CHAPTER 12: DISTRICTING FOR ROAD PURPOSES
(This chapter was revised and updated in 2008 and updated in 2010 and 2012)

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12.000 INTRODUCTION. Districting is a technique to localize a program activity to a portion of a county and to place financial responsibility within the localized area. The state laws have provided for three types of road districts for many years. They are the subject of this chapter. A county contemplating districting for road purposes will want to explore the county service district option (ORS Chapter 451), which became available to all counties in 1985, and the intergovernmental transportation entity enacted in 2001 (ORS 190.083). The county service district system, since it is primarily a fiscal technique, has been reported in Chapter 3.

Oregon statutes authorize and outline the formation of general districts, special road districts, and road assessment districts. The purpose of these various districts has been to facilitate the construction and improvement of roads. The county service district and transportation entity may also be tools for this purpose.

The district systems emerged during an earlier period. At one time many counties were using the general road district system, and the road levy statutes still contain language as though all counties were divided into road districts. See Chapter 3. Under the general road district system, which continues to function in a few counties, the county governing body and the county road official have the responsibility for the road program. Special road districts have independent operating boards but may utilize the county organization to provide its services. The road assessment district was designed specifically for Malheur County and is used only there. (Note: Washington County has established a county service district for urban road maintenance purposes and Union and Wallowa counties have established an intergovernmental transportation entity for the operation of their railroad line.)

12.015 SPECIAL REFERENCES. The following are sources of information outside this manual which are particularly relevant to the sections of this chapter, as noted.

Section 12.000

Oregon Law Institute, Oregon Local Government Law, Ch. 9, "Streets and Roads" (1991)


Section 12.050

Oregon State Bar, Land Use, Ch. 12, "Moratoria and Growth Control Devices (1982)"


12.050 ROAD DISTRICT FORMATION AND DISSOLUTION. The formation or change of organization of any type of district for road purposes is
accomplished under the District Boundary Procedure Act, ORS 198.705 to ORS 198.955. The 2011 legislature modified the requirements for forming a district when the proposal includes a permanent tax rate for the district by removing the previous requirement that at least 50 percent of registered voters cast ballots in the formation election held in May or November (Chapter 8, Oregon Laws 2011).

Further, under ORS 197.175(1) when a county acts to form, change the organization of, or annex territory to a district, the county is exercising its "planning and zoning" responsibilities. Once a district with road authority is functioning, any decision to open a road would become a land use decision. In counties within the jurisdiction of a local government boundary review commission, a formation or change in a road district must comply with that commission's authority.

ORS 198.920 to 198.955 defines the dissolution procedure for special districts and county service districts. The 2011 legislature augmented the process by passing ORS 198.927 which authorizes annexation of any or all territory of a dissolved district by a district formed under the same principal Act; allows for the allocation of the indebtedness; and subjects the territory annexed to the permanent tax rate limit and local option taxes of the annexed district (Chapter 369, Oregon Laws 2011).

12.100 COUNTY ROAD DISTRICTS. Road districts may be created under ORS 371.055 to 371.110 for the purpose of improving county roads and, within a city or drainage district, public roads. These road districts are commonly referred to as county road districts or general road districts to distinguish them from the more specialized road districts provided by other statutes. A county road district could apparently be superimposed over a part of a county as a means of levying a property tax for roads in addition to any overall county road levy. However, the historical experience has been that a county road district system is applied county-wide and replaces any county road levy program. Incorporated cities and certain drainage districts and islands are automatically separate road districts. Road improvements within a district may be initiated by a petition signed by 12 or a majority of the resident freeholders of the road district. If approved by the county road official, an investigation is made of the improvements and a report is submitted to the county court or board of county commissioners, which may grant the petition. Road improvements within a drainage road district are limited to those roads specifically designated by the board of supervisors of the drainage district. Similarly, road improvements within a city that is a separate road district are limited to the roads designated by the city council.

A road district may assess, levy and collect each year an ad valorem tax on all district property. The board of supervisors of a drainage district may levy a tax, not to exceed $1 per acre of land for road purposes. In May 1997 the voters approved the legislatively referred Measure 50 to amend the citizen initiative, Measure 47, passed in November 1996. Measure 50 combined each taxing body’s operating levies into a single levy, reduced that levy, and converted the levy into a permanent tax rate for the jurisdiction.

In addition, Measure 50 created a new type of levy known as the local option levy. Local option levies are operating levies that can be passed by local governments to raise revenue beyond the permanent rate amounts. All moneys collected shall be credited to a special fund in the county treasury and they may be expended under the supervision of the
county court. Incorporated city road districts can have their funds paid over to the city and expended under the supervision of the city.

The 2001 Legislature modified ORS 371.110 by requiring that boundary changes must be filed in final approved form with the county assessor and the Department of Revenue as provided in ORS 308.225 for ad valorem taxation purposes.

12.110 STATUTES ON COUNTY ROAD DISTRICTS

Chapter 371

Road Districts and Road Assessment Plans

371.055 Establishment of road districts

371.060 Drainage districts and cities as separate road districts

371.065 Construction, maintenance and repair in drainage road district; tax levy

371.067 Construction, maintenance and repair in city road district

371.070 Islands as separate road districts

371.075 Petition for road improvement or grade change; investigation and report; granting partition

371.097 Levy of taxes; application of Local Budget Law

371.105 Tax as special fund; use of fund

371.110 Effect of change of district boundaries on road tax levy; filing boundary change with county assessor and Department of Revenue

12.120 CITATIONS ON COUNTY ROAD DISTRICTS

12 Or. Att'y Gen. Op. 502 (1926): The basis for the tax levy is the assessed valuation on the books on the date the tax was voted.


12.200 SPECIAL ROAD DISTRICTS. Special road districts created under ORS 371.305 to 371.385 are governed by a three-member board of commissioners which is appointed by the county governing body and have the powers of a municipal corporation for
the purpose of improving roads within the district. In 1999, the Legislature expanded
county authority by authorizing the county governing body, by ordinance, to change the
method of selection of the district commissioners. The new law provides that the enabling
ordinance shall specify whether the district commissioners shall be elected or appointed and
prescribe the procedures for effecting the change.

The voters of the district authorize the collection of an ad valerom property tax to be
used to improve public roads. As noted in section 12.100, Measure 50 converted each
taxing body’s property tax levy into a permanent tax rate for property tax purposes and
limited the ability of taxing bodies to impose additional property taxes for operating
purposes to voter-approved local option levies. Any tax levy authorized is to be collected
and disbursed under the direction of the district board.

In 2001 the Legislature further expanded the authority of special road districts, but
in a very limited way. It enacted a measure establishing tax zones for special road districts
for the purpose on imposing property taxes at different tax rates and amounts on assessed
value of property in each zone. However, the special road district must be located in a
county with a population between 100,000 and 200,000 people and the total square miles of
the county is between 3,000 and 3,500 square miles. (The only county that qualified at the
time of enactment was Deschutes County and was enacted specifically for Deschutes
County.)

In order to qualify, the district must be providing qualitative differences in services
to the residents in each tax zone. The zone boundaries and tax rate for each zone must be
approved by the voters of the district.

In 2010, Crook County enacted a process for the withdrawal of county roads
within subdivisions from the county road system in order to better utilize its limited road
revenues. The policy creates incentives to encourage the subdivision property owners to
create a special road district and approve a permanent tax rate to maintain the subdivision
roads. See Crook County Order 2010-44 “In The Matter Of Reclassifying County
Maintained Roads Located Within Subdivisions.”

12.210 STATUTES ON SPECIAL ROAD DISTRICTS

Chapter 371

Special Road Districts

371.305 Authority to establish special road districts

371.318 Formation order to declare whether district board elected or appointed;
change in method of selecting board; cost of election

371.323 Election of first commissioners

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### 12.220 CITATIONS ON SPECIAL ROAD DISTRICTS


39 Or. Att'y Gen. Op. 549 (1979): A special road district may transfer funds obtained to improve roads from the road district to the county in order to pay for the improvements.

### 12.300 ROAD ASSESSMENT DISTRICTS.

Road assessment districts may be formed under ORS 371.405 to 371.535 only in counties with a population between 19,000 and 25,000 at the time of formation. Subsequent growth to a population exceeding 25,000 has no effect on a properly formed district. The district must have at least 20,000 acres or $1 million assessed valuation of taxable property. An elected three-member board of directors has authority over all roads within the district except for state primary and secondary highways. Unless the board of directors contracts with a city within the district, however, the board has no authority over streets within the city. Once authorized by voters in the district, the board may levy a road tax of up to one-fourth of one percent (0.0025) of the real market value of the property within the district. An additional one-fourth of one percent (0.0025) may be levied in any year by separate voter approval for that year's levy. The assessments are to be collected by the county, kept in a separate fund, and disbursed for...
Some practical limitations on road assessment districts necessitate cooperation between the district and the county governing body of the county in which the district is located. All county road right-of-way within a road assessment district is acquired and held by the county. Establishment of a roadway as a county road ultimately is determined by the county governing body. As a practical matter, however, recommendations of the district board play an important role in decisions concerning acceptance of a public road as a county road. Such an acceptance has the same impact on a road assessment district as it would on a county without those districts.

12.310 STATUTES ON ROAD ASSESSMENT DISTRICTS

Chapter 371
Road Assessment Districts

371.405 Definitions for ORS 371.405 to 371.535

371.410 Formation of road assessment district in counties with 19,000 to 25,000 population; effect of population increase

371.416 Election procedure; initiative and referendum

371.450 Election of district directors; terms; oath; qualifications; vacancies

371.455 Nominees declared elected if number equals positions to be filled

371.467 Special elections

371.470 Selection of board of directors' president and secretary; record of proceedings; meetings

371.475 General powers of board of directors

371.480 Contracts as to streets in cities

371.485 Authority of district over roads and highways

371.495 Declaration of legislative intent

371.500 Computing money to be raised by assessment; apportionment; assessment limited; tax not to interfere with others

371.505 Copy of assessment resolution to county assessor; duty of assessor; collection and accounting; separate fund
12.320  CITATIONS ON ROAD ASSESSMENT DISTRICTS

40 Or. Att'y. Gen. Op. 130 (1979): A road assessment district is not dissolved automatically because the population of the county ceases to be within the limits specified in ORS 371.410. A road assessment district must be dissolved according to the uniform procedures established in ORS Chapter 198.

12.500  USING DISTRICTS FOR ROAD WORK. The road district laws came about at a time when the various portions of a county were more isolated. Today, road programs are more often built around functional differences in the roads rather than by their location in the county. This is demonstrated by the emergence of the road classification system, which distinguishes county roads from local access roads. As indicated in Chapter 3 and section 12.000, road districts are not the only alternatives for financing localized road needs.

Road districts now serve fairly narrow purposes. The county road district system as used in Clatsop County serves primarily to separate in-city and out-of-city property tax financing for roads. The special road district system as used in Lincoln County serves to offer localized areas a method of financing the care of local access roads. Under the county policy, subdivision streets are not added to the county road system for maintenance purposes. The county works with persons in an area wanting local access road maintenance by performing work paid for by the road district levy. The specialized objectives causing the use of various road districts may be achievable by the use of differential taxes, special assessments, county service district systems, or intergovernmental transportation agreements.

12.510  HIGHWAY LIGHTING BY DISTRICTS. ORS 372.010 to 372.480 authorize the establishment of highway lighting districts for the purpose of illuminating specific portions of a public road. A separate board of commissioners for the district is appointed unless the governing body of the county within which the district is located is petitioned to act as the board for the district.

In either event, the county engineer is required to investigate and report on any lighting project proposed by a petition of landowners in the district. A hearing on the
petition is required after the filing of the report. The county service district system discussed in Chapter 3 is an alternative way to provide lighting to benefit an area of the county.

Water supply districts, ORS 264.350, and rural fire protection districts, ORS 478.290, are also authorized to install and operate lighting systems along public roads within their respective districts.