



**OREGON
DEPARTMENT OF
AGRICULTURE**

**Oregon Soil and Water
Conservation District
Guidebook**

A Guide to Operations and Management

Chapter 2
Laws and Rules
Governing Conservation Districts

Updated 08/2022

INTRODUCTION

The Oregon Department of Agriculture (ODA), Natural Resource Program Area (NRPA) has various responsibilities in the management of natural resource programs within the state of Oregon. Among these are the responsibilities to provide administrative oversight of the soil and water conservation districts as outlined in Oregon Revised Statutes (ORS) 561.400. The Soil and Water Conservation District (SWCD) Program, in the NRPA at ODA, is tasked with providing this oversight and other assistance to the conservation districts (See Chapter 9 for more on this relationship).

The Oregon Soil and Water Conservation District Guidebook – A Guide to Operations and Management (Guidebook), provides information and directions to assist conservation district directors, associate directors, directors emeritus, and employees to carry out the conservation district's statutory responsibilities. Every conservation district director and employee should have a working knowledge of the Guidebook's contents. A suggested strategy for conservation districts is to review portions of the Guidebook at each monthly board meeting. This will establish a routine under which conservation districts can review and discuss information relating to conservation district operations and management.

The Guidebook is divided into chapters, each of which focuses on a different aspect of conservation district operations. Resources, documents, and examples will also be made available for each chapter. Where "ODA" and "the Department" is used hereinafter mean the Oregon Department of Agriculture.

Except where noted as a legal requirement, no part of this Guidebook should be taken as required by ODA. Contents of this Guidebook are only recommendations for the best management of your district.

Each chapter of the Guidebook will be available as a separate download on the ODA website and will be updated on a continual basis. Please check the ODA/SWCD website on a regular basis for the most recent update of each chapter.

<https://www.oregon.gov/oda/programs/NaturalResources/SWCD/Pages/Guidebook.aspx>

Please send updates and suggested changes or additions to eric.nusbaum@oda.oregon.gov

Laws and Rules Governing Conservation Districts

Enabling Legislation

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. As defined in Oregon Revised Statute 174.116 local government specifically includes soil and water conservation districts.

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*

Code of Federal Regulations (CFR): The codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government. – *U.S. Government Printing Office*

United States Code (USC): The United States Code is the codification by subject matter of the general and permanent laws of the United States. – *U.S. Government Printing Office*

Oregon Revised Statutes, Chapter 568

The primary statutes relating to the formation and governance of Oregon Soil and Water Conservation Districts are contained in [Oregon Revised Statutes \(ORS\) 568](#). See the Resources section at the end of this chapter for links to the complete text of these statutes.

SOIL & WATER CONSERVATION; MANAGEMENT

AGRICULTURE

SOIL AND WATER CONSERVATION DISTRICTS

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 Right to be heard; subsequent notice and hearings
- 568.330 Determination of need for district; factors considered in determination; territory need not be contiguous
- 568.340 Determination to not form district; subsequent petitions may be filed
- 568.351 Determination of boundaries for proposed district; notice of plan to issue order; publication; request for referendum
- 568.370 Eligible electors
- 568.380 Department to pay expenses and supervise hearings and referenda; informalities in referendum
- 568.391 Referendum process; ballot contents; results
- 568.400 Appointment of first directors of district
- 568.410 Formation of district
- 568.420 Certificate of formation; boundaries of district
- 568.431 Petitions for inclusion of territory; conditions; referendum
- 568.433 Petitions for withdrawal of territory; conditions; referendum
- 568.435 Boundary change notice for taxation purposes
- 568.440 District legally formed; 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
- 568.471 Effect of consolidating districts
- 568.481 Methods for initiating dissolution of district; notice of process initiation; plan of dissolution and liquidation; public hearings; dissolution order; referendum
- 568.491 Termination of board of directors; appointment of board of trustees; notice of dissolution; certificate of dissolution
- 568.495 Disposition of district assets; insolvency; rules
- 568.500 Order of dissolution; effect

- 568.510 Proceedings for dissolution limited
- 568.520 Petitions nominating directors; regular elections; duties of department
- 568.530 Ballots; write-in votes; unfilled positions
- 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 board of directors; erosion control covenants; interagency cooperation; land use regulations; department rules
- 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; director qualifications; officers; election; terms; vacancies
- 568.565 Procedures for changing 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
- 568.730 Officials may enter private lands
- 568.780 Certain public agencies to be deemed owners
- 568.790 County funds for personnel and other uses
- 568.801 Stream control and management projects; application; designation and implementation; rules
- 568.803 General obligation bonds; refunding bonds; special taxes
- 568.805 Special assessments; improvement bonds; objections 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

AGRICULTURAL WATER QUALITY MANAGEMENT

568.900 Definitions for ORS 568.900 to 568.933

568.903 “Landowner” defined

568.906 Plan implementation to involve local agencies

568.909 Boundaries for lands subject to water quality plans; implementation of plan and rules

568.912 Management plan rules; required actions under rules; prohibiting specific practices; landowner appeals

568.915 Entry upon land; purpose; consultation with Department of Justice; notice to landowners

568.918 Notice to landowner of failure to perform requirements

568.921 Fees from landowners

568.924 Interagency agreements

568.927 Law inapplicable to certain forest practices

568.930 Agricultural activities subject to plan requirements; consultation with Environmental Quality Commission; review and revision of plans

District Powers and Authorities

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

ORS 568.550 General powers of board of directors; erosion control covenants; interagency cooperation; land use regulations; department rules.

(1) The board of directors of a soil and water conservation district has the following powers:

(a) To secure surveys and investigations and do research relating to:

(A) The character of soil erosion;

(B) The character of floodwater 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.

(b) To conduct demonstrational projects on lands within the district upon obtaining the consent of the owner and occupier of such lands.

(c) To carry out preventive and control measures on lands within the district upon obtaining the consent of the owner and occupier of those lands.

(d) To enter into written agreements with and, within the limits of appropriations duly made available to the board by law, to furnish financial or other aid to any governmental or nongovernmental agency or any owner or occupier of lands within the district, for the purpose of:

(A) Carrying on within the district soil erosion control and prevention operations, water quality improvement, watershed enhancement and improvement, fish and wildlife habitat management activities and other natural resource management activities; or

(B) Carrying out district responsibilities under ORS 541.898, 568.225, 568.550 and 568.900 to 568.933.

(e) 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 properties 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 and the provisions of ORS 568.210 to 568.808 and 568.900 to 568.933.

(f) To borrow money and to mortgage personal property of the district as security for the borrowed money, if the district first gives notice of and holds a public hearing within the district to provide landowners with the opportunity to be heard. The State Department of Agriculture shall adopt rules specifying the manner for giving notice of a hearing under this subsection.

(g) To issue general obligation bonds of the district as provided in ORS 568.803.

(h) To make available, on such terms as the directors shall prescribe, to landowners or occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings and other material or equipment.

(i) 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.

(j) 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.

(k) 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 district boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies.

(L) To manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil conservation, erosion control or erosion prevention project, or combination thereof, within district boundaries.

(m) 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 district boundaries.

(n) 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 on its operations.

(o) To sue and to 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 instruments necessary or convenient to the exercise of its powers, and to make, and from time to time amend or repeal, rules not inconsistent with ORS 568.210 to 568.808 and 568.900 to 568.933 to carry into effect its purposes and powers.

(p) To purchase liability or indemnity insurance, in such amounts and containing such terms and conditions as the board believes necessary for the protection of directors, officers and employees of the district against claims incurred in the performance of official duties. The premiums for such insurance shall be paid out of moneys available for expenditure by the district.

(q) To place liens on real and personal property.

(r) To enter into written agreements with, coordinate activities with and provide assistance to landowners, managers and residents within the district and federal state and local governments, relating to natural resource issues, including but not limited to issues of:

(A) Agriculture and forestry;

(B) Economic development based on natural resources;

(C) Watershed management and ecosystem health;

(D) Invasive species;

(E) Alternative and renewable energy;

(F) Air quality;

(G) Animal waste and nutrient management;

(H) Carbon sequestration;

(I) Access to market-based services and certification;

(J) Fuel reduction and wildfire planning and management; and

- (K) Preservation of agricultural, forestry and other lands.
 - (s) To conduct outreach and conservation education activities.
 - (t) To provide financial assistance, including but not limited to loans and grants to implement activities and projects authorized under ORS 271.715 to 271.795, 568.210 to 568.808 or 568.900 to 568.933.
 - (u) To hold patents, trademarks and copyrights.
 - (v) To hold conservation easements under ORS 271.715 to 271.795.
- (2) As a condition to the extending of any benefits under ORS 568.210 to 568.808 or 568.900 to 568.933 to lands, or the performance of work upon lands, the directors may require contributions in money, services, materials or otherwise to any operations conferring such benefits, and may require landowners or occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon.
- (3) In order to avoid duplication of activities under subsection (1)(a) of this section, the department may call upon other state and federal agencies for assistance and cooperation in their fields in accordance with memoranda of understanding to be signed by all cooperating agencies.
- (4) A district may not adopt land use regulations under ORS chapter 197, 215 or 227. A district has the standing of an affected property owner to participate in public processes involving administrative rules, regulations, goals, guidelines, plans or other public body actions that may affect one or more properties within the district.

Related Statute and Administrative Rules

Additionally, conservation districts are subject to the provisions of other Oregon Revised Statutes (ORS), Oregon Administrative Rules (OARs), and U.S. Codes including those outlined below. See the Resources section at the end of this chapter for links to the complete text of these rules and statutes.

Description	Law (with embedded link)
Americans with Disabilities Act of 1990 (ADA)—State and Local Government requirements for Equal Opportunity for Individuals with Disabilities, and Public Accommodations.	28 CFR Part 35 & 36 (Title II & III)
Audits of Accounts of State & State-Aided Institutions and Agencies— Authorizes the Secretary of State to conduct audits.	ORS 297.210-297.250
Bond or Letter of Credit for Member of Boards of Certain Districts— Requirement for directors or staff who controls money or property.	ORS 198.210-198.220
Conservation & Highway Scenic Preservation Easements—Requirements for acquiring and creating conservation easements.	ORS 271.715-271.795
Civil Rights Act of 1964, Title VII—Employment laws regarding Equal Opportunity Employment/Sexual Harassment/Discrimination.	Volume 42 USC Chapter 21 Subchapter VI, Section 2000e-2000e-17
Government Ethics—State statute applying to directors, employees, and agents to prevent abuse of office and ensure public trust.	ORS 244
Intergovernmental Cooperation—Authority of local governments to make intergovernmental agreements.	ORS 190.003-190.110
Local Budget Law—Requirements of conservation districts with a tax levy.	ORS 294.305-294.565
Local Government Borrowing—Authority to issue general obligation bonds.	ORS 287A
Municipal Audit Law—Requirements for financial reviews and audits.	ORS 297.405-297.555
Natural Resources Division; duties; insurance for soil and water conservation districts.	ORS 561.400

Description	Law
Nonaggregate Mineral Surface Mines—Requirement for Department of Geology and Mineral Industries to consult with conservation districts.	ORS 517.905-517.915
Oaths of Office—Requirement for all directors to take an oath of office.	Oregon Constitution, Article XV, Section 3
Property of the state, counties and other municipal corporations— Property exemptions from taxation.	ORS 307.090
Public Contracting—General Provisions.	ORS 279A
Public Contracting—Miscellaneous Provisions.	ORS 279
Public Contracting—Public Improvements and Related Contracts.	ORS 279C
Public Contracting—Public Procurements.	ORS 279B
Public Contracting—Review of Public Contracts.	OAR 137, Div. 45
Public Contracting Model Rules—Consultant Selection: Architectural, Engineering and Land Surveying Services and Related Services Contracts.	OAR 137, Div. 48
Public Contracting Model Rules—General Provisions Related to Public Contracting.	OAR 137, Div. 46
Public Contracting Model Rules—General Provisions Related to Public Contracts for Construction Services.	OAR 137, Div. 49
Public Contracting Model Rules—Public Procurement for Goods and Services.	OAR 137, Div. 47
Public Meetings—Requirements for decisions to be arrived at openly and meetings to be open to the public.	ORS 192.610-192.710
Public Records—Requirements for record retention, destruction, and public inspection.	ORS 192.001-192.607
Soil and Water Conservation Commission membership; compensation and expenses; forfeiture of office; functions.	ORS 561.395
Special Districts Generally—Requirements for compensation, bond or letter of credit, and recall.	ORS 198
Tort Actions Against Public Bodies—Scope of liability, insurance, and limitations.	ORS 30.260-30.300
Unlawful Discrimination—State statute prohibiting discrimination in employment, housing, and whistle-blowing.	ORS 659A

Description	Law
Water Quality—State statute to protect, maintain and improve the quality of the waters of the state.	ORS 468B
Watershed Management & Enhancement—State statutes implementing the Oregon Plan.	ORS 541.890-541.969
Watershed Protection & Flood Prevention Projects—State statute authorizing the Water Resources Commission to work cooperatively with the U.S. Department of Agriculture.	ORS 542.750

Special Districts

All Oregon soil and water conservation districts are classified as special districts under ORS 174. The Special Districts Association of Oregon (SDAO) was formed in 1979 to give special districts a stronger and united voice at the Oregon Legislature. SDAO provides advocacy with state administrative agencies and other units of government, training, information resources, and other support programs. SDAO services and programs include:

- Legislative Program
- Insurance Program
- Pre-Loss Legal Services
- Loss Control Consultations
- Claims Administration
- Research and Technical Assistance
- Education and Training
- Financing Programs
- Management Consulting
- Background Checks
- Drug-Free Workplace

Recommended Policy

It is highly recommended that conservation districts become members of SDAO to be eligible to participate in the insurance, programs, resources, and services that SDAO offers.

Special Districts Association of Oregon (SDAO) Website: <https://www.sdao.com>

Oregon’s Agricultural Water Quality Management Program

In 1993, the Oregon Legislature passed the Agricultural Water Quality Management Act (Senate Bill 1010), directing the Oregon Department of Agriculture (ODA) to develop plans to prevent and control water pollution from agricultural activities and soil erosion and achieve water quality standards. The legislation identified several circumstances that did prompt ODA to develop plans, including a determination by the Environmental Quality Commission to develop Total Maximum Daily Loads for a waterbody, declaration of a groundwater management area, or when a plan was otherwise required by state or federal law. Senate Bill 502 was passed in 1995 to further clarify that ODA is responsible to regulate agriculture with respect to water quality. The Agricultural Water Quality Management Act is found in statutes ORS 561.190 and ORS 568.900-568.933.

ODA worked with Local Advisory Committees (LACs) comprised of farmers, ranchers, and other interests groups, to develop water quality management plans and adopt regulations in 39 regions of the state. In 2011, two of the regions elected to merge into one, leaving 38 regions.

The Legislature specified in the Agricultural Water Quality Management Program’s enabling statute that conservation districts should be involved in plan development and implementation to the “fullest extent practical.” Conservation districts have a lead role in working directly with farmers and ranchers to implement on-the-ground projects to support Oregon’s water quality goals. Conservation districts also have strong partnerships with the U.S. Department of Agriculture, watershed councils, and other agencies and organizations that leverage additional resources, technical, and financial support for projects.

Since 1997, the Oregon Legislature has allocated funding for conservation districts to support the development and implementation of agricultural water quality area plans and rules. In addition to providing technical assistance to landowners, conservation districts help ODA to set up the LACs, coordinating the LAC meetings, providing leadership during the LAC’s work, and

conducting education and outreach about the plan and regulation development process. Consistent with legislative direction, ODA has intergovernmental agreements with conservation districts to assist with the implementation of the Agriculture Water Quality Management Program.