

# 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