
II. Oregon Laws and Rules Governing Conservation Districts

A. Enabling Legislation

1. Definitions

Oregon conservation districts are political subdivisions of state government but are not state agencies. Conservation districts are considered municipal corporations, a form of local government that is required to follow many of the same laws that govern state agencies.

Statute: *A law enacted by the legislative assembly of a nation or state.*
– Webster’s dictionary

Administrative Rule: *A directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy or describes an agency’s procedure or practice requirements.*
– Oregon Attorney General’s Administrative Law Manual

2. Oregon Revised Statutes, Chapter 568

The Oregon Legislature passed the Soil Conservation District Law in 1939 that created a Soil Conservation Committee. The committee was established on August 5, 1939. The law also authorized the committee to begin forming Soil Conservation Districts, which were changed to Soil and Water Conservation Districts in 1963. (See *Chapter I - History* for details).

The primary statutes relating to formation and governance of Oregon Soil and Water Conservation Districts are contained in Oregon Revised Statutes (ORS) 568.210 through 568.890. A listing of these statutes follows:

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SOIL AND WATER CONSERVATION DISTRICTS (Generally)

- 568.210 Definitions for ORS 568.210 to 568.808 and 568.900 to 568.933
- 568.225 Policy
- 568.300 Petition for formation of district; contents; consolidation of petitions
- 568.310 Notice of hearing; questions considered
- 568.320 Owner and interested parties have right to be heard; subsequent notice and hearings
- 568.330 Determination of need for district recorded; factors considered in determination; territory need not be contiguous
- 568.340 Determination of no need for district recorded; subsequent petitions may be filed
- 568.350 Referendum; purpose
- 568.360 Referendum ballot; contents
- 568.370 Eligible electors
- 568.380 Department to pay expenses and supervise hearings and referenda; informalities in referendum
- 568.390 Referendum results; majority required for creation of district
- 568.400 Appointment of first directors of district
- 568.410 Procedure for constituting district a public body
- 568.420 Certificate of organization by Secretary of State; boundaries of district
- 568.430 Petitions for inclusion or withdrawal of territory; form; eligible electors
- 568.440 District legally established; certificate as evidence
- 568.445 Petitions for inclusion of territory wholly within another district; approval or disapproval by directors and department
- 568.450 Procedure for consolidating districts
- 568.460 Referendum; eligible electors; majority required
- 568.470 Effect of consolidation on several districts
- 568.480 Petition and referendum for discontinuance of district
- 568.490 Directors to wind up affairs and dispose of property; application and certificate to Secretary of State
- 568.500 Certificate of dissolution; effect
- 568.510 Proceedings for discontinuance limited
- 568.515 Termination of inactive district's existence
- 568.520 Petitions nominating directors; regular elections
- 568.530 Nominees' names placed on referendum ballot
- 568.540 Votes necessary to elect directors
- 568.542 Payment of expenses for director election from county funds
- 568.545 Procedure for selection of directors of consolidated districts; selection of officers
- 568.550 General powers of directors
- 568.552 Power of directors to manage and control water resources and projects; authority of Water Resources Commission
- 568.554 District to submit program and work plans for department review
- 568.555 Name of district may be changed
- 568.560 Number of directors; officers; election; terms; vacancies
- 568.565 Procedure for reducing number of directors
- 568.570 Majority constitutes a quorum
- 568.580 Annual meeting
- 568.590 Notice of annual meeting
- 568.600 Legal counsel; delegation of powers; assistance to department
- 568.610 Records; audits
- 568.620 Consultation with county or municipal representatives
- 568.630 Directors may formulate land-use regulations; public meetings
- 568.640 Referendum on land-use regulations; notice; form of regulations; proposed regulations available for inspection
- 568.650 Contents of referendum ballot; referendum governed by directors; landowners eligible to vote
- 568.660 Votes necessary for approval; effect of regulations when adopted
- 568.670 Landowner may petition for amendment or repeal; procedure; referenda limited
- 568.680 Scope of regulations; approval by department
- 568.690 Regulations to be uniform; copies to be available to landowners
- 568.700 Directors petition circuit court for enforcement of regulations; contents of petition
- 568.710 Hearing and decree; court may appoint referee; joinder of owner and occupant
- 568.720 Court retains jurisdiction until work completed; statement of expenses; judgment
- 568.730 Officials may enter private lands
- 568.740 Board of adjustment established for each district; membership; appointment; term; disqualification

568.750 Vacancies in board of adjustment; compensation of members; administrative expenses
568.760 Rules of board of adjustment; meetings
568.770 Petition for relief from regulations; hearing; procedure; board may order variance of regulations; appeal
568.780 Certain public agencies to be deemed owners
568.790 County funds for personnel and other uses; duties of county extension agent
568.801 Stream control and management projects; application; designation and implementation; rules
568.805 Special assessments; improvement bonds; remonstrance by landowners (Tax Levying Authority)
568.806 Ad valorem tax; budget; collection
568.807 Electors authorizing taxation; election date
568.808 Taxing district to file legal description and map

WIND EROSION CONTROL

568.810 Purpose of ORS 568.810 to 568.890; types of wind erosion
568.820 Designation of areas by county court upon petition; description of boundaries
568.830 Publication and posting of notices describing districts; when regulations are enforced
568.840 Election of advisory board; meetings; members; functions
568.850 Wind erosion inspector; appointment; duties; appeal from decision; compensation; expenses
568.860 Inspector may enter lands in district; service of notice on owner or occupant
568.870 County court may authorize inspector to control erosion; expenses of control
568.880 Tax levy for wind erosion control
568.890 District may be dissolved; disposition of district funds; change of district boundaries

The complete text of these statutes is available in the *Oregon Soil and Water Conservation District Law Book*.

3. District Powers and Authorities

The general powers and authorities of conservation districts in Oregon are described in ORS 568.550 as follows:

1. To secure surveys and investigations and do research relating to:
 - a. the character of soil erosion;
 - b. the character of flood water and sediment damage;
 - c. all phases of the conservation, development, utilization and disposal of water; and
 - d. the preventive measures, control measures and improvements needed.
2. To conduct demonstration projects on lands within the district upon obtaining the consent of the owner and occupier of such lands.
3. To carry out preventive and control measures on lands within the district upon obtaining the consent of the owner and occupier of such lands.
4. To enter into written agreements with and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any owner or occupier, or both of them, of and within the district, for the purpose of carrying on soil erosion control and prevention operations within the district.
5. To obtain options upon and to acquire by purchase, exchange, lease, gift, grant, bequest or devise any property, real or personal or rights or interests therein; to maintain, administer and improve any properties acquired; to receive income from such property and to expend such income in carrying out the purposes and provisions of ORS 568.210 to 568.808 and 568.900 to 568.933; and to sell, lease or otherwise dispose of any of its property or interests therein in furtherance of the purposes of ORS 568.210 to 568.808 and 568.900 to 568.933.
6. To borrow money and to mortgage personal property of the district as security therefore; provided, landowners are given opportunity to be heard at a public hearing in the district, notice of which shall be given according to rules described by the department.
7. To make available, on such terms as it shall prescribe, to landowners or occupiers within the district, agricultural and engineering equipment, fertilizer, seeds and seedlings and other material or equipment.
8. To construct, operate and maintain such structures as may be necessary or convenient for performance of any of the operations authorized in ORS 568.210 to 568.808 and 568.900 to 568.933.
9. To develop comprehensive plans and specifications for the conservation of soil resources and for the continued control and prevention of soil erosion within the

- district, and to publish such plans, specifications, and information and bring them to the attention of owners and occupiers of lands within the district.
10. To take over, by purchase, lease, or otherwise, and to administer, any soil conservation erosion control, or erosion prevention project, or combination thereof, located within its boundaries undertaken by the United States or any of its agencies, or by the state or any of its agencies.
 11. To manage, as agent of the United States or any of its agencies, or of the state or any of its agencies, any soil conservation, erosion control, or erosion prevention project, or combination thereof, within its boundaries.
 12. To act as agent for the United States or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil conservation erosion control, or erosion prevention project, or combination thereof, within its boundaries.
 13. To accept donations, gifts and contributions in money, services, materials, or otherwise from the United States or any of its agencies, or from this state or any of its agencies, and to use or expend such moneys, services, materials or other contributions in carrying out its operations.
 14. To sue or be sued in the name of the district; to have a seal, which shall be judicially noticed; to have perpetual succession unless terminated as provided by law; to make and execute contracts and other documents necessary or convenient to the exercise of its powers; to make, and from time to time amend and appeal, rules not inconsistent with ORS 568.210 to 568.808 to 568.900 to 568.933 to carry into effect its purposes and powers.
 15. As a condition to the extending of benefits under ORS 568.210 to 568.808 and 568.900 to 568.933 to, or the performance of work upon, any lands not owned or controlled by this state or any agencies, the directors may require contributions in money, services, materials or otherwise to operations conferring such benefits, and may require landowners and occupiers to enter into and perform such agreements or covenants as will tend to prevent or control erosion thereon.
 16. To purchase liability insurance or indemnity insurance, in such amounts and containing such terms and conditions as they may deem necessary, for the protection of directors, officers and employees in the performances of their official duties. The premiums for such insurance shall be paid out of moneys available for expenditures by the district.

4. Related Statutes and Administrative Rules

Additionally, conservation districts are subject to the provisions of several other statutes and Oregon Administrative Rules (OARs) as outlined below. The full text of statutes is available at <http://www.leg.state.or.us>. The full text of the administrative rules is available at <http://www.sos.state.or.us/archives/rules>.

<u>STATUTE</u>	<u>DESCRIPTION</u>
Americans With Disabilities Act of 1990	Hiring Persons With Disabilities – Federal
OAR 137-30-000 through 137-35-080	Oregon Public Contracting Law
Oregon Constitution Article XV, Section 3	Oath of Office
ORS 44.320	Oath of Office
ORS 190.003 through 190.110	Intergovernmental Cooperation
ORS 192.001	Public Records Policy
ORS 192.005 through 192.190	Custody and Maintenance of Records
ORS 192.310	Records and Reports
ORS 192.410	Inspection of Public Records
ORS 192.610 through 192.710	Public Meetings
ORS 198.010 through 198.955	Special Districts
ORS 198.330 through 198.365	Dissolution of Inactive Districts
ORS 198.410 through 198.440	Recall (of district directors)
ORS 244.010 through 244.400	Conflict of Interest
ORS 247.035	Residency
ORS 292.210 through 292.250	Subsistence and Mileage allowances for Travel by State Officers and Employees
ORS 294.305 through 294.565	Local Budget - <i>Required of district with a tax levy</i>
ORS 297.005 through 297.712	Contracting
ORS 297.210 through 297.230	Auditing Accounts of State and State-Aided Institutions and Agencies laws
ORS 297.405 through 297.485	Municipal Audits
ORS 542.750	Watershed Protection and Flood Prevention
ORS 561.395	Soil and Water Conservation Commission
ORS 561.400	Natural Resources Division (ODA)
ORS 568.900 through 568.933	Agricultural Water Quality Management
ORS 659.010 through 659.990	Civil Rights, Unlawful Employment Practices
ORS 659.405	Civil Rights of Disabled Persons
Title VII Civil Rights Act of 1964	Equal Opportunity Employment/Sexual Harassment/Discrimination – Federal

5. Special Districts

All Oregon soil and water conservation districts are classified as special districts under ORS 198.010 through ORS 198.955. As special districts, conservation districts are eligible to become members of the Special Districts Association of Oregon (SDAO). SDAO provides a variety of resources, consultation, insurance plans, and training opportunities to its members. The following is a partial list of special districts in Oregon:

Type	Statute
9-1-1 Communications Districts	ORS 401
Cemetery Maintenance Districts	ORS 265
Corporation for Irrigation, Drainage, Water Supply or Flood Control	ORS 554
County Service Districts	ORS 451
Diking Districts	ORS 551
Domestic Water Supply District	ORS 264
Drainage Districts	ORS 547
Geothermal Heating Districts	ORS 523
Highway Lighting Districts	ORS 372
Irrigation Districts	ORS 545
Library Districts	ORS 357
Mass Transit Districts	ORS 267
Metropolitan Service Districts	ORS 268
Park and Recreation Districts	ORS 266
People's Utility Districts	ORS 261
Port Districts	ORS 777
Port of Portland	ORS 778
Road Assessment Districts	ORS 371
Rural Fire Protection Districts	ORS 478
Sanitary Authority, Water Authority or Joint Water and Sanitary Authority	ORS 450
Sanitary Districts	ORS 450
Soil and Water Conservation Districts	ORS 568
Vector Control Districts	ORS 452
Water Control Districts	ORS 553
Water Improvement Districts	ORS 552
Weather Modification Districts	ORS 558

6. Entering Private Lands

In addition to the powers and authorities previously described, ORS 568.730 authorizes districts "to go upon any lands within the district, after notifying the owner or operator, for the purpose of making surveys and to determine whether land-use regulations adopted under ORS 568.630 to 568.690 are being observed. Due precaution shall be taken at all times to prevent injury to growing crops or livestock." Additionally, in implementing agricultural water quality management program strategies, ORS 568.915 states "after a reasonable attempt to notify the landowner, the Department of Agriculture or a designee of the department may go upon any lands within the area subject to a water quality management plan for the purpose of determining: (1) those actions that may be required of a landowner under ORS 568.900 to 568.933; and (2) whether the landowner is carrying out the required actions."

It is strongly recommended that districts make every reasonable effort to obtain permission from the landowner or operator before entering private property.

B. Oregon's Agricultural Water Quality Management Program - SB1010

Senate Bill 1010, passed by the Oregon Legislature in 1993, directs the Oregon Department of Agriculture to work with farmers and ranchers to develop area-wide water quality management plans for the state's watersheds. Senate Bill 1010 is a principal strategy as part of agriculture's role in responding to the federal Clean Water Act, Coastal Zone Management Act, Endangered Species Act, Oregon Plan for Salmon and Watersheds, and other natural resource conservation mandates.

Conservation districts are essential partners with the department and private landowners in implementing Senate Bill 1010. The department enters into interagency agreements with Local Management Agencies to provide assistance to landowners in developing and implementing Agricultural Water Quality Management Program area plans. In most cases, the Local Management Agency is the local conservation district. Conservation districts provide assistance to landowners in evaluating their property and implementing conservation measures. Districts also help landowners access technical and financial resources through NRCS and other local, state, and federal agencies.