORS 822.215 is amended to read:

822.215. The Department of Transportation may deny or refuse to issue any towing business certificate under ORS 822.205 or may suspend, revoke or refuse to renew any towing business certificate issued upon proof that the applicant for or holder of the certificate has done any of the following:

(1) Used fraud or deception in securing the certificate.

(2) Received in any manner or by any device any rebate or other additional fee for towing or recovery from a person who performs repairs on a vehicle who does not also own the vehicle. This subsection does not prohibit the payment of the towing fee by a person who performs repairs on a vehicle if the fee is included in the charges by that person for repairs on the vehicle.

(3) Used vehicles for the purposes of towing or recovering services that did not meet the minimum safety standards established by the department.

(4) Failed to display special towing business registration plates, stickers or indicia or identification devices for proportionally registered tow vehicles authorized under ORS 805.200 on each vehicle used to tow or recover vehicles.

(5) Failed to maintain the amounts and types of insurance required to qualify for issuance of a towing business certificate under ORS 822.205.

(6) Failed to obtain any permits or authority required under any provision of ORS chapter 825 or rules adopted thereunder.

(7) Violated any provision of ORS 98.854, **98.856** or 98.858 or **section 9 of this 2017 Act** or a rule adopted under ORS 98.864.


#### **CAPTIONS**

**SECTION 20.** The unit captions used in this 2017 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2017 Act.

Approved by the Governor June 27, 2017

Filed in the office of Secretary of State June 27, 2017

Effective date January 1, 2018

	<b>Policy No.:</b> <b>24-0##</b>
	<b>Supersedes:</b> <b>NA</b>
	<b>Reference:</b> ORS 98-853 – 98.854
<b>Subject:</b> Private Property Impounds, Authorization to Tow	<b>Effective Date:</b>

<p><b><u>Authority/Applicable Statute(s) or Administrative Rule(s):</u></b></p> <p>ORS 822.265 Rulemaking authority</p> <p>(1) In accordance with applicable provisions of ORS chapter 183, the State Board of Towing may adopt rules:</p> <p>(a) Necessary for the administration of the laws that the board is charged with administering.</p> <p>(b) To implement ORS 98.853 (Conditions allowing towing) to 98.862 (Exceptions to requirements of ORS 98.856).</p>
<p><b><u>Purpose:</u></b></p> <p>The purposes of this Public Policy is to protect the safety and well-being of the public, parking facility owners, and the towing industry by providing:</p> <ol style="list-style-type: none"> <li>1. Clarity of the intent of the ORSs assigned to the Board.</li> <li>2. An authoritative definition of the meaning and requirements under ORS 98.853 and 98.854.</li> <li>3. Establishing statewide practice standards of the towing industry.</li> <li>4. Ensure compliance of the laws and accountability by all parties involved with PPI tows.</li> </ol>
<p><b><u>Policy:</u></b></p> <p>Board public policies – summarized from the Concept Summary and Objectives</p>
<p><b><u>Exclusions:</u></b></p> <ul style="list-style-type: none"> <li>• Tows authorized by law enforcement, code enforcement, or other state or local agency in the conducting of government business.</li> <li>• Privately-held properties not designated as a private parking facility (vacant lots).</li> <li>• Nothing in the Board’s policy restricts the ability of a private property owner from, subject to the provisions of this section, instituting and enforcing regulations for parking at the property.</li> </ul>
<p><b><u>Reference:</u></b></p> <ul style="list-style-type: none"> <li>• Initial Concept Summary Document</li> </ul>
<p><b><u>Approved Signature:</u></b></p> <p>Approved by Board vote this _____ day of _____, 2024.</p>

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**DRAFT**  
**for Discussion Purposes Only**