

INTERGOVERNMENT AGREEMENT
between
OREGON DEPARTMENT OF FORESTRY, TILLAMOOK DISTRICT
and
TILLAMOOK COUNTY

This Intergovernmental Agreement, hereinafter, AGREEMENT, authorized by ORS 190.110, is entered into between Oregon Department of Forestry, Tillamook District, hereinafter referred to as “ODF” and Tillamook County Sheriff’s Office, by and through the Tillamook County Board of Commissioners, hereinafter referred to as “TCSO”.

PURPOSE

- A. This AGREEMENT is intended to set forth and affirm cooperation between TCSO and ODF in ensuring the protection of natural resources and safety for all users of State Forest Lands through enforcement of Oregon Administrative Rules, chapter 629 division 25, Forest Park and Recreation Areas.
- B. The AGREEMENT will result in a more coordinated and efficient enforcement of rules and regulations for the safety of public users and protection of natural resources on State Forest Lands in Tillamook District between ODF and TCSO.
- C. Tillamook District has seen a rise in criminal behavior in the forest and works with TCSO to address many issues such as drug use, theft, and dumping. Contacts with forest users engaged in criminal activity is most appropriate and more frequent with TCSO deputies.
- D. TCSO has requested from ODF documentation of its authorization and cooperation to carry out the lawful purpose of addressing illegal forest use in a timely manner.
- E. As described in Oregon Administrative Rules, Chapter 629, Division 25, these rules establish standards for recreational and commercial use of State Forest Lands managed by the Forester. These rules apply to State Forest Land, Forest Park and Recreation Areas. The objective of these rules are to: protect the resources of State Forest Lands, promote the safety of all users of those lands, and minimize conflicts among the various uses of those lands.

Below are the pertinent definitions and rules set forth in that Division:

- As defined in 629-025-0005, Definitions:
 - (10) “Forester” means the State Forester, or the Forester’s designated representative.
 - (23) “State Forest Land” means land owned by the State of Oregon, and managed by the Forester.
- 629-025-0040 General Forest Recreation Rules and Public Conduct
 - (1) Sanitation.
 - (a) On all State Forest Land, a person may not in any manner, unless otherwise authorized, cause any rubbish, garbage, refuse, organic or inorganic waste, diseased or dead

animals, recreational vehicle sewage, or other offensive matter on any abandoned property or material to be placed or left on State Forest Land.

(2) Occupancy and Use.

(a) On State Forest Land, a Person may not:

(A) Camp longer than 14 days out of any 35-day period; or

(B) Camp more than 42 days during a consecutive 12 month period; or

(C) Camp longer than the period of time specifically authorized or established by the Forester in writing; or

(D) Camp within 25 horizontal feet of the high water mark of any body of water or in the other areas posted closed to Camping by the Department; or

(E) Leave personal property unattended longer than 48 hours on State Forest Land or 24 hours in Designated Recreation Area.

(b) The Forester may establish camping stay limits that are shorter in order to address public safety concerns, or protect and conserve forest resources.

(3) Property and Resources. On all State Forest Land, unless under contract with the Forester, a Person may not:

(a) Deface, disturb, remove or destroy any public property, structures, or any scientific, cultural, archeological or historic, natural object or area; or

(b) Deface, remove, or destroy plants or their parts, soil, rocks, or minerals, or cave resources.

- 629-025-0090 Enforcement, Evictions, and Exclusions

(1) A person must observe and abide by all instructions, warnings, restrictions and prohibitions on posted signs and notices, or from Department personnel.

(2) The Forester may take actions to protect the safety or health of the public or forest resources or improvements, by:

(a) Seeking compliance from the public with any Division 25 rule.

(3) A peace officer may seek compliance with a Division rule from a Person.

(4) A peace officer may exclude, or recommend that the Forester exclude, a Person who violates a Division rule, federal, state, county or city law or court order, from a Designated Recreation Area or multiple Designated Recreation Areas for a specified period of time.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants, promises, and undertakings hereinafter set forth, PARTIES agree as follows:

A. Rights, Duties, and Obligations of ODF. ODF shall:

1. Provide a point of contact at local office for discussion or support of actions taken by TCSO deputies on State Forest Lands in the Tillamook District; and

2. Provide records or information to TCSO for on-going investigation or enforcement issues.

B. Rights, Duties, Obligations of TCSO. TCSO shall:

1. Provide the ODF notification of any actions taken under this delegation in quarterly reports;
2. Maintain case files on each eviction or exclusion executed; and
3. Provide case files to the ODF, when requested, within 48 hours.

C. ALL PARTIES AGREE:

1. This AGREEMENT governs only cooperation of the PARTIES and joint enforcement of ODF rules on State Forest Lands in the Tillamook District.
2. This AGREEMENT will terminate upon written request of either party, after giving the other party thirty (30) days' advance written notice.
3. This AGREEMENT may be revised as necessary by the mutual consent of the PARTIES, upon issuance of a written amendment, signed and dated by all PARTIES. Amendments are not effective until signed by both PARTIES.
4. NONAPPROPRIATION. ODF's obligations under this AGREEMENT are conditioned upon ODF receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow ODF, in the exercise of its reasonable administrative discretion, to meet its obligations under this AGREEMENT. Nothing in this AGREEMENT may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of the State of Oregon.
5. CONTRIBUTION. Notwithstanding anything to the contrary provided in the AGREEMENT:
 - 5.1 If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a Third Party Claim) against a Party (the Notified Party) with respect to which the other Party (the Other Party) may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process and all legal pleadings with respect to the Third Party Claim. Either Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and a meaningful opportunity for the Other Party to participate in the investigation, defense, and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.
 - 5.2 With respect to a Third Party Claim for which ODF is jointly liable with TCSO (or would be if joined in the Third Party Claim), ODF shall contribute to the amount of expenses, judgments, fines, and amounts paid in settlement actually and reasonably incurred and paid or payable by TCSO in such proportion as is appropriate to reflect the relative fault of ODF on the one hand, and of COUNTY on the other hand, in connection with the events that resulted in such expenses, judgments, fines, or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODF on the one

hand, and of TCSO on the other hand, shall be determined by ODF by reference to, among other things, the PARTIES' relative intent, knowledge, access to information, and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines, or settlement amounts. ODF's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

- 5.3 With respect to a Third Party Claim for which TCSO is jointly liable with ODF (or would be if joined in the Third Party Claim), TCSO shall contribute to the amount of expenses, judgments, fines, and amounts paid in settlement actually and reasonably incurred and paid or payable by ODF in such proportion as is appropriate to reflect the relative fault of TCSO on the one hand, and of ODF on the other hand, in connection with the events that resulted in such expenses, judgments, fines, or settlement amounts, as well as any other relevant equitable considerations. The relative fault of TCSO on the one hand, and of ODF on the other hand, shall be determined by ODF by reference to, among other things, the PARTIES' relative intent, knowledge, access to information, and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines, or settlement amounts. TCSO's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding, including any limitations or restrictions established under the Oregon Tort Claims Act.

6. LIMITATION ON LIABILITY

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 9, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS MOU, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS MOU IN ACCORDANCE WITH ITS TERMS.

7. INSURANCE. Each party agrees to maintain insurance.

8. GENERAL PROVISIONS:

- a. MODIFICATION & WAIVER. The rights and duties under this AGREEMENT shall not be modified, delegated, transferred, or assigned, except upon the written-signed consent of the PARTIES. Failure to enforce any provision of this AGREEMENT shall not operate as a waiver of such provision or of any other provision.
- b. ALTERNATIVE DISPUTE RESOLUTION. The PARTIES should attempt in good faith to resolve any dispute arising out of or relating to this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition, the PARTIES may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration ONLY) to resolve a dispute short of litigation.
- c. NONAPPROPRIATION. ODF's obligations under this AGREEMENT are conditioned upon ODF receiving funding, appropriations, limitations, allotments, or other expenditure authority

sufficient to allow ODF, in the exercise of its reasonable administrative discretion, to meet its obligations under this AGREEMENT. Nothing in this AGREEMENT is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon.

- d. LEGAL REPRESENTATION. In entering into this AGREEMENT, each party has relied solely upon the advice of their own attorney. Each party has had the opportunity to consult with counsel.
- e. NOTICES. Any notice required or permitted under this AGREEMENT shall be in writing and deemed given when:
 - i. actually, delivered if not sent by mail as described below, or
 - ii. three days after deposit in United States certified mail, postage prepaid, addressed to the other party at the address set forth below.

Oregon Department of Forestry
District Forester
5005 Third Street
Tillamook, OR 97141

Tillamook County Sheriff's Office
County Sheriff
5995 Long Prairie Road
Tillamook, OR 97141

- f. LANGUAGE. The headings of the contract paragraph are intended for information only and shall not be used to interpret paragraph contents. All masculine, feminine and neuter genders are interchangeable. All singular and plural nouns are interchangeable unless the context requires otherwise.
- g. SAVINGS. Should any clause or section of this AGREEMENT be declared by a court to be void or voidable, the remainder of this AGREEMENT shall remain in full force and effect.
- h. JURISDICTION; LAW. This AGREEMENT is executed in the State of Oregon and is subject to Tillamook County and Oregon law and jurisdiction. Venue shall be in Tillamook County, Oregon, unless otherwise agreed by the PARTIES.
- i. NO THIRD-PARTY BENEFICIARIES. There are no intended third-party beneficiaries of this AGREEMENT.
- j. EFFECTIVE DATE. This AGREEMENT shall take effect when executed by both PARTIES or after all necessary approvals have been obtained, whichever is later.
- k. COUNTERPARTS. This AGREEMENT may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all PARTIES are not signatories to the same counterpart. Each copy of the AGREEMENT so executed constitutes an original.

ACKNOWLEDGEMENT: EACH PARTY REPRESENTS TO THE OTHER BY THEIR SIGNATURE BELOW THAT EACH HAS READ, UNDERSTANDS, AND AGREES TO BE BOUND BY THIS AGREEMENT'S TERMS AND CONDITIONS.

Dated this ____ day of _____, 2023.

OREGON DEPARTMENT OF FORESTRY

Kate Skinner, District Forester

Dated this ____ day of _____, 2023.

TILLAMOOK COUNTY SHERIFF'S OFFICE

Josh Brown, Sheriff

Dated this ____ day of _____, 2023.

THE BOARD OF COMMISSIONERS FOR TILLAMOOK COUNTY, OREGON

Erin D. Skaar, Chair

Mary Faith Bell, Vice-Chair

David Yamamoto, Commissioner