

Special Road District Guidebook



2019 Edition
Revised by Deschutes County Legal Counsel

Special Road District Guidebook

Index

<u>Section I. Creation of Districts/Legal Requirements</u>	1
Public Meetings Law (ORS 192.610-192.695)	2
Public Records Law (ORS 192.210-192.607)	4
<u>Section II. Exercising District Authority</u>	6
Board Conduct Requirements (Ethics - ORS Chapter 294).....	7
Expenditure Limitations (ORS 294)	9
<u>Section III. Budgeting and Finances</u>	11
Long Range Planning	14
Boundary Changes	14
<u>Section IV. Public Contracting Provisions</u>	16
<u>Section V. Operating an Effective District</u>	18
<u>Section VI. Road Maintenance Responsibilities</u>	22
Road Maintenance Development	22
<u>Section VII. Resources</u>	24

Section 1

Creation of Road Districts / Legal Requirements

Oregon Revised Statutes Chapters 371 and 198 set out the basic requirements for creation of a special road district:

- area must be contiguous and not overlap with existing districts or be within the boundaries of a city
- properties to be included must benefit by creation of the district

Special road districts share some statutory requirements with other types of special districts, but not all provisions are the same.

ORS Chapters 198, 255 and 371 set out the procedural requirements to the formation process, including:

- Signature requirement for formation petitions
- proposal must include an economic feasibility statement with a description and analysis of the district's proposed services and functions and a proposed first- and third-year line item budget
- proposed formation must include a description of the boundaries of the territory to be included in the district
- if proposed formation includes a tax rate limit, formation must be voted on at the May or November election
- petitions to form a new district with a proposed permanent tax rate limit must be filed not later than 180 days before the next May or November election where the formation will be considered by voters

If election is successful and the petition is approved, the first property tax revenues will be received after the March 31 deadline to file boundary changes with the Oregon Department of Revenue.

Once established, the district governing structure is initiated:

If the Board of County Commissioners approves the formation petition, the order will declare whether the commissioners of the district will be appointed or elected.

Appointed: county commission appoints 3 board members and sets term of office of each

-
- 3-year terms, staggered
 - Board selects its president, secretary, treasurer each January

Elected: election held at same time as election to form district

District board shall meet at least once per month

- all meetings open to public
- records shall be available to public (within reasonable time following written request specifying item(s) to be disclosed)

Financial operation

- all monies deposited in federally insured bank(s)
- all expenses paid out from tax proceeds must be by check/draft signed by president and treasurer

Special Road District boards are subject to a variety of local, state, and federal regulations, as referenced throughout this Guidebook. Due to continual changes in applicable laws, members of the district board should regularly review their legal requirements for operating a special road district.

As long as a special road district board is following the overall purpose of the district, which is to improve roads within the district, it shall have the power:

- to make contracts
- to acquire, hold, receive and dispose of real and personal property
- to sue and be sued
- to exercise the powers of eminent domain
- to assess and levy taxes on all taxable real property in the district (provided it has taxing authority)
- to do any other act necessary to carry out the purposes of ORS 371.305 - 371.360

Public Meetings Law

The Public Meetings Law, ORS 192.610 to 192.695, applies to meetings of the “governing body of a public body,” and covers state and local governmental boards, commissions, councils, committees, or subcommittees:

- that consist of two or more members
- when a quorum of members is present for the purpose of deciding or deliberating on public matters

-
- to gather information on which to deliberate
 - where the governing body has the authority to make decisions for or recommendations to the public body on the matter in question

Special road districts are subject to the Public Meetings Law.

The Public Meetings Law's intent is that decisions of governing bodies be arrived at openly.

The Public Meetings Law recognizes three different types of meetings:

- Regular - reasonable notice required
- Special - at least 24 hours' notice required
- Emergency - less than 24 hours' notice (allowed only for actual emergency topics)

Board meetings and work sessions also must be open to the public; attendees do not have a right to participate or comment during the meeting unless allowed by the Chair to do so.

An Executive (Closed) Session is defined as any meeting or part of a meeting of a governing body that is closed to certain persons for deliberation on exempt matters pursuant to ORS 192.660. Typical examples include:

- discussion of specific personnel matters, such as employee discipline or potential hiring of a specific individual
- negotiations on real estate matters, such as considering an offer on property owned by the governing body
- to consult with legal counsel on current or likely to be filed litigation and confidential legal matters

While the members of a governing body may come to informal consensus during an executive session, all formal actions (including votes) must be conducted in open session.

Public officials who fail to follow the executive session provisions of ORS 192.660 could be subject to civil penalties (including monetary fines) imposed by the Oregon Government Ethics Commission.

Notice of meetings should, be reasonably calculated to give actual notice of the time and place for the meeting. Meetings must be publicly noticed. Notification should include:

- interested persons, including news media, requesting such notice
- members of the governing body
- general public

At a minimum, notice should be posted in a public area and placed online (i.e. district website). In addition, notice may be published in local news media (display advertising is not required), personal delivery, and/or mailed via first class postage, facsimile or electronic device.

Either written minutes or a sound, video or digital recording must be taken at all meetings and shall include at least the following:

- all members of the governing body present
- motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition
- results of all votes (by name)
- the substance of any discussion on any matter, and
- reference to any document discussed at the meeting, subject to ORS 192.311 to 192.478

A verbatim transcript is not required. Executive sessions may be kept in the form of a tape recording.

Public Records Law

ORS 192.210 to 192.607 set out the requirements of governing bodies to keep records and provide reasonable access to such records. A public record is defined as any writing containing information prepared, owned, used or retained by the governing body and relating to the conduct of the public's business necessary to satisfy the fiscal, legal administrative or historical policies or needs of the governing body regardless of physical form or characteristics.

"Public records" include:

handwriting, typewriting, printing, photographing and every means of recording, including letters, words, pictures, sounds, or symbols, or any combination thereof, all papers, maps, files, facsimiles or electronic recordings.

The right of any member of the public to inspect nonexempt public records is limited only by rules of reasonableness. A governing body is required to:

- provide proper and reasonable opportunities for inspection and copying of the records during normal business hours in the record custodian's office
- furnish a copy of the record upon demand, if the record can be copied
- ensure that fees charged for the cost of providing access and/or copies of records, including staff time to search and/or reproduce requested records are reasonable and reflect actual costs incurred by the governing body

Records exempt from disclosure include those pertaining to litigation involving the governing body, real estate appraisal information prior to acquisition, personnel disciplinary actions, and other records where the right for protection of an individual or negotiation process outweighs the public's right to access.

ORS 192.005 to 192.170 regulate the custody, maintenance, and retention of public records, and each governing body shall maintain a public record in accordance with a retention schedule adopted under these sections.

Oregon Administrative Rule Chapter 166 Division 150 is the County and Special District Retention Schedule and all special road districts should follow the applicable subsections, unless they adopt a more strict local retention schedule. Examples include:

ordinances, resolutions - permanent
meeting minutes, agendas, indexes and exhibits - permanent
executive session minutes - 10 years
work schedules & assignments - 5 years
financial work papers & reports, relating to general condition and operation of district, annual reports permanent and other reports - 3 years
audit records, external permanent District codes, charters, bylaws and all amendments - permanent retention

Section II Exercising Authority

Exercising Road District Authority

Valid decisions and/or transactions are conducted according to proper procedures, including:

- a majority vote of the three-member board or pursuant to authority otherwise delegated
- advisory committees cannot make decisions binding on the district
- some decision-making authorities cannot be delegated, such as budget adoption
- at a duly authorized and noticed district meeting
- on matters within the authority of the district

Parliamentary procedures are the preferred method of conducting district business at meetings. The handbook, Roberts Rules of Order is the best reference book for meeting procedures not addressed in the Open Meetings Law.

Board action is required to:

- establish operating policies and internal control mechanisms
- approve or disapprove proposed annexations
- determine funding needs of district, and if necessary, approve measures for submission to voters on funding levels
- prioritize use of resources
- authorize transactions
- authorize expenditures, either individually or through an adopted budget

The board can appoint committees to help it accomplish some of its responsibilities, but it cannot delegate final decision-making authority to the committees.

Decisions of the board are:

- expressed by formal votes taken by the board
- are typically made by a vote taken by the board, after one board member makes a motion, another board member seconds the motion, and the board president has invited discussion by the board on the motion
- may be expressed through formal resolution documents signed by the board, signed transaction documents, such as contracts, letters, etc.,

motions memorialized only in the minutes of the board meeting in which it was passed, or a combination of these

All decisions made at open meetings should be reflected by a motion and recorded in the minutes, including the outcome of the vote.

Board Conduct Requirements

ORS 244 Government Ethics defines a public official as any elected or appointed official, employee, or agent of a political subdivision (this includes special road districts):

The law does not distinguish between people who are compensated and volunteers. Both are covered whether or not they are compensated.

The main provisions in ORS Chapter 244, provide in part:

- conflicts of interest must be disclosed
- public officials are prohibited from using their position for financial or personal gain
- penalties for ethical violations

The Oregon Government Ethics Commission (OGEC) and its staff are available to assist public officials in avoiding ethical violations relating to:

- actual conflict of interest
- potential conflict of interest
- receiving gifts

The address and phone number of the OGEC is listed in the Resource Section of this Guidebook.

When a public official is faced with a potential conflict of interest, he/she must announce publicly the nature of the potential conflict prior to taking any action.

When a public official is faced with an actual conflict of interest, he/she must announce publicly the nature of the actual conflict and refrain from participating in any discussion, debate or vote on the issue, unless the public official's vote is necessary to meet the minimum number of votes required, then he/she can vote but not debate or deliberate the issue.

A public official also may voluntarily remove himself/herself from decision-making, supervision, or similar authority-related role when conflicts arise.

Failure to take appropriate action may result in imposition of the following penalties:

- civil penalties including monetary fines
- removal from office, if appointed
- additional penalty equal to twice the amount of money the public official received if the conflict resulted in a financial benefit

Oregon law prohibits public officials from receiving gifts with an aggregate value in excess of \$50 from a single source with a legislative or administrative interest with the public body or with that public official. As defined by ORS Chapter 244, candidates and relatives of the public official, also are subject to the gift limitation. A gift is defined as any, but not limited to the following:

- something of economic value that a public official accepts and for which the official does not pay back equal value.

Examples of gifts are:

- product samples
- candy or flowers
- promotional clothing
- the waiving of debt, as well as the giving of some object or service that is not available to the general public for the same or lesser consideration or conditions

The law allows the following exceptions about receiving gifts when the public official is acting as a public official:

- gifts from relatives
- reasonable amounts for admission, food, lodging, and travel for events when the public official represents the public body
- food and beverage when consumed at a reception when the food and beverage are incidental to the main purpose of the event when the public official represents the public body
- entertainment that is incidental to the main purpose of an event or for a ceremonial purpose when the public official represents the public body
- unsolicited tokens or awards with a resale value of less than \$25

Expenditure Limitations

District board members are subject to personal liability for unlawful expenditures under Oregon law (ORS 294), as summarized as follows:

- It is unlawful for any public official to expend any money in excess of the amounts provided by law, or for any other or different purpose than provided by law.
 - special road district board members are interpreted to be included in this rule
 - money refers to tax receipts, proceeds of bond sales or loans, grants and user fees (such as sewer and water fees)
- Consequence for violation: a public official shall be civilly liable for the return of the money by suit of the district attorney or at the suit of any taxpayer of such district

Examples of violations to the rule regarding unlawful expenditures by public officials:

- Expenditures for purposes not authorized by law
 - state statute authorizes road district to spend money for improvement or maintenance of roads. Governing body of a road district expends funds or purchase of land for park purposes.
- Expenditures without governing body authority
 - individual board member authorizes an expenditure of money without approval of other board members and for an item that was not included in any approved budget. The expenditure is *never* ratified by the governing body. The expenditure is unauthorized *even* if the expenditure is for a purpose falling within the statutory authority of the district.
 - governing body authorizes expenditure not authorized by adopted budget (may be some exceptions for special road districts not subject to local budget law)

There are other provisions of law that expenditure of public moneys for otherwise authorized purposes may fall under, as these examples indicate. Election laws prohibit public expenditures for certain activities:

- state law prohibits any person from requiring a public employee to aid, promote, or oppose an election measure
- state law also prohibits any public employee from promoting or opposing adoption of an election measure while on the job

-
- public officials (other than elected officials) could be held liable if promoting a public information campaign regarding a ballot initiative or referendum that advocates for or against the measure; literature should be factual and for informational purposes only

Financial Planning

While special road districts are not subject to provisions of Oregon's Local Budget Law, certain principles should be applied in the development and oversight of a district's finances. This includes three basic phases of financial planning on an annual basis:

- budgeting done on an annual basis
- Operations, depending on size of district, may involve daily, weekly, and/or monthly processes
- evaluation at a minimum, includes annual review and/or audit

The Oregon Secretary of State requires filing of Notice of property tax certification form (LB-50, UR-50 or ED-50) and copy of the resolution by governing body adopting budget with the county assessor's office no later than July 15 each year. LB-50 forms are mailed directly to each district near the end of each fiscal year.

Section III

Budgeting and Finances

Preparing and adopting an annual operating budget is one of the most important processes a special road district board conducts. The annual budget reflects the needs, policies, and goals of the district for the year (and perhaps longer).

Components of an annual budget include:

- income
 - taxes (including prior year taxes)
 - investment income
 - fees
 - other income
- expenses
 - personnel or administrative costs
 - materials and supplies
 - legal and professional fees
 - contract services
 - capital improvements
 - uncollected taxes

The budget is a tool through which district members can gain insight into the district's plans for the coming year, and a base against which the members and board can monitor the district's performance.

The person(s) responsible for preparing a draft budget for the district should consider the following:

- goals and objectives of the district board
- required services (and levels)
- desired services (and levels)
- historical operating costs and unit consumption data
- patterns of extraordinary costs
- proposed or known significant changes to past costs based on rising prices for services or materials
- information gleaned from physical inspection of district assets (roads and equipment)

A successful budget process gives district members and the board an opportunity to be involved in budget decisions.

A process for systematically maintaining accurate expense and revenue information is important in providing the board with reliable information about the financial status of the district. Some of the critical components of that operating process include:

- written policies on the handling of district funds
- monthly financial statements
 - balance sheet
 - income and expense statement
- bank statements/reconciliation

A board cannot delegate its legal responsibility for overseeing the financial operation of the district, even though it may delegate some of its responsibilities to a manager or accountant.

Sound written policies, and the adherence to them, are the single best strategy a district board can provide for the management of district funds. Topics that should be covered include:

- cash handling guidelines
 - timeliness of deposits
 - signature authority for expenses, investments
- collection of funds owed to district
 - process for billing/aging of accounts
- investment of funds
 - bank accounts in insured institution
 - no high risk strategies

A bonus advantage of having clear, written policies in place is that such policies can serve as a guidebook for new treasurers or board members of a small district, who often do not have the benefit of training with the person previously responsible for handling district funds.

An independent evaluation of the manner in which district funds are handled and reported gives protection to the board, staff, and district members. There are three levels of financial review that may be performed:

- a compilation

-
- is a report in which an accountant takes information provided by the district and puts it into a financial format
 - does not ensure accuracy of the information
 - a review
 - requires an accountant to perform certain analytical procedures and make certain inquiries about the district's financial condition
 - provides limited assurance that the district's financial statements are in accordance with generally accepted accounting principles
 - an audit
 - requires an auditor to do independent tests of the district's financial information and management system
 - provides highest degree of assurance, as well as professional opinions of sound financial management
 - may include recommendations for improvements

ORS 297 provides that every special district shall be audited and reviewed at least once every calendar or fiscal year, although smaller districts with minimal annual expenditures may be exempt from the general rule (ORS 297.435 and .445):

- all districts are subject to audit by petition if within 6 months of the end of the fiscal year for which the audit is requested residents file a petition with the Secretary of State. For districts with population 150 or less, 10 residents must sign and for districts with population more than 150 at least 30 residents must sign. The District must respond within 30 days after receiving notice of such a petition and provide evidence of either a signed ordinance or resolution calling for an audit or of a signed contract with an accountant to perform an audit, otherwise the Secretary of State will conduct an audit at the district's expense.

There are two types of exemptions from the audit requirements of ORS 297.425:

- any municipal corporation that, in any given calendar or fiscal year has total expenditures of \$150,000 or less; has submitted financial statements to the Secretary of State within 90 days of the end of the year
 - and for which a fidelity or faithful performance bond has been obtained in the amount of the year's receipts; or
- any municipal corporation that, in any given calendar or fiscal year, has total expenditures exceeding \$150,000 but not more than \$500,000; has submitted financial statements within 180 days of the end of the year, and the statements have been reviewed by an accountant or the Secretary of State;

-
- and for which a fidelity or faithful performance bond has been obtained in an amount at least equal to 10 percent of the total receipts but not less than \$10,000

Long Range Planning

With consistent financial systems in place, a district is able to engage in long range planning activities that further contribute to successful asset management. Primary steps in constructing a long range plan include:

- identify existing assets
 - establish current value of roads
 - all operating and investment funds
 - current value of equipment/supplies
- develop replacement schedule
 - determine life of existing improvements
 - document basis for value
- identify future needs
 - select 5- or 10-year planning horizon
 - include both replacement and upgrade projects
- determine capitalization plan
 - annual contributions to reserve/replacement fund
 - identify funding strategy in plan, such as loans or special assessments

Gaining necessary approvals from district members or financing sources is much easier with a clear plan in place that includes a track record of monitoring and performance over several years.

Boundary Changes

ORS Chapter 198 provides requirements for annexation, withdrawal of property, mergers and consolidations for special districts. There are several specific requirements that districts must meet in order to ensure accurate tax assessment and collection following any boundary changes, including:

- filing of various documents with:
 - Department of Revenue
 - Secretary of State
 - county clerk
 - county assessor

-
- receive approval from Department of Revenue for taxing purposes; provide final descriptions and maps no later than March 31
 - file proposed boundary changes by March 31 if final descriptions are not available, for changes effective between April 1 and June 30

Deschutes County Legal Counsel processes petitions for boundary changes for all special districts in the County pursuant to ORS Chapter 198. The staff will handle filings with DOR, SOS and shepherd the petition through the process. County Legal cannot provide the special road district with legal advice, but is available to provide information and suggest options. A good source of information on this subject also is the Department of Revenue publication “Boundary Change Information” available on the DOR website.

Section IV

Public Contracting Provisions

It is the policy of the State of Oregon to encourage public contracting competition that supports openness and impartiality to the maximum extent possible. ORS Chapters 279A-279C set out extensive requirements for public bodies' purchasing of goods and services. Some of the elements of the bidding and award processes regulated by state law include:

- advertising for bids or proposals
 - timing, frequency, and methods
- selection criteria
 - low or "best" bid
 - type of contract
 - prequalifications and disqualifications
- process
 - notice requirements to bidders
 - response to bidder inquiries
- evaluation and award
 - criteria eligibility
 - legal obligations of governing body and successful bidder/proposer
 - payment/retainer provisions

A Model Public Contract Rules Manual is available for purchase through the Department of Justice. Contact information is contained in the Resources Section of this Guidebook.

Certain exemptions are allowed under Model Public Contracting Rules, including:

- contracts for small purchases less than **\$10,000, though the cost may not be divided to avoid the law**
- emergency contracts
- cooperative contracts with other entities
 - local, state, or federal agencies
- certain insurance and service contracts related to medical assistance
- contracts with public agencies utilizing an existing solicitation as long as
 - original contract meets requirements of ORS 279A, 279B or 279C
 - contract allows other public agency usage of the contract
 - original contracting agency concurs

Oregon has Prevailing Wage Rate laws and criteria that may apply to contracts districts enter into, according to these guidelines:

- public works projects that cost \$750,000 or more
- projects that involve construction, reconstruction, major renovation, on a road or highway or improvement of any type

Dividing a project up to avoid prevailing wage requirements is not allowed.

A checklist for district projects that meet the criteria includes these activities:

- including prevailing wage rate fee, rates, and other required language in any contract specifications covered by this law
- submit a list of every public improvement planned in the subsequent budget to the Oregon Bureau of Labor and Industries (BOLI) not less than 30 days before adopting the budget or 30 days before construction begins
 - exceptions to this rule include resurfacing highways, roads or streets at a depth of less than two inches and a cost of less than \$125,000, and placing maintenance patching, chip seals or other seals on highways, roads, streets or bridges
- submit a notice to BOLI within 30 days of awarding a contract subject to prevailing wage
- submit a responsibility determination form to the Oregon Construction Contractors Board (CCB) within 30 days from the contract award dates
- verify that none of the contractors or subcontractors working on the project are on BOLI's ineligible list
- require that the contractor has a performance bond or obtain a cashier's check or certified check from the contractor, unless the contract value is more than \$100,000, or more than \$50,000 for highways, bridges and other transportation projects, and that the contractor and subcontractor have public works bonds filed with the CCB, unless exempt
- verify that the project manager has knowledge of construction and worker classifications
- withhold not more than 5 percent retainage if desired
- verify that contractors and subcontractors know the job is a prevailing wage rate job
- remind the contractor and subcontractor that the correct prevailing wage rates and the details of any benefit plans must be conspicuously posted at the job site

Section V

Operating an Effective District

Policy development does not need to be complicated, but should include these basic principles:

- opportunity for district member involvement throughout process of adoption
 - provide forum(s) for identification/discussion of issues and options
 - inform members of progress through newsletters, distribution of work session summaries, update reports

- include clear statement of intent or purpose for each policy adopted
 - cannot conflict with local, state, or federal laws
 - adopt in form of resolution consistent application of policy
 - no changes to written policy without due process
 - evaluate effectiveness periodically

Keeping a Book of Resolutions, indexed by subject and adoption date, is an effective way of managing policy records. Record retention laws require all resolutions to be kept permanently.

Regardless of district size, internal operating procedures should be written, followed, and documented to ensure consistency in dealing with district members, district business, and relationships with external entities. A basic policy on how communications are conducted should include guidelines covering internal board communications that comply with Open Meetings Laws and:

- define roles of board members and officers
 - procedures for setting of agenda, relaying district member contacts, and decision-making
- board to/from district members
 - regular method of communication
 - process for airing of concerns and receiving citizen input
- board to external entities
 - who has authority to represent district
 - process for determining district position

Gaining necessary approvals from district members or financing sources is much easier with a clear plan in place that includes a track record of monitoring and performance over several years.

A district's relationship with Deschutes County includes several aspects of the organization, including:

- Appointment - the Board of County Commissioners, upon receipt of nominations from the existing special road district board appoints special road district board members for each district's term replacements and vacancies as they arise
- The special road district board selects its own officers.
- Taxes - the county treasurer collects and distributes true proceeds levied by the district

Other county departments may occasionally provide information or other assistance to districts, on a limited basis and depending upon availability.

The hiring and supervision of staff is a major responsibility of a district board, and board members should take these issues into consideration before employing any personnel:

What is the advantage or disadvantage of hiring staff versus contracting out for services?

- compare cost and control
- look at current availability

What are the district's legal responsibilities regarding personnel?

- supervision and direction
- compliance with applicable employment laws

If the decision to hire has been made, are personnel management policies and procedures in place?

- clear job description
- reporting relationship established
- compensation/benefits defined
- periodic review/evaluation process identified, with clear goals/standards determined

Poor records management and lack of consistency in applying performance criteria are two ways boards often get into trouble with personnel issues.

Risk management is essential for districts of all sizes. Some of the considerations in development of sound risk management practices are summarized below:

- identification of potential exposures
 - personnel
 - equipment & property
 - maintenance practices
 - board or board member actions
- assignment of risk
 - eliminate: cancel or determine not to provide a particular service or engage in a particular type of activity to avoid exposure
 - mitigate: alter method of service delivery by upgrading equipment
- contract out instead of using staff to perform
 - insure: accept that there is a certain level of risk to be taken, but purchase coverage for unforeseen events
- continuous education
 - part of mitigation strategy, but often overlooked as an active part of risk management for small organizations

The Tort Claims Act, ORS 30.265 et seq., provides some protections for districts and other public bodies by limiting the liability of districts, including their officers, employees, or agents acting within the scope of their authority.

- typical actions against a road district would be negligence for damages to a person or vehicle suffered by the person as a result of the district's failure to be careful in exercising its duties

A “tort” is a breach of a legal duty that is imposed by law (not contractual duties or obligations) that results in injury to a specific person or people for which the law provides a civil right of action for damages or a protective remedy.

Understanding how to avoid or reduce exposing the district to claims is an important risk management function of the district board:

- purchasing liability insurance
 - the Special Districts Association of Oregon (SDAO) provides coverage for many special districts in the state
 - there are commercial providers that offer plans, as well
- properly supervising all employees of the district

-
- if an officer and/or employee is sued while acting within the scope of his or her authority, then the district is the proper party to be sued, and the district is responsible for paying the costs of any damages awarded to the claimant

Section VI

Road Maintenance Responsibilities

The responsibility and authority for various road functions in unincorporated areas of the county are divided between Deschutes County and its road districts. As the principal road authority, Deschutes County retains the exclusive authority to:

- grant permits to public and private utilities to place utility facilities in County rights-of-way
- establish and enforce regulations to limit encroachments in the public right-of-way and order their removal
- establish weight limits
- issue gate or stock guard permits
- abate road hazards under ORS 368.251 - 368.281

Establishing speed limits is a state or county matter. Road districts have no police powers.

Road Maintenance/Development

Local Improvement Districts (LIDs) are created to construct road improvements that are financed by special assessment against benefitted properties. The process of formation includes:

- a petition requesting the improvements
 - signed by not less than 25 percent of landowners abutting the proposed improvements
 - filed with the Board of County Commissioners
 - applicable filing fee
- a feasibility study
 - completed by the Road Department
 - provides information to determine whether to proceed with formation
- discussion/comment from owners
 - neighborhood meetings
 - mail poll, which must gain approval by at least 60 percent of land owners to proceed
- Report by county engineer following the poll

-
- public hearing, followed by Board of County Commission determination whether to proceed
 - development of project
 - lien notification to owners
 - construction of improvements
 - tabulation of final costs to owners
 - collection of assessments

Per County Resolution 2009-118, the LID process remains available to Special Road Districts subject to demonstration of the financial ability to maintain the improved road. As paved and improved roads are more expensive to maintain than gravel roads in the long term, the LID option may require an adjustment to the tax rate.

There are extensive skills and techniques employed today in properly maintaining dirt and gravel roads, which many districts oversee. Some basic considerations, however, are helpful for district board members to understand. There are three basic elements to effective dirt/gravel road maintenance:

- proper road surface material
 - good gradation
 - proper moisture
 - proper compaction
- proper grooming techniques
 - grade entire roadway
 - aim for quality, not speed
 - cut all washboards/potholes
 - cut at predetermined cross slope
 - mark centerline
 - lay back in first gear
 - never leave a windrow or working berm
- use of dust suppressants/base stabilizers

The Deschutes County Road Department is available to provide technical recommendations and consultation on maintenance and improvement techniques.

Section VII

Resources Section

Deschutes County:

Legal Department 541-388-6623

Finance Dept. (Treasurer) 541-388-6559

Assessor /Tax Department 541-388-6508

Road Department 541- 388-6581

Helpful Web Sites:

www.deschutes.org

www.oregonlegislature.gov

sos.oregon.gov (Secretary of State)

www.oregon.gov/DOR/Pages/index.asp (Department of Revenue)

For questions or information on Ethics Laws, contact

Oregon Government Ethics Commission

3218 Pringle Road SE, Ste. 220

Salem, OR 97302-1680

503-378-5105

www.oregon.gov/OGEC/Pages/index.aspx

To order a Model Public Contract Rules Manual:

Download an order form or purchase online at

www.doj.state.or.us/oregon-department-of-justice/publications-forms/forms-manuals-reports/

Mail order form and \$65 payment or credit card info to

Publications Section

1162 Court Street NE, Room 16

Salem, OR 97301-4096

Call 503-378-2992

To order a Public Records and Meetings Manual,

www.doj.state.or.us/oregon-department-of-justice/public-records/attorney-generals-public-records-and-meetings-manual-2014/

To obtain a current list of municipal auditors:

Contact the Board of Accountancy

503-378-4181 or search: licenseesearch.oregonboa.com/

To obtain a copy of the Bureau of Labor and Industries' Prevailing Wage Rate Law Handbook:

www.oregon.gov/boli/WHD/PWR/docs/2018_PWR_law_book.pdf

For BOLI's list of ineligible contractors:

www.oregon.gov/boli/WHD/PWR/docs/Debar_List.pdf

To contact the Special Districts Association of Oregon (SDAO):

800-305-1736 (claims)

800-285-5461 (main)

www.sdao.com

Reference Section Index

Creation of Special Road Districts

ORS 371.305 - 371.385

Public Meetings

ORS 192.610 - 192.690

Public Records Inspection

ORS 192.311 - 192.478

Public Records Policy & Retention Schedule

ORS 192.005 - 192.170

OAR 166-150-0005

Audit Requirements & Exemptions

ORS 297

Special Districts Generally

ORS Chapter 198

Special Road Districts Specifically

ORS 371.305 - 371.385

Election Dates, ORS 255.325 - 255.345

Ballot/Petition Requirements, ORS 250.005 - 250.044

Taxation for Local Improvements, ORS 280.040 - 280.150, ORS 223

Public Contracting

Contract Review Board, ORS 279A – 279C

Prevailing Wage Rates Handbook Summary ...
(see Section VI for how to order Model Public Contract Rules Manual)
Tort Claims Act ORS 30.260 - 30.407
Formation of Local Improvement District (L.I.D.)
Deschutes County Code Section 12.48