

# POLICIES & PROCEDURES

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## **A. Public Records Policy**

The District shall fully comply with the Oregon Public Records Law, ORS 192.311 to 192.478.

**Specificity of Request:** In order to facilitate the public's access to records in the district's possession, and to avoid unnecessary expenditure of staff time, persons requesting access to public records for inspection or copying, or who submit written requests for copies of public records, shall specify the records requested with particularity, furnishing the dates, subject matter and such other detail as may be necessary to enable District personnel to readily locate the records sought.

**Access:** The District shall permit inspection and examination of its non-exempt public records during regular business hours in the District's offices, or such other locations as the District Manager may reasonably designate from time to time.

Copies of non-exempt public records maintained in machine readable or electronic form shall be furnished, if available, in the form requested. If not available in the form requested, such records shall be made available in the form in which they are maintained.

When a request is submitted in writing, the District must respond within 5 business days acknowledging receipt of the request. The District then has an additional 10 business days to fulfill the request or issue a written response estimating how long fulfillment will take. The district is not subject to this response timeframe if it is awaiting a response from the requester seeking clarification of the inquiry or if the requester has not agreed to pay for the records, provided that the cost is \$25 or more. Other considerations that apply are:

- Complicated requests
- Large volume of requests
- Requests involving documents not readily available or if the necessary staff are unavailable to fulfill the request

### **Fees for Public Records**

The District has determined that requests for inspection and copying fall into two classes: routine and non-routine. Routine requests require minimal staff time to locate and copy the record (generally five minutes or less). All other requests are non-routine requests.

Fees must be limited to no more than \$25.00 unless the requestor is provided with a written notification of the estimated amount of the fee and the requestor confirms that he/she wants the public body to proceed.

In order to recover its costs for responding to public records requests, the following fee schedule is adopted by the District:

- Copies of Public Records; Certified Copies: Copies of public records shall be per copy for standard, letter size copies, as listed in the District's schedule of fees approved at the Annual Board Meeting.
- Copies of Sound Recordings: Copies of sound recordings of meetings shall be per copy, as listed in the District's schedule of fees approved at the Annual Board Meeting.

- Copies of Maps and Other Nonstandard Documents: Charges for copying maps or other nonstandard size documents shall be charged in accordance with the actual costs incurred by the District.
- Research Fees: If a request for records requires District personnel to spend more than 15 minutes searching for or reviewing records prior to their review or release for copying, the minimum fee shall be one hour at the rate listed in the District's schedule of fees for Office Service Charges and additional charges shall be in ¼ hour increments. The District shall estimate the total amount of time required to respond to the records request, and the person making the request shall make payment for the estimated cost of the search and copying of the records in advance. If the actual time and costs are less than estimated, the excess money shall be refunded to the person requesting the records. If the actual costs and time are in excess of the estimated time, the difference shall be paid by the person requesting the records at the time the records are produced.
- Additional Charges: If a request is of such magnitude and nature that compliance would disrupt the District's normal operation, the District may impose such additional charges as are necessary to reimburse the District for its actual costs of producing the records.
- Reduced Fee or Free Copies: Whenever it determines that furnishing copies of public records in its possession at a reduced fee or without costs would be in the public interest, the Board or District Manager may so authorize.

### **Authorization Required for Removal of Original Records**

At no time shall an original record of the District be removed from the District's files or the place at which the record is regularly maintained, except upon written authorization of the Board of Directors or Manager of the District.

### **On-Site Review of Original Records**

If a request to review original records is made, the District shall permit such a review provided that search fees are paid in advance in accordance with the Fees for Public Records section, above. A representative shall be present at any time original records are reviewed, and the charges for standing by while the records are reviewed shall be the same as the charges for searching or reviewing records.

### **Unauthorized Alteration, Removal, or Destruction of Records**

If any person attempts to alter, remove or destroy any District record, the District representative shall immediately terminate such person's review, and notify the attorney for the District.

## **B. WATER THEFT & TAMPERING WITH DISTRICT PROPERTY**

In accordance with the applicable Oregon statutes, some of which are identified below, District is authorized and may seek both civil and criminal penalties against anyone who unlawfully takes District water or tampers / interferes with District water conveyance systems.

1. DISTRICT DEFINITION OF THEFT:

- Direct:
  - Taking water out of rotation schedule.
  - Damaging/modifying a headgate to allow more or less water to flow to water user's property
  - Cutting a lock on a headgate
  - Taking water in excess of water right
  - Illegally diverting District water onto a property that does not have a water right
- Indirect:
  - Failure of property owners to maintain (clean) a ditch as it passes through their property while denying beneficiaries of the ditch access to maintain the ditch thereby restricting the flow, or allowing excessive livestock or equipment damage or allowing fencing to cause a breach or blockage to the ditch, resulting in loss of flow.

2. DISTRICT DEFINITION OF TAMPERING:

Tampering / interference includes but is not limited to destroying, tampering with, vandalizing, or in any way changing head gates, weirs, risers, or any other district water conveyance or measuring system.

Theft / Tampering related Oregon statutes include, without limitation:

ORS 540.710: "No person shall willfully open, close, change or interfere with any lawfully established headgate or water box without authority, or willfully use water or conduct water into or through the ditch of the person which has been lawfully denied the person by the watermaster or other competent authority. The possession or use of water when the same shall have been lawfully denied by the watermaster or other competent authority shall be prima facie evidence of the guilt of the person using it."

ORS 540.730: "Whenever any appropriator of water has the lawful right of way for the storage, diversion, or carriage of water, no person shall place or maintain any obstruction that shall interfere with the use of the works or prevent convenient access thereto."

ORS 540.990(2): "Violation of any provision of ORS 540.710 (Interference with headgate, or use of water denied by watermaster or other authority), 540.720 (Unauthorized use or waste of water) or 540.730 (Obstruction interfering with access to or use of works) is a Class B misdemeanor."

ORS 30.182 (Civil Action for Taking of or Tampering with District Services)

ORS 30.184 (District May Recover Damages and Attorney Fees)

ORS 164.125 (Criminal Theft of Services)

ORS 164.365 (Criminal Mischief)

## THEFT / TAMPERING BY A DISTRICT WATER USER:

District will respond to theft / tampering complaints as well as instances of theft / tampering observed by District staff. Upon confirmation of theft / tampering, District staff shall document the issue in writing, which should include at a minimum, the date and time of the offence, photographic evidence (if applicable), and a written description of the offence. Staff is then authorized to initiate enforcement action against the offender as follows:

### 1<sup>st</sup> Offense:

1. Immediate correction to delivery by district staff\* and verbal notice if offender is present
2. Notice of violation posted on residence and mailed by standard mail

### 2<sup>nd</sup> Offense:

1. Immediate correction to delivery by District staff\*
2. Citation issued by District Manager or his designated agent
3. \$1,500 fine levied against offender
4. Lock-off water if possible until fine is paid in full
5. Contact local Law Enforcement as appropriate

### Subsequent Offense(s):

1. Immediate correction to delivery by District staff\*
2. Citation issued by District Manager or his designated agent
3. \$2,500 fine levied against offender
4. Lock-off water if possible until fine is paid in full
5. Contact local Law Enforcement as appropriate

Offender has the option to appeal the citation and request a hearing before the District Board of Directors.

Offenses are cumulative, not based on a calendar year.

## THEFT / TAMPERING BY A NON-PATRON:

Water in the District canals, laterals and sub-laterals is entrusted to the District by the State of Oregon for use by District water users. The taking of water from the system and application of that water to lands without a water right under a District certificate is considered theft and is subject to civil and criminal enforcement. Similarly, tampering or interfering with District water conveyance systems is subject to civil and criminal enforcement.

District will respond to theft / tampering complaints against non-patrons as well as instances of non-patron theft / tampering observed by District staff. Upon confirmation of non-patron theft / tampering, District staff is then authorized to initiate enforcement action against the offender as follows:

1. Immediate correction by District staff\* and verbal notice if offender is present
2. Notice of violation posted on residence and mailed by standard mail with a copy of this policy.
3. Staff will give notice of the theft / tampering to the Oregon Water Resources Department (or other appropriate agency) for enforcement / prosecution.

\*Immediate correction includes, without limitation:

- Removal of diversion
- Removal of pump

### **C. FOR WATER USERS FOR CONSECUTIVE YEARS OF NON-USE (TRANSFER OF IRRIGATION WATER FOR NON-USE)**

ORS Chapter 540 provides that after five successive years of failure to beneficially apply and use water pursuant to water rights, said water rights are presumed forfeited. To avoid the loss of water rights to the District, the District is adopting a policy to comply with ORS 540 to allow the District to transfer the water to other irrigable land within District boundaries, and thus avoid loss of the water rights to the District.

After determining that for a period of four successive years there has been a failure to beneficially use the water appurtenant to the property, the Board of Directors of the District shall:

1. At the regular October board meeting, direct the Manager to send a written notice to the user and any security interest holder of record that:
  - A. The user may be able to file a request with the Water Resources Department for a transfer under OAR Chapter 690, Division 15; or
  - B. The user may be able to file a request with the Water Resources Department for a transfer to an instream water right under the provisions of OAR 690-77-070 and 690-77-075; or
  - C. If the user fails to complete a transfer under (a) or (b) of this section, and does not use the water for a fifth successive year, the District may petition the Director for approval of a change in the place of use of the water pursuant to ORS 540.572 to 540.578 and these rules.
2. The Manager shall provide a copy of each notice sent to a user to the Department within 30 days of the mailing date of the notice.
3. At the October board meeting the following year, the Board of Directors shall review and determine whether or not the water user has beneficially used the water appurtenant to the land so as to avoid forfeiture. Upon a determination that the water user has failed to beneficially use the water appurtenant to the land, the Board shall direct the Manager to send a notice to the water user and any security interest holder of record of the land whose right of record would be transferred, informing them that the District wishes to transfer the use of water to other irrigable land within the District. The notice shall be sent to the last known address of the water user with a return receipt requested. The notice shall include:
  - A. A statement advising the user that the District has determined that the user's land is no longer irrigated or susceptible of irrigation and that the District intends to petition, under OAR 690-21-070.

- B. A statement advising the user that the user has 30 days from the mailing date of the notice to submit a written objection to the proposed petition to the District.
  - C. A general description of the land upon which the water right is of record.
  - D. The number of acres of water right for which the user is charged within each tax lot which the District intends to include in its petition under OAR 690-21-070.
  - E. A description of the type of use described by the water right of record.
  - F. A list with name and address of security interest holders of record.
  - G. A request for confirmation that the information in the notice is correct.
  - H. Advice to the user that the user shall advise the District within said 30-day period if the non-use would be rebuttable as provided under ORS 540.610.
4. If the District receives a written objection with 30 days after mailing of the notice, the District Manager shall attempt to resolve the matter with the user. If the user's objections cannot be resolved by the Manager, a hearing shall be held before the Board of Directors immediately following the regular December board meeting, or at such other time set by the Board of Directors, who shall make a determination whether to proceed with the petition to the Water Resources Commission. If no written objections are received by the District within 30 days after mailing of the notice for following resolution or hearing, the District shall petition the Water Resources Commission for approval of the transfer under ORS 540.574 and pursuant to OAR 690-21-140 and OAR 690-21-160.

## **D. WATER TRANSFER POLICY**

Upon request by a recipient/purchaser for the transfer of water from an existing property to recipient/purchaser's property, it has become a concern of the District that, after approval of the transfer by the Oregon Water Resources Department, the water right might not be proved up on the new property, resulting in a potential forfeiture. To ensure that the water is proved up on the property belonging to recipient/purchaser, prior to placement on the water transfer petition by the District, the recipient/purchaser must give notice of intent to transfer the water to the Water Master pursuant to ORS 540.580. Recipient/purchaser must also pay all fees and charges to the District associated with the transfer of water. Upon approval by the Water Master, the recipient/purchaser shall immediately apply the water to beneficial use and submit a map prepared by Tumalo Irrigation District, or a qualified surveyor, or a Certified Water Rights Examiner, no later than November 15 of that year to the District showing beneficial use. Upon the District's receipt of said map showing full application and use of the water, the District shall place the water transfer on its annual water transfer petition.

## **E. STORM WATER POLICY**

Tumalo Irrigation District (TID) has canals, laterals and ditches for the delivery of irrigation water to its patrons. TID recognizes that many of these canals, laterals and ditches are open and often times are in the vicinity of a public or private roadway. It is the Policy of TID that no storm water or



other run off enter the canals, laterals or ditches and will do all in its power to stop such run off. In the event the source of the run off can be determined, the party responsible for the run off will be requested to rectify the situation so that no further run off will enter the canal, later or ditch.

## **F. BOARD DUTIES AND RESPONSIBILITIES POLICY (4/8/2014)**

### Meeting the Needs of the District

It is the policy of the board of directors of Tumalo Irrigation District to exercise those powers granted to it, and to carry out those duties assigned to it by law, in such a way as to best meet the needs of the district.

### Formulation and Interpretation of District Policy, Rules & Regulations

Board members only have the right and responsibility to participate in board meetings and vote on district matters as part of the board. The most important activity of the board in performing this responsibility is the formulation and interpretation of district policies, Rules & Regulations. To this end, the board shall establish policy, reserving to itself all authority and responsibility not directly assigned to other district officers and personnel.

### Management and Communication between Board and Staff

The primary responsibility of the board is to make policy level decisions for the district. Management of the daily operations and staff is the responsibility of the district manager. Unless otherwise authorized by a quorum of the board, no individual board member may direct or order a staff member on any matter that relates to the daily operations or administration activities of the district. Moreover, unless otherwise authorized by the board, no individual board member may order, direct, or conduct any review of personnel records of any staff member or any other record that is exempt under Public Records Law. Any communications relative to district business must be directed to the board chair, who will then communicate the question, request or concern to the district manager.

### Board Meeting Conduct

The chairman shall preside at board meetings. In the chairman's absence, the vice-chairman shall preside. If both the chairman and vice-chairman are absent, any other member of the board may preside. Board members shall be respectful of one another and follow the direction of the chair. They should avoid personal attacks and keep discussions on policy, not individuals. Meeting shall be conducted in such a manner as to provide a full and fair opportunity for discussion of the issues in an efficient and timely manner. Any decision of the chairman or other presiding officer at the meeting may be overridden by a majority vote of the board.

### Board Members Authorized By Official Board Action Only

Board members have no individual powers separate from the powers of the board and have no authority to act individually without delegation of authority from a quorum of the board. Likewise, no individual board member may speak for or on behalf of the board or district, except as authorized to do so by official board action as recorded in the official minutes, guidelines, or policies of the district.

### Ethical Standards

Board members act as representatives of the citizens of the district. Therefore, board members shall adhere to the highest ethical standards in the conduct of district business. As public officials they are required to comply with Oregon ethics laws. Each board member should be provided with a copy of the Oregon Government Ethics Commissions Guide for Public Officials.

### Board Member Education

In order to effectively carry out their duties, board members must be adequately informed. Members are encouraged to attend such conferences and other training programs as the board may authorize.

### Discipline

The board has the right to enforce its rules and expect ethical and honorable conduct from its members. The board will make every effort to resolve an issue by speaking to the individual privately. Should disciplinary action need to be taken, the following actions may be considered:

- A motion that the member must apologize;
- A motion that the member must leave for the remainder of the meeting;
- A motion to censure the member; or
- A motion to suspend a member's rights for a designated period of time.

### Governance Responsibilities

#### Communications:

- Develop regular channels of communication with board members and management.
- Encourage participation of staff members on appropriate committees.
- Develop procedures for bringing staff opinions and recommendations to the board, as well as board opinions and decisions to the staff.
- Invite non-board members, other local governments, and groups to board or committee meetings or other types of board sponsored assemblies to explore and develop approaches to common concerns.
- Recognize that certain information obtained at board meetings may be non-public and confidential making disclosure a breach of trust.
- Respect the opinion of other members and accept the principle of majority rule in board decisions.

#### Financial:

- Approve the annual budget.
- Monitor district finances and the budget, setting policy or taking action to ensure the fiscal integrity of the organization.

### Policies, Objectives and Plans:

- Abide by and become familiar with all laws and policies governing the operation of the district.
- Approve the annual and strategic plan or plan of operations.
- Approve policies for the organization.
- Recognize that the district manager should have full administrative authority for properly discharging the duties of managing the operation within the limits of the established board policy. The board's basic function is policy making – not administrative.
- Develop and approve long-range plan of growth and development for the district.
- Approve specific important projects.
- Approve any significant departure from established plans or policy.
- Receive and pass on committee or other planning body recommendations.
- Ensure that program objectives are assigned to the proper planning or implementing subgroups.
- Where applicable, bring other local governments or community groups into the planning and decision-making process.
- Approve contracts binding the district.
- Approve major changes in the district's organization or structure.
- Approve board plans of action.
- Pass district resolutions, or adopt ordinances.

### Management:

- Select the district chairman and other officers.
- Hire the district manager.
- Define the duties and responsibilities for the chairman, district manager, officers and major committee chairpersons.
- Select legal counsel and consultants for the board.
- Approve contracts for professional services required by and for the board.
- Authorize officers or board agents to enter into contracts or to sign other written instruments

and to take financial actions.

- Approve the plan, form and amount of management compensation, that is salaries, bonuses, vacation, travel and so on.
- Evaluate the performance of the district manager annually.
- Approve the form and amount of reimbursement for board members.
- Approve programs for management development.
- Provide advice and consultation to management on matters within the purview of the board's responsibilities.

#### Employee Relations:

- Approve any employee benefit plans.
- Insist that personnel complaints go through a proper chain of command. If not resolved, only then should the board get involved.
- Approve contracts with and between any unions involved with the district.
- Do not allow personnel problems, other than problems with the district manager, to be brought into board considerations.

#### Control:

- Identify types of information needed by the board to analyze effectively the district's directions and achievement. Create a process for collecting and analyzing information.
- Realize that the district water users within the boundaries of the district are the true "owners" of the district.
- Review and assess the organization's performance against objectives, resources, plans, policies and services rendered.
- Analyze major "shortfalls" in achievement.
- Identify obstacles, sense-changing needs, and propose new directions or goals.
- Ensure that the district is in compliance with all federal, state and local laws.

#### Board of Directors:

- Motivate board members to accept positions of leadership and responsibility.
- Appoint, change, or abolish committees of the board.
- Define powers and responsibilities of committees of the board.

- Do not make commitments on any matters that should come before the board as a whole.
- Recognize that an individual board member has no legal status to act for the entire board.
- Realize that if a quorum of the board meets to make a decision or to deliberate, then the meeting is considered a public meeting and must comply with all the requirements of the Oregon Public Meetings Laws.
- Discussions on matters of overall policy outside of regular board meetings can violate the open meetings laws.

#### Public Accountability:

- Keep the water users informed on all district matters.
- Make decisions based on the wishes and needs of the water users.
- Spend the district's money with prudence and trust.
- Place the needs of the water users above the ambitions of the board.

## **G. CONSERVED WATER POLICY (3/9/2021)**

Policy regarding conserved water allocations pursuant to ORS 537.455 to 537.500

This policy is adopted pursuant to Oregon Administrative Rule 690-018-0025.

1. Water conserved through conservation measures for which no new water rights are sought shall be used to reduce the District's demand. This conserved water will be allocated between District patrons to supplement any deficiencies proportionate to each patron's share of water rights.

2. Water conserved through conservation measures for which new water rights are sought, shall be allocated as follows:

A minimum of 25% to the state for instream use with the balance allocated proportional based on financial contribution to the conservation measure. If more than 25% of the funds used to finance the conservation measures comes from state or federal sources, and such funds are not subject to repayment, then the state shall receive an allocation proportionate to its contribution in accordance with OAR-690-018,0012(1), but in no event shall the state receive more than 75% unless the Board of Directors proposes a higher allocation to the state.

3. When the District adopts a water conservation project providing for conserved water, notice of the project and its adoption shall be given to all district patrons. The notice to the patrons shall indicate the project's estimated cost per irrigated acre and allow the patrons 30 days from the date the notice is placed in the mail, postage pre-paid, for first class mail, to elect to fund their prorata share of the project and receive their prorata share of conserved water less any state mandated instream percentage of the conserved water. Notification to the District by the patron of the patron's

election to fund their prorata share of the water conservation project, shall be in writing and shall include a check to cover the costs estimated for the district patron's prorata share of the project. If the project estimates are high, then a funding patron will receive a refund upon completion of the project. If the project estimate is low, then a funding patron will pay the increased prorata costs upon completion of the project. Except for funding patrons, no patron shall be entitled to any of the District's allocation of conserved water.

4. District patrons shall have a period of 60 days after the date of the adoption of, or any modification to, this policy to petition for a vote by all district patrons. Upon receipt of a valid petition, the District shall conduct a vote of all the District patrons on whether to approve or reject this policy or any modification to this policy. Any such petition and any such vote shall be governed by the applicable statutes governing elections or recalls in the District.

5. A district patron in good standing may appeal a decision of the Board of Directors approving a particular water conservation project by filing a written appeal within 30 days after the date the Board of Directors issues the challenged decision. The written appeal must include the name, address, and telephone number of the appealing District patron and a concise statement of the reasons the appealing patron believes the proposed water conservation project fails to comply with this policy. Upon receipt of a properly submitted appeal, the Board of Directors shall consider the appeal at one of its next two regularly scheduled meetings and provide notice to the appealing patron of the date the appeal will be heard. The appealing patron shall have an opportunity to address the Board of Directors concerning the appeal. The Board of Directors shall limit its consideration to whether the proposed water conservation project complies with this policy. The Board of Directors may dispose of the appeal by (i) rejecting the proposed water conservation project, (ii) modifying the water conservation project to conform to this policy, or (iii) approving the water conservation project as proposed.

6. This policy only applies to applications for allocations of conserved water filed by the District. It does not apply to applications for allocations of conserved water filed by individuals including District patrons.

7. This policy shall be reviewed and updated by the Board of Directors of the district at least once every five years at the first regularly scheduled Board meeting following every fifth anniversary. However, nothing shall prevent the Board of Directors from reviewing and updating this policy at any other time. The Board of Directors shall follow process and provisions of OAR 690-018-0025 whenever reviewing and updating this policy.

Reviewed by the Board December 14, 2010 and October 13, 2015. No changes were made.

Reviewed by the Board December 8, 2020, discussed revisions and approved those revisions March 9, 2021.

## **H. PRIVATE DITCH POLICY (9/4/2016)**

### Protection of District Water Rights Beyond the District's Points of Delivery

A policy developed for the purpose of protecting the water rights past the District's Points of Delivery (POD) and establishing District procedures for implementing the policy as adopted in accordance with Oregon Revised Statutes (ORS). Chapters 540 and 545.

### Policy Summary and Background:

- District is responsible to deliver the allotted water to its POD.
- Ditches beyond the POD are private ditches and are the responsibility of the landowner(s) on the ditch.
- District has authority to follow the water past the POD to operate, maintain and repair the private system.

Failure by private landowners to adequately maintain private ditches can prevent the beneficial use of water rights and can jeopardize the water rights subjecting them to cancellation or forfeiture. These situations require the District to expend a significant amount of staff time and resources to resolve and are a considerable financial burden on the District.

Some examples include:

- Lack of maintenance of private ditches, pipes and diversions
- Removal of vegetation, silt, debris
- Livestock damage to ditch
- Fences, crossings etc. collecting dead vegetation and debris
- Tree and shrub roots growing into ditch banks
  - Excessive ditch seepage
  - Inadequate infrastructure (headgates, measuring devices, pipe, ponds, pumps etc.)
  - Failure to comply with rotation schedules
  - Theft of water
  - Lack of communication/collaboration between users on the ditch
  - Denying or blocking user access
- Fences, aggressive livestock, dogs
  - Obstruction of flow to down-stream users
- Tarps, boards, rocks, pivot wheels, unmaintained ditches, cross-fences, etc.

### Private Ditch Maintenance

Patrons are responsible for the maintenance and operation of their delivery systems and devices past the District's POD.

The District will notify patron(s) in writing of the need to maintain or repair the private delivery system on their property. "Maintain and/or repair" includes, but is not limited to removal of vegetation and silt, water delivery device(s), such as head gates, slide gates, tarps, or cutouts. Patron shall take required action within 10 days of notice, or provide written commitment within 10 days of notice of when work will be performed. Notice term shall be counted from the date the notice is mailed by the District to the Patron(s). See: ORS 540.420,440.

If the patron(s) does not comply with the procedure above, the District may perform such work and

bill patron(s) accordingly as per: ORS 540.420, 430, 440; ORS 545.221, 237, 279, 287, 291, 293

### Private Ditch Improvements

When District determines that a private ditch system must be upgraded to protect the District's water rights and/or improve efficient delivery of water to patrons, the District will follow the Management beyond the POD Staff Procedures document as applicable.

If a private delivery system needs to be improved, as evidenced by matters such as, but not limited to conflict, waste of water, inefficiency, or lack of beneficial use, the District may determine that an improvement to the system is necessary. See: ORS 540.420, 430, 440; ORS 545.221, 237, 279, 287, 293

### Options available include:

1. Landowners on the ditch perform (or contract) necessary work to District requirements and specifications.
2. District performs (or contracts) necessary maintenance work and bill patrons proportionately based on acres of water rights
3. Board resolution for significant improvements to private system (engineering and construction)
4. Formation of sub-district

### Enforcement of Rotation Schedules and Access to Water

Patrons are responsible for keeping and following rotation schedules as set, and are prohibited from taking water outside the schedule unless arrangements are made with the District and/or other users on the rotation schedule. See: ORS 540.730, 545.291

- District shall set or approve rotation schedules for respective rotations individually on an annual basis.
- Request for rotation schedule changes is contingent upon written agreement between all users on the rotation schedule and approved by the District.
- At the start of a patron's scheduled time to receive water, it is the patron's right and responsibility to physically divert their water in accordance with the rotation schedule.
- Landowner(s) shall provide unobstructed and convenient access to diversion points for rotation partners and District staff.
- The patron is restricted to the right to divert only, and includes no other authority or act.
- If the District deems it necessary, it has the option to assign a staff person to distribute and apportion the water and may bill the patron's/landowner's for the expense.



## Collections

District has the right and authority to bill, assess, collect and lien for all reasonable costs associated with issues beyond the POD.

## Theft of Water

Policy is addressed in District Policies section B.

Note: All references to ORS are to current statutes in effect as of the date of adoption, and as they may be revised in the future.

## **I. MANAGEMENT BEYOND THE POD - STAFF PROCEDURES (9/4/2016)**

### Management beyond the POD Staff Procedures

1. The District receives a complaint or staff observation of delivery issues.
2. Determine and document the issues.
  - a. If District determines the matter can be readily resolved by the landowners the District will participate as necessary.
  - b. If the District determines that the water rights are subject to potential jeopardy or the matter cannot be resolved by the land owners, then the following steps may be implemented.
    - i. Written notice by District to all landowners on the ditch of complaint directing the landowners to correct the problem themselves.
    - ii. Provide District policy
    - iii. Explanation of the issues
    - iv. Options for corrections/improvements
    - v. Landowners may contact District within 7 days from the date of the letter if they would like a Group Meeting\*, or;
    - vi. Encourage patron collaboration to resolve the issue within 10 days of letter.

### \*GROUP MEETING:

1. Encourage group collaboration
2. Discuss improvement options
3. Scope of work
4. Cost of improvements
5. Determination of who will complete work
6. Payment options
  - a. Landowner pays upfront
  - b. Costs shall be levied proportionately against each property

c. Sub-district formation and assessment

7. Written agreement and/or recorded contract

#### **ENFORCEMENT ACTIONS:**

- a. Failure by the landowners to resolve the issue(s) within the specified timeline will result in District enforcement.
- b. Notification of proposed action to District Manager.
- c. District determines work and completes.
- d. Costs shall be levied proportionately against each property.
- e. As appropriate request Board of Directors approval and/or resolution to correct the problem.

### **J. PERSONAL SERVICES POLICY (7/12/2016)**

Personal services shall be defined to include those services that require specialized technical, creative, professional, or communication skills or talents, unique and specialized knowledge, or the exercise of discretionary judgment, and for which the quality of the service depends on attributes that are unique to the service provider. Such services shall include, but are not limited to: architects, engineers, surveyors, attorneys, accountants, auditors, computer programmers, artists, designers, performers, and consultants. The manager or his/her designee shall have the authority to determine whether a particular service is a "personal service" under this definition.

Personal service contracts do not require a competitive bidding process. When screening or selecting a personal service contractor, the District will consider qualifications, performance history, expertise, knowledge and creativity, and the ability to exercise sound judgment. The selection is based primarily on these factors rather than price.

Contracts for architectural, engineering, photogrammetric mapping, transportation planning or land surveying services shall be awarded according to ORS 279C.110(3), unless otherwise provided in this Section. A contract for architectural, engineering, photogrammetric mapping, transportation planning or land surveying services may be entered into by direct appointment if such contract is estimated not to exceed \$100,000.00 in a calendar year, or if the project described in the contract consists of work that has been substantially described, planned or otherwise previously studied or rendered in an earlier contract with the consultant that was awarded under these Rules, and the new contract is a continuation of that project.

### **K. ELECTION POLICY (7/12/2016)**

Tumalo Irrigation District was organized pursuant to ORS Chapter 545. The election process for irrigation districts differs from most other districts and the general election procedures in several significant ways, described in ORS 545.135 to ORS 545.171. The process provided in Chapter 545, however, is not complete, and ORS 545.041 and other provisions of that chapter provide that elections be conducted as nearly as practical in accordance with the general election laws. See ORS Chapters 246, 247 and 258 in particular. Further, ORS 545.221 provides that an irrigation district's Board of Directors may establish bylaws, rules, and regulations for the administration of

the District.

Pursuant to the authority granted to it, the Board of Directors of Tumalo Irrigation District hereby establishes the following policies and procedures for the conduct of elections by Tumalo Irrigation District.

I. **ELECTION OFFICIAL.** The Office Manager of Tumalo Irrigation District is designated the Elections Official and shall be responsible for supervising the election process for Tumalo Irrigation District. As used in this policy and procedure, the terms "District" and "TID" mean Tumalo Irrigation District.

II. **ELECTION PROCEDURES.** The Election Official shall conduct elections in the District in compliance with the election procedures set forth in ORS Chapter 545 and in accordance with the General Election Laws. Where the procedures set forth in ORS Chapter 545 conflicts with the General Election Laws, the procedures set forth in ORS Chapter 545 shall prevail. Decisions of the Election Officer may be appealed in the manner provided in ORS 258.016, et seq.

### III. VOTER REGISTRATION.

A. **Electors.** Electors of TID are entitled to vote within a division of the District as provided in ORS Chapter 545. An elector is a person 18 years of age or older who is the owner or a vendee under a Contract of Sale for the purchase of land situated within the District and subject to charges or assessments of the District, or a corporation, general partnership, limited partnership, limited liability company, public agency, or the Trustee of a Trust that owns land or is the vendee under a Contract of Sale for the purchase of land situated within the District and subject to the charges or assessments of the District. A guardian, administrator, or executor of an estate that owns or is the vendee under a Contract of Sale for the purchase of land situated within the District and subject to the charges or assessments of the District shall be deemed the elector for the land held by such estate.

For the purpose of determining the number of votes that an elector is entitled to pursuant to ORS 545.007(e), land held by a Revocable Trust is deemed owned by the settlor or grantor of the Trust and shall be added to any land held by the settlor or grantor of the Trust outside of the Trust. Further, if the grantor or settlor of the Trust resides within the District, then the votes of that settlor or grantor, including votes for land in the Revocable Trust, shall be voted in the division in which the settlor or grantor resides. (Disregarded Entity Rule)

B. **Elector Registration Form Requirements.** An elector of TID may register to vote or update a registration to vote by delivering to the District's business office, not less than 21 days prior to the date of the election at which the elector desires to vote, a completed, legible District Elector Registration Form. The form shall require the elector to provide the following information:

- (1) The full legal name of the elector;
- (2) The mailing address of the elector;
- (3) The address of the property within the division the elector is voting;
- (4) The District will verify the recorded Deed or the Contract of Sale for each parcel of land owned. If the most recent deed recorded with the County is not correct, the elector must provide the District with a legible copy of the Deed or

Contract of Sale for each parcel of property owned or for which the elector is the vendee within the District;

- (5) If the elector is a corporation, general partnership, limited partnership, or limited liability company, the form shall designate the person authorized to vote on behalf of the elector, and the elector shall provide a Certified Resolution of the Board of Directors of the company, the partners of the partnership, or the members of the limited liability company, or a certified copy of the Bylaws, Partnership Agreement, or Operation Agreement demonstrating that the voter authorized to vote on behalf of the elector is duly authorized to vote by the entity;
- (6) If the elector is a public agency, the Governing Body of the public agency must provide a signed authorization form designating one person to vote for and on behalf of the agency. The authorization remains in effect until it is changed in writing by the Governing Body of the agency. ORS 545.041(4)(d); and
- (7) If the elector does not reside in the District but owns land in more than one division of the District, the elector shall designate which division the elector will vote in. The elector's choice to vote in a particular division is permanent and may not be revoked or changed until the non-resident landowner becomes a resident owner in the District, in which case the elector shall thereafter vote in the division in which the elector's residence is located.

C. Incomplete Form. If the Elector Registration Form is not complete or not legible or fails to include the information required to be submitted by the elector, the Election Official shall make a reasonable attempt to contact the elector and obtain the missing information. The term "reasonable attempt" may include attempting to contact the elector by telephone; first-class mail addressed to the address shown on the Elector Registration Form, if it is legible; or to the address shown on the District's records, if not legible. If the missing information pertains to the description of the land included in the District, the Election Official may review the District's assessment roll for land shown on the assessment roll in the name of the elector, and then obtain copies of the requisite Deeds from the County Clerk's office or other source for each such parcel. If the Election Official is unable to locate any land within the District held in the name of elector as shown on the District's assessment roll, the Election Official shall mail a notice by first-class mail to the address shown on the Elector Registration Form, if legible, notifying the elector that the registration is not complete, and that the District's records show no land owned by the elector in the District.

D. Multiple Ownerships. If the ownership of the land charged by the District is held by a husband and wife, tenants in common, or in other types of multiple ownerships, only one vote shall be allowed on behalf of all of the owners under each multiple ownership. The vote may be cast by any one of the multiple owners. When two or more voters attempt to cast a vote under this provision, only the vote of the voter who first cast a vote shall be counted. If a voter attempting to cast a vote on behalf of a multiple ownership is not registered to vote, then prior to voting, that voter shall complete an Elector Registration Form and provide all of the information, including copies of Deeds, Memorandum of Contract of Sale, and, if relevant, appropriate Certification by the legal entity of the registrant's authority to vote on behalf of the entity. The Election Official shall have no duty to attempt to supply any missing information, and the voter attempting to vote will not be allowed to vote until the Elector Registration Form is completed and all required information is provided to the Election Official.

E. Certification of Registration. The Election Official shall certify the Elector Registration Form by completing the following information on the form:

- (1) Add the District's parcel number(s) to the form;
- (2) Add the acreage charged by the District in each such parcel;
- (3) Total the acreage owned by the elector;
- (4) Note the number of weighted votes the elector is entitled to cast;
- (5) Note the division in which the elector may vote; and
- (6) Date and initial the form.

F. Continuing Registration. After a completed Elector Registration Form has been received and certified by the Election Official, the registration shall remain in full force and effect until the elector submits an amendment or new Elector Registration Form or until the elector is no longer eligible to vote in the District. The Election Official shall exercise reasonable care to maintain the Elector Registration Forms and the forms shall be available for inspection by other electors of the District upon such rules or processes as the Election Official shall establish to preserve and protect the Elector Registration Forms. No form shall be marked or altered in any manner by any person except the Election Official and the elector. The Election Official shall retain the Elector Registration Form of any elector who is no longer qualified to vote in the District for a period of four years following the date the voter became disqualified due to sale of the land in the District or another reason. When an elector becomes disqualified to vote, the Election Official shall note on the face of the Elector Registration Form that the registration is no longer valid and the reason that it is no longer valid.

#### IV. ABSENT ELECTORS.

A. Alternative Means of Voting. Any duly registered elector may vote by absentee ballot.

B. Registration Process. An elector voting by absentee ballot must first register to vote in the manner provided in section III, above.

E. Ballot Materials. Upon verifying that an applicant for an absentee ballot is a registered elector entitled to vote in the election, the Election Official shall provide to the elector, as described above, a ballot, a secrecy envelope, a return identification envelope, and instructions for marking and returning the ballot. The elector shall mark the ballot, place it in the secrecy envelope, and seal the secrecy envelope. The elector shall then place the secrecy envelope in the return identification envelope and sign the certification printed on the back of the envelope. The face of the envelope shall include the name and address of the elector. The back of the return identification envelope shall be printed with the following certification:

"The undersigned elector of the Tumalo Irrigation District does hereby certify that the elector is qualified to vote in elections of the Tumalo Irrigation District; that the undersigned voter clearly marked the ballot; and that the undersigned elector has not unnecessarily exhibited the marked ballot to any other voter."

Following said statement, there shall be a signature line, which shall be signed by the voter submitting the ballot. The ballot must be received by the Election Official at the District's office no later than 8 p.m. on the day of the election.

F. Custody of Absentee Ballots. Upon receipt of a return identification envelope containing a marked absentee ballot, the Election Official shall keep it safely in the District's office and, before

delivering the return identification envelope containing the ballot to the judges of the District's Board of Election, shall compare the signature of the absent elector, which appears on the back of the return identification envelope, to that of the applicant's Elector Registration Form on file in the District office. If the signature appears to be the same, the return identification envelope for each such absentee ballot shall be deposited in the election box. After 8 p.m., the election judges shall open the election box. The ballot contained in the secrecy envelope shall be counted in the same manner as all other ballots in the ballot box following close of the poll.

## V. CHALLENGE OF VOTE.

A. Parties Entitled to Challenge a Vote. Any Election Board member, or elector, or Election Official present at the time of voting may challenge a voter offering to vote and may challenge any absentee vote where the Board member, elector, or Election Official knows or reasonably believes the voter is not qualified as an elector of the District.

B. Statement of Challenge. Any voter challenging a ballot shall, under oath before the Election Official, complete a written and numbered Statement of Challenge in the form provided by the District. The Statement shall contain the name and residence address of the challenger, the name of the voter challenged, and the statement of facts upon which the challenge is based. A voter challenging an elector must make their challenge known to the Election Board prior to the time the ballot is placed in the ballot box.

C. Procedure on Challenge of Ballot. When a ballot is challenged and the elector is present at the poll, after marking the ballot, the elector shall place the ballot in a secrecy envelope and deliver it to the Election Official. The challenger shall promptly complete the Statement of Challenge. If a challenge is to an absentee ballot, the challenger shall complete the form before 5 p.m. on the date of the election.

D. Review of Challenge. The Election Official shall write on the secrecy envelope the number of the Statement of Challenge so that the ballot can be identified in the event that the challenge is upheld and deposit the secrecy envelope in the ballot box. The Election Official shall then examine the challenge and determine if the voter is validly registered to vote and if the vote was properly cast. The ballot shall be counted only if the Election Official determines the voter is validly registered and entitled to vote. If the challenge is valid, then the secrecy envelope containing the number of that challenge shall be removed from the ballot box by the election judges. It shall be strung unopened in the same manner that ballots are strung and shall be retained in the same manner as ballots that are counted. If the Election Official determines that the voter is entitled to vote, then the election judges shall open the secrecy envelope and deposit the ballot in the ballot box prior to counting the ballots, taking care to not disclose how the ballot was voted, so that it cannot be determined how any particular duly registered elector voted. If the Election Official cannot reasonably determine prior to the close of the poll that the voter was entitled to vote, then the secrecy envelope shall not be opened, but shall be strung in the same manner as the ballots and sealed in the ballot box following completion of counting of the votes by the election judges.

E. Notice to Challenged Voter. Promptly upon receiving a challenge to a vote, the Election Official shall attempt to contact the voter and advise the voter of the challenge. Such contact shall be made by telephone, if the Election Official has a telephone number for the voter, or by first-class mail addressed to the last-known address of the voter as shown on the District's records. The

voter shall have ten days to file a sworn statement, which shall include all of the information required by the District's Elector Registration Form, but shall also require the voter's statement, describing the location of the claimed land and the precise acreage for which the voter is claiming ownership. The voter shall promptly return the sworn statement to the Election Official, and upon receipt of the voter's sworn statement, the Election Official shall attempt to verify the voter's voting qualifications under the Irrigation District Law.

F. Canvas of Returns. The board of directors of the district shall meet the first Monday following each election to canvas the returns. Provided, however, that in the event that a ballot is challenged and if the voter and Election Official are unable to comply with paragraph E., above, on or before the day of the election, then the date for canvassing returns provided in ORS 545.149 shall be deemed to have been continued to the sixth business day following the first Monday after the election. If the voter's sworn statement was received by the District's Election Official and if the Election Official had a reasonable opportunity to determine that the voter was entitled to vote, then at the time it canvasses the votes, the Board of Directors shall open the secrecy envelope and count the challenged ballot. If the voter does not return the sworn statement or if the Election Official is not reasonably able to confirm that the voter was entitled to vote, then the secrecy envelope shall remain sealed, and the ballot enclosed therewith shall not be considered during the canvas of the votes, and the unopened secrecy envelope shall remain strung with the ballots cast in the election.

## VI. OTHER ELECTION PROVISIONS.

A. Americans with Disabilities Act. The District will make reasonable accommodations to enable any disabled elector to vote in an election in which the elector is registered and qualified to vote. The Election Official shall assist the elector in the registration process, as is reasonably required to complete the process within the timelines of the registration process. A disabled elector may vote by absentee ballot, and the Election Official may make such ballot available to the elector, as reasonably appropriate, including taking the materials outside the location of the precinct to allow the elector to mark the ballot and place it in the secrecy envelope and the return identification envelope. The ballot shall then be processed in the same manner as absentee ballots. As appropriate, the Election Official shall also provide reasonable accommodations to electors who have sight or hearing disabilities.

B. Election Day Procedures. Each election shall be conducted under the supervision of the Election Official and Election Board, as provided in ORS 545.139 to 545.145, inclusive, as further defined by this procedure. The Election Official shall provide to the Election Board the oath of office, certification forms, and other forms and materials required by the law and this policy to conduct a valid election.

## L. WHISTLEBLOWER POLICY (12/13/2016)

To provide reporting procedures should a District employee become aware of improper government action in accordance with Oregon Revised Statute 659A.200 to 659A.224.

I. The District encourages any employee with knowledge of or concern of an illegal or dishonest fraudulent District activity to report it to the Office Manager, District Manager, or a board member. The employee may also provide the information to another District manager, a state or federal regulatory agency, a law enforcement agency, or an attorney licensed to practice law in Oregon if a

confidential communication is made in connection with the alleged violation. Attorneys employed by the District may report violations of law to the Attorney General, subject to rules of professional conduct. All such issues will be investigated in a timely manner to determine fault and institute any appropriate corrective measures. Examples of illegal or dishonest activities are violations of federal, state, or local laws; billing for services not performed or for goods not delivered; and other fraudulent financial reporting.

II. The employee must exercise sound judgment to avoid baseless allegations. An employee who intentionally files a false report of wrongdoing may be subject to corrective action up to and including termination.

III. Whistleblower protections are provided to maintain confidentiality and to prevent retaliation. While identity may have to be disclosed to conduct a thorough investigation, to comply with the law, and to provide accused individuals their due course, the privacy of the individual making the report will be protected as much as possible. The District will not retaliate against a whistleblower. This includes, but is not limited to, protection from retaliation in the form of an adverse employment action such as termination, compensation decreases, or poor work assignments and threats of physical harm. Any whistleblower who believes he/she is being retaliated against must contact someone of authority immediately. The right of a whistle blower for protection against retaliation does not include immunity for any personal wrongdoing that is alleged and investigated.

IV. All reports of illegal and dishonest activities will be promptly submitted to the appropriate official who is responsible for investigating and coordinating corrective action.

## **M. PREVENTION OF WORKPLACE DISCRIMINATION, HARASSMENT, and RETALIATION (1/14/2020)**

Tumalo Irrigation District is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits unlawful discriminatory practices, including harassment. The District expects that all relationships among persons will be respectful and professional, free of bias, prejudice and harassment in the workplace, at work related event, or any activity coordinated by or through the organization. This policy applies to all employees, elected officials, board members, volunteers, interns and any other person we interact with in the course of accomplishing the work of the organization.

Tumalo Irrigation District has developed this policy to ensure that all its employees can work in an environment free from unlawful harassment, discrimination and retaliation. Tumalo Irrigation District will make every reasonable effort to ensure that all concerned are familiar with these policies and are aware that any complaint in violation of these policies will be investigated and resolved appropriately.

Discrimination, harassment and retaliation are not acceptable. Any employee who has questions or concerns about these policies should talk with our District Manager, or the Board Chairman.

### **EQUAL EMPLOYMENT OPPORTUNITY**

It is our policy to ensure equal employment opportunity without discrimination or harassment on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age,



disability, marital status, citizenship, national origin, genetic information, or any other characteristic protected by law.

## **RETALIATION**

We encourage reporting of all perceived incidents of discrimination or harassment. It is the policy of Tumalo Irrigation District to promptly and thoroughly investigate such reports. We prohibit retaliation against any individual who reports discrimination or harassment or participates in an investigation of such reports.

## **SEXUAL HARASSMENT**

Sexual harassment constitutes discrimination and is illegal under federal and state laws. For the purposes of this policy, “sexual harassment” is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example: a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or c) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

Title VII of the Civil Rights Act of 1964 recognizes two types of sexual harassment: a) quid pro quo and b) hostile work environment. Sexual harassment may include a range of subtle and not-so-subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual’s body, sexual prowess or sexual deficiencies; leering, whistling or touching; insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures; and other physical, verbal or visual conduct of a sexual nature.

Oregon Law provides further protection from sexual assault defined as unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat, or intimidation.

## **HARASSMENT**

Harassment on the basis of any other protected characteristic is also strictly prohibited. Under this policy, harassment is verbal, written or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, marital status, citizenship, genetic information, or any other characteristic protected by law, or that of his or her relatives, friends or associates, and that: a) has the purpose or effect of creating an intimidating, hostile or offensive work environment, b) has the purpose or effect of unreasonably interfering with an individual’s work performance, or c) otherwise adversely affects an individual’s employment opportunities.

Harassing conduct includes labels, insults or negative stereotyping; threatening, intimidating or hostile acts; demeaning jokes; and written or graphic material that belittles or shows hostility or dislike toward an individual or group that is placed on walls or elsewhere on the employer’s

premises or circulated in the workplace, on company time or using company equipment by e-mail, phone (including voice messages), text messages, social networking sites or other means.

## **REPORTING AN INCIDENT OF HARASSMENT, DISCRIMINATION OR RETALIATION**

Tumalo Irrigation District encourages reporting of all perceived incidents of discrimination, harassment or retaliation, regardless of the offender's identity or position. Individuals who believe that they have been the victim of such conduct should discuss their concerns with the District Manager, or the Board Chairman. See the complaint procedure described below.

In addition, we encourage individuals who believe they are being subjected to such conduct to promptly advise the offender that their behavior is unwelcome and to request that it stop. Often this action alone will resolve the problem. We recognize, however, that an individual may prefer to pursue the matter through complaint procedures.

Following receipt of a complaint or concern management will follow-up every three months for one year to ensure no further concerns or retaliation are experienced. Employees should not wait for the management follow-up to share related experiences. If an employee would like the follow-up to discontinue the follow-up process a request must be submitted in writing to the District Manager.

## **INTERNAL COMPLAINT PROCEDURE**

Individuals who believe they have been the victims of conduct prohibited by this policy or believe they have witnessed such conduct should discuss their concerns with the District Manager, or if you are unable to reach the primary contact please contact the Board Chairman. We encourage employees to document the event(s), associated date(s), and potential witnesses.

Tumalo Irrigation District encourages the prompt reporting of complaints or concerns so that quick and helpful action can be taken before relationships become irreparably broken. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment. However, complaints and concerns may be brought forward within four years of the alleged violation. We encourage employees to document the events, associated dates, and potential witnesses.

Any reported allegations of harassment, discrimination or retaliation will be investigated quickly. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the event(s) or may have other relevant knowledge.

Tumalo Irrigation District will maintain confidentiality throughout the investigatory process to the extent possible with acceptable investigation and appropriate corrective action.

Misconduct constituting harassment, discrimination or retaliation will be dealt with appropriately. Responsive action may include, for example, training, referral to counseling or corrective action such as [Identify potential options: warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension without pay, or termination] as Tumalo Irrigation District believes appropriate under the circumstances.

False and malicious complaints of harassment, discrimination or retaliation (as opposed to complaints that, even if erroneous, are made in good faith) may be the subject of appropriate disciplinary action.

## **EXTERNAL COMPLAINT PROCEDURES**

We encourage employees to bring their concerns and complaints to the organization, and understand that, at times, this may not be the choice of the employee. Below is a list of the external complaint options. Please reach out to the preferred choice to determine the appropriate timelines for their processes.

- Oregon Bureau of Labor and Industries at the following web address:  
[https://www.oregon.gov/boli/CRD/Pages/C\\_Crcompl.aspx](https://www.oregon.gov/boli/CRD/Pages/C_Crcompl.aspx)
- Civil or Criminal Action. In these circumstances, a Notice of Claim must be provided to us in accordance with ORS 30.275.

## **EMPLOYMENT AGREEMENTS**

No employee will be required or invited to sign an agreement requiring the non-disclosure of information related to discrimination or sexual assault as a condition of employment, continued employment, promotion, compensation or the receipt of benefits. An employee may request this type of agreement and, upon request, will be provided at least seven (7) days to change their mind.

## **ADDITIONAL EMPLOYEE SUPPORT SERVICES**

Employees may choose to use other support services throughout and following instances related to concerns and complaints. The following additional resources are available:

- Legal Resources: <https://www.osbar.org/public/ris/>
- Counseling and Support Services and/or Employee Assistance Services:  
<https://www.psychologytoday.com/us>

## **N. DISTRICT SAFETY AND HEALTH PROGRAM (11/14/2017)**

The Board of Directors of Tumalo Irrigation District hereby resolves as follows:

The safety and health of all workers/employees is a shared goal of all who work for this District. The District's policy is that all managers, supervisors, and all other employees share responsibility for taking reasonable steps to engender a safe and healthful workplace.

The District has a safety committee and holds safety meetings. The goal of these meetings is to assist in identifying hazards and unsafe work practices, mitigating obstacles to accident prevention, and evaluating the District's safety program.

The District expects all management and hourly employees to focus on the following:

- Striving to achieve zero accidents and injuries.

- Taking reasonable steps to improve safety and health rules.
- Assisting loss control efforts aimed at identifying and mitigating industrial hygiene and/or safety hazards.
- Identifying reasonable and appropriate mechanical and physical safeguards.
- Conducting reasonable safety and health inspections.
- Training workers as needed in safe work practices and procedures.
- Providing employees with personal protective equipment as appropriate to specific job tasks, and training employees in its appropriate care and use.
- Using appropriate personal protective equipment.
- Reporting hazards, unsafe work practices, and accidents.
- Assisting in the identification of the cause of on the job injuries, and in the identification of reasonable methods to prevent similar occurrences.
- Supervising workers in safe work practices.
- Enforcing applicable safe work rules.
- Disciplining workers that fail to work safely.
- Participating in and supporting safety committee activities.
- Reviewing the Districts safety and health program annually or as needed.

Discipline up to and including termination could result from a failure to pay reasonable attention to any of the above.

## **O. EASEMENT ENCROACHMENT POLICY (1/9/2018)**

The Tumalo Irrigation District ("TID" or the "District") Board of Directors ("Board") has the authority to establish, and change from time to time, equitable bylaws, rules and regulations for the administration of the District and for the distribution and use of water among the landowners.

ORS 545.221(1)(c). TID may also perform all acts necessary to fully carry out the purposes of the Irrigation District Law. ORS 545.221(1)(d). Pursuant to this authority, the purpose of this Easement Encroachment Policy and Fee Schedule is to clearly establish policies, rules, and regulations governing encroachments upon easements held by TID.

### **A. DEFINITIONS**

#### **1. Easement:**

An easement establishes the right to use the land of another (i.e. the right of TID to maintain and operate an irrigation system on land not owned by TID). Easements originate from a variety of sources including, without limitation, by a recorded instrument, on a plat, or pursuant to the Carey Act of 1894 (a "Carey Act Easement").<sup>1</sup> The owner of the property burdened by the easement cannot unreasonably interfere with the rights of the District in its easements. The District must have unobstructed access to its easements for the inspection, operation, management, repair and improvement of the District's water delivery system and otherwise fulfill its statutory obligations under ORS Chapter 545

#### **2. Encroachment:**

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<sup>1</sup> A Carry Act Easement includes the width of the canal/ditch plus 50' on either side "from the marginal limits thereof".

An encroachment is any temporary or permanent occupation of a TID easement by someone other than TID. Encroachments increase the amount of time it takes District employees to inspect, operate, manage, repair and improve the District's water delivery system (e.g., an unauthorized locked gate on a ditch access road can result in a District employee having to backtrack and circle around from the other direction) and ultimately the costs operate the water delivery system. Encroachments also increase potential liability to the District as they increase likelihood of damage to the water delivery system and require District employees to work around the obstruction.

### 3. Classes of Encroachments:

Class I: A Class I Encroachment shall include moderate obstructions including, without limitation, fences, fence posts and other semi-permanent structures; locked, unauthorized or inadequate gates; debris or other objects that restrict or inhibit District vehicles and employees from accessing the water delivery system or enjoying any other right associated with a TID easement.

Class II: A Class II Encroachment shall include severe obstructions, including but not limited to houses, shops, barns, or any permanent/immoveable structure or improvement within any portion of the easement.

## B. POLICY

Because encroachments negatively impact TID's operations, they are not preferred. However, TID understands that, due to the changing times and the ever-evolving nature of our water delivery system, there may be situations in which it is appropriate to permit an encroachment upon TID easements. These situations should be limited to instances in which TID's ability to serve its patrons is not jeopardized and the impacts of the encroachment are appropriately mitigated.

## C. DISTRICT RIGHTS

1. Easement/Right-of-Way: To the greatest extent provided by law, the District claims an easement, and all rights associated with such easements, on and around all District waterways including, without limitation, pipelines. Identification of waterways, including piped sections of the water delivery system, shall be as represented by the map at the District's office.
2. Access to Land: District employees shall have free access to any land irrigated from the delivery system for the purposes of examining the waterways, measurement and flow of water therein, and water use upon the irrigated land.
3. Maintenance: The District may remove any vegetation within its easements without consultation with landowners. Nonetheless, TID shall strive to consult with the burdened property owner prior to removing any vegetation outside of the interior slopes of waterways.

## D. APPLICATION

Any party seeking the right to encroach on a TID easement shall submit an application on the form prescribed by TID, including any submittals required by the application form, and

remit the administrative base charge. TID may reject any incomplete or improperly completed application.

#### **E. APPROVAL OF ENCROACHMENT**

The Board shall have sole discretion as to whether or not to grant an authorization to encroach on a TID easement. Notwithstanding the foregoing, no encroachment will be allowed closer than 15 feet from the disturbed edge on either side of the water delivery system (i.e. the top of the bank on a ditch or canal).

If granted, the authorization to encroach will be memorialized in a written instrument and recorded in the Deschutes County Official Records. All fees and other charges must be paid in full prior to TID's execution of the instrument. Construction plans for any improvements associated with the encroachment must be approved by TID prior to TID's execution of the instrument. TID may retain engineers and other consultants to evaluate the proposed improvements and the applicant will be responsible for reimbursing TID for such expenses.

#### **F. ENCROACHMENT CHARGES AND OTHER FEES:**

1. To compensate for the interference with TID's easement rights and to reimburse TID for the costs of preparing an easement, TID shall impose appropriate charges in granting any encroachment authorization including, without limitation, administrative base charges and charged based on the class of encroachment.
2. An administrative base charge shall be collected upon application for authorization to encroach on a TID easement. The administrative base fee shall be non-refundable even if the authorization to encroach is not granted.
3. The Board shall establish fees based on the class of encroachment.
4. The Board may establish such other fees and charges as are appropriate from time to time to achieve the objective of Section F(1) above.
5. The amount of the charges shall be set forth in the District's fee schedule and adopted by the Board annually.
6. TID may also require reimbursement of engineering or other consultant fees incurred by TID in reviewing the application and advising the Board on impacts to the water delivery system and the appropriateness of the requested encroachment.
7. The applicant shall be responsible for the recording fees and any attorney or other advisor fees incurred by the applicant in completing the application and developing the written instrument to memorialize authorization of the encroachment.

## **P. BUILDING PREVENTATIVE MAINTENANCE POLICY**

### **Purpose**

To define clear expectations for the preventative maintenance of District buildings and structures. This policy will include critical areas to be inspected and a schedule of when to conduct these inspections. The District will decide who will conduct these inspections and provide training as necessary.

## Schedule

District buildings and structures will be inspected on a period basis as follows:

Daily – Visual inspections should be conducted by each employee using a particular building or structure for each day that such employee uses the particular building or structure. Visual inspections are simply taking notice of something that does not look correct or is not functioning properly and reporting such issues to maintenance personnel.

Monthly – Monthly inspections will be conducted by maintenance personnel. This inspection should be comprehensive and documented. The District will provide a checklist of items that should be reviewed. Any recommendations for repairs will be made to the District Manager.

Inclement Weather – When the District is aware of a forecasted severe weather event, the maintenance personnel will conduct a preventative inspection to make sure the facilities are prepared. Once the severe weather event is over, maintenance staff will conduct a follow-up inspection to identify any damage or repairs that need to be made. Any recommendations for repairs will be made to the District Manager.

## Building Maintenance

The following elements of a building or structure should be evaluated as part of a documented inspection:

### **Outdoors**

- Roof
- Gutters/Scuppers
- Downspouts - direct water away from the building
- Doors/Seals/Caulking
- Exterior Wall conditions/Holes/Paint/Siding
- Exterior Lighting/Cameras
- Parking Lots/Light Poles
- Emergency Backup Generators
- Vegetation trimmed away from buildings
- Foundation
- Combustibles away from buildings
- Exposed Piping

### **Indoors**

- Emergency Lighting

- HVAC System/Filters/Batteries in Thermostats
- Water Intrusion/Moisture Issues
- Storage Areas
- Interior Wall Conditions
- Electrical Panels
- Plumbing fixtures
- Attics

## **Q. CYBERSECURITY POLICY**

### **Introduction**

Tumalo Irrigation District (TID) seeks to ensure that appropriate measures are implemented to protect customer and employee personal and sensitive information. This Information Security Policy is designed to establish a foundation for an organizational culture of security.

The purpose of this policy is to clearly communicate the organizations security objectives and guidelines to minimize the risk of internal and external threats.

### **Compliance**

Non-compliance with this policy may pose risk to the organization; accordingly, compliance with this program is mandatory. Failure to comply may result in disciplinary action up to and including termination of employment or business relationships. Management reserves the right to monitor, consistent with applicable laws, all activities within their business environment. The organization will appropriately report violations of State and/or Federal laws and will cooperate with regulatory bodies and law enforcement agencies investigating such incidents.

### **Privileged Access**

Access to the organization's systems and applications above and beyond general user access shall be limited to the IT Manager and key administrators.

### **Data Backup & Recovery**

The organization will conduct regular backups of all critical business data. Full data backups will be performed on a regular basis.

### **Endpoint Protection**

All organization servers and workstations will utilize an endpoint protection tool to protect systems against malware and viruses.

### **Firewall with Security Services**

The organization will protect the corporate network from the Internet through the use of a firewall with Intrusion Prevention System (IPS) capability.

### **Email Security**

The organization will protect their email system by utilizing antivirus, antispam and anti-phishing technologies. The organization will also not utilize email to send or receive sensitive information.

### **Password Management**

The organization will utilize the following password configuration:

- System account lockout threshold: 15 Minutes



- Invalid login attempts before logout: 3
- Minimum password length: 12
- Maximum password age: 90 days

### **Acceptable Use Policy**

The organization will require all users sign an acceptable use policy before accessing organizational resources. This policy governs the use of the company resources and covers a wide range of issues surrounding the rights, responsibilities, and privileges connected with computer use. See *Appendix A* for a copy of current Acceptable Use Policy

### **Patch Management**

All software and operating system updates and patches will be configured to automatically install. Periodic review will be conducted to ensure all updates and patches are applied to all devices.

### **Securing Remote Workers**

The organization requires all remote users to utilize company owned devices when working remotely. Those devices will be setup with a secure VPN.

### **Standard Configuration**

The organization will utilize a standard configuration for all endpoints, servers, network devices, mobile devices, and printers. Any changes to the standard configurations will be reviewed and approved by leadership.

### **Vulnerability Scanning**

The organization will ensure all critical external and internal resources have periodic vulnerability scans conducted on them to ensure they are properly configured and updated.

### **Security Awareness Training**

The organization will review this policy with all employees every 90 days.