

Tollgate Property Owners Association (TPOA)
Tollgate Water Company (TWC)
Sisters, Oregon

Director Duties & Standards of Conduct Policy

I. Goals

TPOA and TWC's board of directors places the utmost importance on the adherence to the highest standards of ethical conduct to guide the board in the fulfillment of its duties and to set the example for the organization as a whole. The goal of this policy is to establish operational principles to promote board conduct inconsistent with standards that avoid even the appearance of impropriety. Additionally, this policy serves to explain the fiduciary duties of directors and to clarify the standards of conduct for which they will be held accountable when serving on the board of directors of TPOA and TWC.

II. Preamble

Powers are conferred upon the TPOA and TWC board of directors by State and County law, the TPOA articles of incorporation, CC&R's (Covenants, Conditions and Restrictions) and bylaws and TWC's bylaws and policies. It is the purpose of this policy to identify and establish standards whereby such powers may be exercised in the best interests of TPOA and TWC.

III. Policy

A. *Legal Duties* – Directors are subject to legal standards of fiduciary responsibility. These include the duties of *care* and *loyalty*.

Under the duty of *care*, directors are required to:

1. Exercise a degree of care that a prudent person would exercise under similar circumstances.
2. Have or acquire the minimum knowledge and skills necessary to direct the affairs of TPOA and TWC.
3. Make every effort to attend all meetings of the board and to study materials sent prior to each board meeting, work session, committee meeting, or special meeting.
4. Study and adhere to all obligations imposed by the TPOA's and TWC's CC&R's, bylaws, policies, articles of incorporation and contractual agreements adopted by the board of directors.

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Under the duty of *loyalty*, directors are required to:

1. Act only in the best long-term interest of TPOA and TWC and its members.
2. Place the interests of the TPOA and TWC over any personal interests.
3. Have no financial interest in a directly competing business.

4. Avoid the appearance of any conflict of interest.
5. Avoid any future conflict of interest by refusing to receive any remuneration from any entity proposing to purchase all or substantially all of the assets of TPOA and TWC.
6. Represent and support the interests of TPOA and TWC to all public officials.
7. Publicly support decisions of the board that are made consistent with this policy.

B. *Conduct with Respect to Fellow Directors* –Irrespective of personal differences, directors should:

1. Demonstrate mutual respect.
2. Allow opportunity for every other directors to be heard on any matter being considered by the board.
3. Abstain from revealing to persons other than directors, the business manager or the TPOA and TWC’s attorney any differences of positions among directors on matters considered and acted upon by the board. This standard does not preclude fair and accurate publication of such differences to TPOA and TWC’s members in relation to contests for director elections or other matters to be voted upon by the members.

C. *Conflict of Interest*

As used in this policy, “conflict of interest” means when a director has a personal interest in a matter of such nature and magnitude that antagonism exists between his or her personal interest and that of TPOA and TWC, such that he or she may not be able to exercise independent and objective judgment on the matter in the best interest of TPOA and TWC as opposed to his or her own interests. Further, a director’s interests may not directly involve them but can by relatives, business associates or other persons or organizations with whom he or she is closely associated.

The board of TPOA and TWC has resolved that the statements contained in the following paragraphs will serve as a guide to directors in the governance of the affairs of TPOA and TWC:

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1. Directors are prohibited from receiving gifts, fees, loans, or favors from suppliers, contractors, consultants, or financial houses, which obligates or induces them to compromise their responsibilities to negotiate, obligate, inspect or audit, or award contracts, with the best interests of TPOA and TWC uppermost in mind. This does not prohibit receiving gifts of nominal value or casual entertainment that meet all standards of ethical business conduct, and involves no element of concealment. However, directors are required to submit a disclosure report (Attachment A) if the actual or estimated value of any gifts or casual entertainment exceeds \$75.00. Disclosure reports will be presented to the Board Chair with copies distributed to each director and filed with the Business Manager.
2. The complete confidentiality of proprietary business information must be respected at all times. Directors are prohibited from knowingly disclosing such information to those who do not have the need to know, or whose interest may be adverse to the TPOA and TWC both inside or outside the organization, or in any way using such information for personal gain or advancement, or to the detriment of the TPOA and TWC, or to individually conduct negotiations or make contacts or

inquiries on behalf of the TPOA and TWC unless officially designated to do so.

3. Directors are prohibited from acquiring or having a financial interest in any property that the TPOA and TWC acquires or a direct or indirect financial interest in a supplier, contractor, consultant, or other entity with which TPOA and TWC does business. This does not prohibit the ownership of securities in a publicly owned company except where such ownership places the director in a position to materially influence or affect the business relationship between TPOA and TWC and such publicly owned company. Any other interest in or relationship with an outside organization or individual having business dealings with TPOA and TWC is prohibited if this interest or relationship might tend to impair the ability of the director(s) to serve the best interests of TPOA and TWC.

4. If members of the immediate family of a director have a financial interest as specified above in section III.C.3., such interest shall be fully disclosed to the board which shall decide if such interest should prevent TPOA and TWC from entering into a particular transaction, purchase, or employment of services. The term “*immediate family*” means children or their spouse, husband, wife, domestic partner, sister, brother, parents, foster, or step-parents, grandparents, aunts, uncles, mother or father-in-law, sister or brother-in-law, or any relative residing in a director’s household.

5. Directors of TPOA and TWC are expected to conduct themselves in a manner that avoids situations, which might be construed as conflicts of interest since it is not feasible in a policy statement such as this to describe all the circumstances, and conditions that might be or have the potential of being considered conflicts of interest. Without limiting the foregoing, to avoid even the appearance of impropriety, no person shall be employed by TPOA and TWC within 5 years of that person serving as a director.

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6. When a conflict of interest exists the director shall declare the nature of the conflict and recues him or herself on any official action involving the conflict. The director shall not be present during board discussion or voting on the matter.

D. *Protection of Confidential Information*

In fulfillment of their duties, directors will often be provided information that is proprietary to TPOA and TWC or its contractors, affiliates, and other business partners; and information that is personal to the TPOA and TWC’s members, personnel, and other entities. Further, any director is entitled to have access to proprietary TPOA and TWC data or information, at reasonable times during business hours, for a proper purpose that is germane to the director’s standing as a member or director. For these purposes, all such information listed in this section shall be collectively referred to as “Confidential Information”. A director’s access to Confidential Information is subject to the following:

1. All requests for information, about TPOA and TWC resources such as personnel and services, shall be made to and through the Business Manager orally or in writing (if orally confirmed in writing as soon as reasonably practicable). In any event, such request shall be promptly disclosed to all other board members in writing by fax, e-mail, or other means of prompt disclosure. In no case shall such information be sought through other employees, agents, or independent contractors unless after consulting with, and being advised in writing by, TPOA and TWC’s attorney that actual or potential criminal activity of the Business Manager is involved.

2. Confidential Information received by a director pursuant to this policy shall not be revealed by him or her to any other persons – except to the sitting directors, Business Manager, and TPOA

and TWC's attorney.

3. In the event that Confidential Information received by a director is sought by any governmental entity, authority or instrumentality, or is subject to future disclosure in litigation or by court order, the affected director shall, as soon as practicable, promptly notify TPOA and TWC's Business Manager of the situation. TPOA and TWC's Business Manager may, under circumstances where consultation of the board would be impracticable, cause a motion for protective order to be filed with the applicable court pending disclosure to the board.

4. Directors shall not be required to maintain confidentiality of Confidential Information that is:

a. Known to any affected director without any restriction on disclosure or use at the time it is furnished,

b. Becomes generally known to the public without a breach of the director's obligations to TPOA and TWC, or

c. Received from a third party without any limitation on disclosure at the time the disclosure occurred.

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5. In no case should a director reveal to others information or data he or she receives if the actual or potential effect of such revelation is to damage TPOA and TWC, including its reputation and image, or to enable him or her and/or others to personally profit or benefit in any way therefrom, or in any way disadvantage or prejudice TPOA and TWC, unless such disclosure is determined in good faith by the director as required by the director's fiduciary duty to TPOA and TWC. This provision applies regardless of the type of information disclosed.

E. *Good Faith and Fair Play* – Every director shall deal in good faith and fair play with every other director and the general manager in expressing his or her views, questions and concerns relating to TPOA bylaws and TWC's policies, rates and programs. Good faith and fair play require:

1. All directors should reveal all information or interests that they may have and that may bear upon action being considered by TPOA and TWC.

2. Directors will not pursue a position, inquiry or motion as to unduly harass or annoy other directors, the general manager, employees or independent contractors.

3. Directors, shall, exercise no special privilege not available to the general membership unless in a board meeting session or committee meeting session, or while acting upon authority delegated by the whole board.

4. Directors recognize their role in the organization is to set policy. All directors will refrain, as individuals, from discussing management issues with TPOA and TWC personnel, other than with the business manager. This prohibition includes, without limitation, communications for the purpose of influencing an employee's position or attitude concerning TPOA and TWC related activities, personnel matters, or to obtain information not otherwise available to directors.

F. *Board Self Evaluation*

The Board shall engage in an annual self-evaluation of its performance and accomplishments in relation to the goals and mission of TPOA and TWC. The Board will also participate in an annual director peer

assessment to provide feedback to individual directors with regard to their performance in filling their duties, responsibilities, standards of conduct and professional growth commitments.

G. *Board Orientation*

Upon election or appointment to the Board, a new director will receive a thorough orientation into the responsibilities of his or her position, conducted by the Business Manager.

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IV. Compliance with Policies and Bylaws

All members of the Board shall at all times honor and comply with the policies of the Board and shall comply with the bylaws of TPOA and TWC. If an accusation is received by the board regarding a director who allegedly violates any policies or the bylaws, such director may be subject to sanctions by the board; including a private or public censure, a written admonition, removal from any board office, prohibited from participating in executive sessions, and being prohibited from attending regular or special meetings of the board. Before imposing any of the foregoing sanctions, the balance of the members of the board shall convene a special board session to consider the validity of the accusation, severity of the offense, whether the violation was intentional or unintentional, the number of violations, the willingness of the offending member to come into compliance with the CC&R's, policies or bylaws, and the potential harm to TPOA and TWC as a result of the violations and determine the aforementioned sanction(s), if any. The accused director will have a fair opportunity to address the accusations by submitting to the Board an appeal in writing no later than 30 days from the date of the accusation.

V. Policy Implementation and Responsibility

A. All candidates, nominees and appointees to the board shall receive a copy of this policy and affirm by their signature that they received, read, understand and will support the provisions of the policy. A copy of the affirmation statement appears as Attachment B.

B. The Business Manger shall inform all candidates, nominees or appointees to the board regarding the terms and conditions of this policy and under what conditions there may be a personal liability implications resulting from policy violations as outlined by the TPOA attorney.

C. The Board Chair and Business Manager shall ensure that this policy is followed.

VI. Review Date

This policy will be reviewed/amended on an annual basis and discuss any personal liability and conflict of interest implications resulting from violations.

Date Adopted: Board Meeting of January 27, 2015

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