



**OREGON
DEPARTMENT OF
AGRICULTURE**

**Oregon Soil and Water
Conservation District
Guidebook**

A Guide to Operations and Management

Chapter 4
Conservation District Operations

Updated 03/2023

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 means 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>

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Conservation District Operations

The purpose of this chapter is to highlight information regarding conservation district operations. While this information was gathered from many sources, they are all are cited in the Resources section at the end of the chapter. Three primary sources are *Oregon Government Ethics Law, A Guide for Public Officials*; *Attorney General's Public Contracting Handbook*; and ORS 244 and 568.

Staying Legal

The Five Basic Requirements

Conservation districts are governed by specific enabling legislation under ORS 568. Conservation districts are also subject to other statutes and administrative rules effecting local government and special districts.

All conservation districts should become familiar with the five basic requirements identified in ORS 568. At a minimum, conservation districts need to comply with these five requirements to stay legal and be eligible for grant funds administered by ODA.

The following is a list of the five requirements and a reference to the statutes relating to these requirements.

Annual Work Plan and Long-Range Plan: ORS 568.554 District to submit program and work plans for department review. Each conservation district shall submit to the State Department of Agriculture its proposed long-range plan and annual work plan for review and comment.

Annual Meeting and Annual Report: ORS 568.580 Annual Meeting. Each year after the creation of the first board of directors at a time fixed by resolution of the board, the board, by giving due notice, shall call an annual meeting of the landowners in the district and present an annual report and audit. No later than 15 days prior to the annual meeting, the board of directors for a soil and water conservation district shall cause notices to be published in a paper of general circulation in the area, setting forth the time and place of holding the meeting.

Legal Requirement

The annual meeting time and date must be set by resolution of the board, not by motion or other means. A link to a sample resolution on the ODA website can be found at the end of this chapter. Copies of the annual meeting resolution and the published notices of the annual meeting must be sent to the ODA SWCD Program.

Legal Requirement

Due notice means notice published at least twice, with an interval of at least seven days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation is available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally.

Legal Requirement

All district meetings must comply with the Americans with Disabilities Act (ADA). For information on the requirements of the ADA, see the link to the ADA website in the Resources section at the end of this chapter.

Annual Financial Reports: ORS 568.610 Records; audits. The board of directors for a soil and water conservation district shall:

- (1) Provide for the keeping of full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted.
- (2) Provide for an annual audit of the accounts of receipts and disbursements in accordance with ORS 297.210, 297.230 and 297.405 to 297.555.

Annual and Long-Range Business Plans

Planning is the basic tool to develop conservation district programs. To develop and maintain an effective conservation district program, directors and staff must identify local conservation needs, often referred to as ‘resource concerns;’ set corresponding goals; develop clear measurable objectives towards those goals and identify the tasks needed to accomplish those objectives.

Oregon Revised Statute (ORS) 568.554 requires conservation districts to create and submit to the Oregon Department of Agriculture (ODA) both a long-range business plan and an annual work plan. The long-range business plan, annual work plan, and annual budget should all work together to guide the daily operations and programs of the conservation district.

Long Range Business Plans

A long-range business plan is developed and updated every three to five years as a broad outline of the conservation district’s purpose, response to natural resource concerns, and current and future operations. The long-range business plan is a living document and should be reviewed annually and used to provide guidance in developing the annual work plan. The long-range business plan should have goals and objectives which can be connected to the individual tasks of the annual work plan.

A good long-range business plan can be used to educate the public, partners, and potential funding agencies about the mission, available programs, and needs of the conservation district. The plan can identify areas for collaboration, where responsibilities overlap with partners, and identify where help is needed. It is important to include the public and partners in the long-range business plan development and updates as much as possible. The conservation district may want to review the long-range and strategic plans of their partners, in particular NRCS and their local watershed councils, to determine areas of potential collaboration.

If a conservation district is considering asking their constituents for the authority to levy an ad valorem tax, their long-range business plan becomes a powerful tool to explain the purposes and services of the conservation district. The plan can show the public what potential services the conservation district would like to offer and their associated resource needs that justify the ad valorem tax.

Best Management Practice

The SWCD Program staff can provide assistance in developing or updating your long-range business plan. A template and examples are available on the SWCD Program website (see the Resource section at the end of the chapter).

Contents of a Long-Range Business Plan

The following is a general outline and explanation of the contents of a typical conservation district long-range business plan:

1. An executive summary.
2. Geography and agriculture of the conservation district.
3. The structure and governance of the conservation district. This can include an explanation of the enabling and governing legislation, history of the conservation district, and a description of the conservation district leadership.

4. The mission statement of the conservation district. A mission statement describes the fundamental purpose of the conservation district, succinctly describing why it exists and what it does to achieve its vision.
5. The vision statement of the conservation district. A vision statement outlines what the conservation district wants to be, or how it wants the county in which it operates to be. The vision statement is a long-term view and concentrates on the future.
6. Values and/or guiding principles of the conservation district. Values are beliefs that are shared among the stakeholders of the conservation district. Values drive the conservation district's culture and priorities and provide a framework in which decisions are made.
7. The roles and responsibilities of the conservation district and partners.
8. The goals and objectives of the conservation district. Goals are broad outlines of where the conservation district wants to go and are usually long-term. Objectives are concrete steps to reach the goals and have measurable outcomes. In the conservation district's annual work plan, the individual items will be the tasks needed to reach the objectives.
9. The natural resource concerns of the conservation district. The list of natural resource concerns should include current conditions and expected outcomes.
10. The conservation district's programs. The conservation district should think about how the services of the conservation district fit into program areas that relate to both the natural resource concerns and the goals of the conservation district.
11. The current capacity and future needs of the conservation district. This is the section of the long-range business plan where the conservation district can justify the need for additional funding and resources.

Annual Work Plans

An annual work plan outlines specific activities the conservation district will pursue in the next fiscal year to address the goals and objectives defined in the long-range business plan. The annual work plan describes in detail who is going to do what, by when, and how. The plan should be completed prior to the beginning of the fiscal year and cover the activities planned over the next fiscal year (July 1 to June 30). The annual work plan is submitted to ODA for review and comment as part of the application process to be eligible for the SWCD Capacity Grants.

The annual work plan should include work and tasks that can realistically be accomplished in one year. Each task should be tied to a specific goal and objective from the long-range business plan. Tasks should define a planned completion date, identify who is responsible to implement it, and estimate the amount of time to complete the task. Some annual work plans also include

a budget for each task. The annual work plan should include the daily operations of the conservation district as well as programs, events, water quality projects, and Scope of Work tasks. Daily operations include staff and board meetings, answering public inquiries, bookkeeping, partnership meetings. Conservation district programs should be broken down to the project and task level to accurately develop timelines and completion dates, and to assign the responsible person(s).

A workload analysis is often included in an annual work plan. Workload analysis is a method used to determine the time, effort, and resources necessary to carry out the conservation district's operations, resulting in identifying the conservation district's actual staffing needs to complete the annual work plan. In its simplest form the workload analysis includes each staff, board member, and volunteer assigned a particular amount of time (either in hours or days) to complete each task of the annual work plan. Adding up the total hours or days assigned to each person and comparing that number to the maximum available time will allow the conservation district to determine if each person is under-worked, overworked, or working to their capacity. When calculating maximum available hours or days, be sure to include holiday, vacation, and sick days. After performing an initial workload analysis, the conservation district may need to re-balance task assignments, scale back planned programs, and/or hire additional staff.

The annual work plan is also a useful tool for performance evaluations to help determine if staff are meeting goals and completing assigned tasks. An example annual work plan with a workload analysis can be found on the SWCD Program web site listed in the Resources section at the end of the chapter.

Other Legal Requirements

Conservation districts should become familiar with the other statutes and administrative rules relating to conservation district operations identified in Chapter 2 of this Guidebook. Of particular importance, are the statutes and administrative rules relating to public meetings and records, conflict of interest, employment laws, public contracting, civil rights, and discrimination.

Posting Requirements

As an employer of record, a conservation district is required by law to post certain information at a readily visible site in the conservation district office. These laws are commonly referred to as federal and state posting requirements, and provide legal information to employees on minimum wage, family and medical leave, and other employment laws. Information on the posting requirements and the individual posters will be discussed in Chapter 8.

Public Meeting Law

The Oregon form of government requires an informed public be aware of the deliberations and decisions of governing bodies, and the information used to make the decisions. It is the intent of Oregon's public meeting law that decisions of governing bodies be arrived at openly. Thus, public meeting law provides that any member of the public must be permitted to attend any meeting of the governing body, except for those designated as "executive sessions." Public meeting law addresses meeting access by the public, notice of meetings, minutes, and the recording of public votes. Public meeting law will be discussed in Chapter 7.

Government Ethics Law

The provisions in Oregon government ethics law restrict some choices, decisions, or actions of a public official. The restrictions placed on public officials are different than those placed on private citizens, because service is a public trust. The provisions in ORS 244 were enacted to provide safeguards for that trust.

Public officials are held personally responsible for complying with the provisions in Oregon government ethics law. This means that each public official must make a personal judgment in deciding such matters as the use of official position for financial gain, what gifts are appropriate to accept, or when to disclose the nature of conflicts of interest. If a public official fails to comply with the operative statutes, a violation cannot be dismissed by placing the blame on the public official's government employer or the governing body represented by the public official.

The rest of this section outlines the basic law. Some of the content is taken directly from *Oregon Government Ethics Law, A Guide for Public Officials*, or directly from ORS 244. The Oregon Ethics Commission should be consulted if there are any questions.

Best Management Practice

Every director and employee of each conservation district should read the *Oregon Government Ethics Law, A Guide for Public Officials*. The guide can be found at the SWCD Program or The Oregon Ethics Commission website (see the Resource section at the end of the chapter for the links).

Who is Covered?

ORS 244.020(14) describes a public official as any person who, when an alleged violation occurs, is serving the State of Oregon, any of its political subdivisions, or any other public body of the state as an officer, employee, agent or otherwise, whether the person is compensated for such services or not. Public officials under ORS 244.020(14) include conservation district

directors, associate directors, employees, and volunteers with regular duties. Government ethics law also covers public officials' relatives, members of their household and businesses with which officials or relatives are associated. Relative is defined in ORS 244.020(15) and includes the following partial list:

- Your spouse.
- Your children or spouse's children.
- Your siblings and spouses of siblings.
- Your spouse's siblings and their spouses.
- Your parents and spouse's parents.
- Any person for whom you have a legal support obligation.

Prohibited Uses

The following is a partial list of the common prohibited uses of a public official's position by the public official, their relatives, members of their household, or related businesses:

- Using or attempting to use an official position to obtain financial gain, or avoidance of financial detriment, which would not otherwise be available, if not for the holding of the official position or office.
- Solicitation or promise of future employment based on decisions made or actions taken.
- Use of confidential information for personal gain.
- “Actual” or “potential” conflict of interest.
- Exceptions (partial list):
 - Reimbursement of expenses.
 - “Honorarium” up to \$50.
 - “Gifts” from sources that have an “administrative or legislative interest” up to \$50 per calendar year.
 - “Gifts” from sources with no legislative or administrative interest in an unlimited amount.

Conflict of Interest

An “**actual conflict of interest**” is that which **would** result in private monetary or pecuniary benefit or detriment of that public official. If a director has an actual conflict of interest, he or she must announce publicly the nature of the conflict (i.e., have it recorded in the minutes), and refrain from participation in discussion, debate, or voting on the issue. The director with the actual conflict of interest may not vote except in circumstances where their vote is required to meet the minimum quorum requirements. If other public officials not in an elected position (associated director, employee, volunteer) have an actual conflict of interest, they must notify their appointing official (supervisor) in writing of the conflict of interest.

A “**potential conflict of interest**” is that which **could** result in private pecuniary benefit or detriment. If an elected director has a potential conflict of interest, he or she must announce publicly the nature of the potential conflict prior to taking any action.

Public Contracting

Public contracting is a complicated process. ODA provides limited technical assistance and no legal advice concerning public contracting. Conservation districts are encouraged to seek assistance from legal counsel, attend trainings and workshops, and contact other conservation districts that have training and experience.

Conservation districts are required to follow state contracting law (ORS 279, 279a, 279b and 279c; OAR Chapter 137 Divisions 45 through 49). Each conservation district should adopt public contracting rules and policies that outline the method for which public contracts, services, and goods are procured. The Department of Justice has a publication titled The Attorney General's Public Contract Handbook, which can be purchased. Be aware that this handbook was published in 2010 and revisions to public contracting law have been made since then. The most current model rules for public contracting are contained in OAR Chapter 137 Division 46 through 49, see the Resources section.

Vehicles

Conservation District Vehicles

When purchasing a vehicle, it is important to remember that conservation district funds are public funds. Therefore, the conservation district must use a competitive process when purchasing a vehicle.

Conservation districts are eligible to purchase state surplus vehicles and should contact the Oregon Department of Administrative Services (DAS) by visiting the DAS web site for more information. Regardless of the vendor, or if the conservation district chooses to purchase a new

or used vehicle, conservation districts must follow the procurement procedures set out in ORS 279A.

Insurance coverage for conservation district-owned vehicles

Oregon's financial responsibility law (ORS 806) requires every driver to insure their motor vehicle with at least the minimum coverage of automobile insurance. A conservation district should obtain comprehensive automobile insurance for collision, fire, theft, replacement, and other costs.

[Use of Conservation District and Personal Vehicles](#)

Personal vehicles are often used by conservation districts for official business. It is important that all conservation districts ensure that employees who use personal vehicles have at least the minimum insurance required by state law. It is essential to have policies and procedures regarding the use of both conservation district and personal vehicles for official conservation district business. These policies and procedures apply to directors, associate directors, directors emeritus, staff, volunteers, and any other agents of the conservation district.

Best Management Practice

As a risk management practice, conservation districts should require proof of insurance from those people using personal vehicles for official conservation district business.

What if an accident occurs with a personal vehicle being used on conservation district business?

There should be a clear policy that a person's own automobile insurance takes first position. If the limits of the person's insurance are exceeded, then the liability coverage from the district takes second position and may cover the damages up to the established policy limits. The district should work with its insurance carrier to determine its coverage and limits for an employee's personal vehicle.

Recommended Policy

The following items should be addressed in a conservation district’s vehicle use policy:

	<u>Conservation District Vehicle</u>	<u>Personal Vehicle</u>
Licensing and insurance documents (e.g., drivers license, vehicle registration, proof of insurance).	<u>X</u>	<u>X</u>
Accident and/or claim reporting requirements and procedures.	<u>X</u>	<u>X</u>
The conditions under which vehicles can be used such as, what is official business, or what approval is needed to use a personal vehicle?	<u>X</u>	<u>X</u>
Reimbursement rates.		<u>X</u>
Mileage documentation requirements.	<u>X</u>	<u>X</u>
Safety requirements, equipment and/or inspection and maintenance of vehicles (seat belts, operational standards).	<u>X</u>	
Clarification that the conservation district is not responsible for repairs and/or maintenance of personal vehicles.		<u>X</u>

Use of Federally-owned Vehicles

Conservation districts often ask about the insurance requirements when using USDA Natural Resources Conservation Service (NRCS) or other non-conservation district-owned vehicles. NRCS guidance pertaining to insurance requirements when conservation districts use Natural Resources Conservation Service (NRCS) vehicles is contained in the Oregon Supplement to the NRCS General Manual 120, part 405 subpart F. This information states that NRCS may loan vehicles to a conservation district and that all loans require a formal written agreement and must be signed by the NRCS State Conservationist and the Chair of the conservation district board. The conservation district shall carry a property damage and bodily injury liability insurance policy covering its employees and others under its supervision, while driving NRCS vehicles on conservation district assignments when they would not be agents of the government. The policy shall be in an amount approved by the NRCS State Administrative Officer and shall include the United States as an insured there under. The conservation district will also be responsible for damage to the equipment resulting from gross negligence of a conservation district or state employee.

State Motor Pool Vehicles

Conservation districts are eligible to lease vehicles from the state motor pool. In doing so, a conservation district must enter into an "Intergovernmental or Interagency Agreement for the Cooperative Provision and Use of Vehicle Fleet and Motor Pool Services" with the state motor pool. Any conservation district considering leasing a state motor pool vehicle is urged to be sure it has reviewed the agreement carefully, particularly with respect to the kinds of comprehensive automobile insurance that might be needed.

The state motor pool will require the conservation district to provide to the DAS a "certificate of insurance" showing that the conservation district carries comprehensive collision, fire, and theft insurance. Most of these kinds of insurance policies "total" out vehicles at appraisal book value at the time of the accident. However, the Interagency Agreement provided by the state motor pool may state that the lessee will replace the "totaled" vehicle at a "new car value." This means the conservation district would need to provide the difference in cost between the insurance settlement and the price of a new replacement vehicle.

When leasing a vehicle from the state motor pool, or any other source, be sure the district knows what level of coverage is needed to meet the requirements of the agreement, and determine the affordability of the additional insurance cost, before signing an agreement. See the Resources section at the end of this chapter for the state motor pool contact information.

Licensing

Since conservation districts are not state agencies, they are not required to have an E (Exempt) license plate on their conservation district-owned vehicles. When the conservation district obtains a license plate from Oregon Department of Driver and Motor Vehicle Services (DMV) for a conservation district-owned vehicle, it can choose whether to get the E-plate. The E-plate registration fees are generally less expensive.

Equipment

Equipment Accountability

All equipment purchased by a conservation district is public property. The conservation district is responsible for keeping an up-to-date inventory of this equipment, its use, and its location (e.g., where it is stored, or who is using it and how). As outlined in Oregon government ethics law, public officials are prohibited from using public equipment for personal purposes.

Conservation district resource use must be consistent with appropriate conservation district policy to avoid actual or perceived misuse of public equipment.

Oregon Cooperative Procurement Program

The Oregon Cooperative Procurement Program allows conservation districts access to state contracts for purchasing goods and services, procurement training opportunities, and unlimited advertising on the OregonBuys eProcurement System. Additionally, a reciprocal interstate agreement allows access to designated State of Washington contracts.

Participants pay an annual fee for services based on their organization's fiscal year budget. The State of Oregon Cooperative Procurement Program allows its members to utilize certain Oregon state price agreements for goods and services.

Contact information for the Oregon Cooperative Procurement Program can be found in the Resources section.

Disposal of Used Equipment and Property

In general, the conservation district board should declare the used equipment as surplus, and decide how it is to be disposed. Before disposal of any used equipment, conservation districts need to be aware of any possible conditions by funding sources that purchased the equipment limiting disposal. Disposal may include actual disposal in the trash, recycling, donation to other organizations (governmental or private/non-profit), or sale. The board should ensure there is no violation of Oregon government ethics law in the disposal process. If the equipment was purchased by another funding source, conservation districts need to be aware of conditions limiting disposal.

Conservation districts have two primary options for selling equipment they no longer need:

Option #1

A conservation district may sell its equipment itself, seeking bids locally. If this option is used, the conservation district must be very careful not to be "in conflict of interest," and must be ethical in how it goes about the sale and/or bid process.

Example: A direct sale to a conservation district director or friend of the family, may be considered both a conflict of interest and unethical.

All interested persons must have an equal opportunity to bid on the item for sale. Items for sale should be advertised for at least two weeks.

Option #2

A conservation district may choose to work with DAS to take care of everything from advertising to the actual sale. The equipment can be left at the local site, but the sale would be handled through DAS in Salem and the funds would go to the conservation district. This option

takes away the conservation district's risk of a conflict of interest and the potential for an ethics violation since DAS manages the process. For more information regarding Oregon's State and Federal Surplus Property Programs, contact DAS. See the Resources section at the end of the chapter.

Oregon's state and federal surplus property program

Conservation districts are eligible to purchase state surplus equipment if they meet eligibility. An eligibility application form and an authorized signer's form are required before purchasing. In addition to surplus equipment, conservation districts are eligible to shop at the Surplus Property General Store. Contact DAS for more information. See the Resources section at the end of the chapter.

Insurance and Risk Management

Risk Management Concepts

All individuals, small companies, corporations, and various types of governments assume risk when conducting business. Conservation districts, like any other entity, assume and expose themselves to certain types of risk while acting as a local unit of government, an employer, and in other roles they assume (e.g., landowner, contractor). Conservation districts can employ different techniques and methods to manage and reduce their exposure to risk.

Risk management must be an integral part of conservation district activities. The strategies districts develop to minimize risk will help guarantee continued operations. Risk assessments are valuable tools for districts to use. Risk assessments can be done at anytime and by anyone. They help identify and develop strategies to eliminate or minimize risk.

The DAS Risk Management Program offers several tools and resources in addition to those available through the Special District Association of Oregon (SDAO). See the Resources section at the end of this chapter for the links and documents.

The following basic questions outline the beginning steps to conduct a risk assessment:

What are your conservation district's activities?

- What will you be doing?
- Where will it be done?
- Will it be done in the State of Oregon?
- What materials or substances will be used?

Who will be performing these activities?

- Are they your agents, employees, board members, or volunteers?
- Are they independent contractors, or employees of the conservation district, county, city, or municipality?

What are the risks associated with these activities?

- Injury to your agents, employees, board members, or volunteers.
- Injury to others covered by their employer's workers' compensation coverage.
- Injury to third parties.
- Third-party property damage.

Rank the risks.

- What is the chance of a loss occurring: high, medium, or low?
- How much might this loss cost?

How are these risks covered?

- Are they covered by the state tort liability policy?
- Is there a contract with the service provider?
- Does the contract transfer the risk and require insurance coverage?
- Do you have a commercial insurance policy covering the risk?
- Is the risk so low that it can be uninsured?

Are there other ways to minimize the risk?

- Are the participants properly oriented and trained?
- Is supervision required?
- Are there clear expectations?
- Are there policies and procedures?
- Are the duties clearly delineated?
- Are you acting in good faith?
- Are you following reasonable, professional, and industry standards?

- Is it best to use an experienced professional in this case?
 - What level of professional or industry standard is needed?
 - Are you meeting this standard?
 - Are you a good neighbor?
 - Have you addressed community concerns?
 - Do neighbors know when and where the activity will begin?
 - Do they know how the task will be accomplished and the length of the project?
 - Do all participants recognize and know how to handle endangered species and culture resource issues?
 - Have you filed a permit with U.S. Fish and Wildlife for exemption from accidental or unintentional “take” of an endangered species?

Policies and Procedures

A common way to reduce and/or transfer risk is to develop and adopt district policies and procedures. Policies and procedures are the self-imposed written rules and procedures under which the district directors, staff, and volunteers operate. Policies and procedures should be developed for many areas of district operations. If policies are adopted, it is important to follow those policies otherwise the conservation district may be held responsible for not following its own policy. Some areas, several of which are covered in other chapters, may include:

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|------------------------------------|---------------------------------|
| Personnel Management | Communications |
| Orientation and Training | Agreement with Partners |
| Financial Management and Budgeting | Memorandum of Understanding |
| Long-range Business Planning | Fund Raising |
| Equipment and Vehicle Use | Campaigning |
| Ethics and Conflict of Interest | Risk Management |
| Roles of Directors and Officers | Sexual Harassment Prevention |
| Roles of Associate Directors | Safety |
| Volunteers | Americans with Disabilities Act |
| Public Contracting | Drug and Alcohol Use |
| Parliamentary Procedure | Entry onto Private Property |
| Meeting Management | |
| Public Records Requests | |

Legal Assistance to Conservation Districts

If a legal issue or a potential legal issue arises in a conservation district, ODA's SWCD Program should always be contacted. ODA staff may be able to direct the conservation district to sources of assistance or to resources about which the conservation district might not be aware.

Depending on the nature of the issues, there are several agencies that may be able to help a conservation district work through a local problem. Contact information is listed in the Resources section:

- Special District Association of Oregon
- Department of Administrative Service, Risk Management Program
- Bureau of Labor and Industries
- Oregon Department of Revenue
- Secretary of State, Election Division
- Secretary of State, Audits Division

Attorney General Legal Counsel

ORS 568.600(1) states that conservation district "directors may call upon the Attorney General for such legal services as they may require or may employ their own counsel." What that statute does not say, is the conservation district must pay for the services rendered, including, but not limited to:

- Telephone calls
- Research
- Opinions
- Staff time not associated with tort claim.
- Other assistance as needed.

If it is a matter that pertains to conservation districts statewide, then a request for Attorney General assistance should be made through ODA. In addition, the ODA SWCD Program keeps a record of all Attorney General Opinions relating to conservation districts.

Entering Private Lands

ORS 568.730 states: “Officials may enter private lands. The directors or designated representatives of a soil and water conservation district have authority to go upon any lands within the district after notifying the owner or operator for the purpose of making surveys and carrying out the responsibilities with which the directors or representatives are vested by law. The directors or representatives shall take due precaution at all times to prevent injury to growing crops or livestock.”

Additionally, in implementing agricultural water quality management program strategies, ORS 568.915(1) states, “After making a reasonable attempt to notify the landowner, the state Department of Agriculture or a designee of the department may enter any lands within the area subject to a water quality management plan for the purpose of determining: (a) Those actions that may be required of landowners under ORS 568.900 to 568.933 or rules adopted under ORS 586.912; and (b) Whether the landowner is carrying out the required actions.”

Recommended Policy

It is strongly recommended that conservation districts make every reasonable effort to obtain permission from the landowner or operator before entering private property. Procedures relating to entry should be outlined in conservation district policy.

Changing District Name or Structure

Changing a Conservation District Name

ORS 568.555 defines the process to change the name of a conservation district. Upon approval of ODA, the directors of a conservation district may submit to the Secretary of State a proposed name change for the conservation district. The Secretary of State will verify the new name is not identical to another conservation district name, or so similar as to lead to confusion or uncertainty with another conservation district, and then record and issue to the conservation district, a new Certificate of Organization bearing the new certificated name. ODA SWCD Program staff can assist conservation districts with the process of a name change.

The "soil and water conservation district" part of each conservation district's name cannot be changed, as it is designated by statute. In addition, conservation districts are not allowed to register to operate under a DBA (doing business as) and cannot legally register to do business under a different name in Oregon, since they are a form of government.

Changing the Number of Directors

ORS 568.560 specifies that ODA provides for the zoning to ensure proper and equitable representation of all the people in the district, and to facilitate conservation district functions and elections. A conservation district board shall consist of either five or seven directors, elected or appointed. Two of the director positions shall be at-large positions.

A conservation district may reduce the number of directors from seven to five or increase the number of directors from five to seven. The procedure is outlined in ORS 568.565 and ORS 568.560. The zone boundaries are affected when a conservation district changes the number of director positions, and the zone boundaries will need to match the number of zone positions. The process for zone boundary changes is outlined in the section below. Conservation districts should contact ODA for detailed instructions for changing the number of directors and zone boundaries.

Reducing the Number of Directors from Seven to Five

ORS 568.565 (1) states, “Upon the written recommendation of the local governing body of a district having seven directors, the number of directors of such governing body may be reduced from seven to five by holding a meeting of the governing body at which the directors elect five persons from among their number to serve as directors of the district. The term of office of the directors elected pursuant to this section shall be as provided in ORS 568.560 (5)(c).”

ORS 568.560 (5)(c) states, “The term of office of each director shall be four years, except that of the directors first elected as provided in ORS 568.565 (1), three shall serve until January first following the first general election and two shall serve until January first following the second general election after the date of their election, as determined by them by lot at the meeting referred to in ORS 568.565 (1).”

Increasing the Number of Directors from Five to Seven

ORS 568.565(2), states, “Upon the written recommendation and majority vote of the local governing body of a district having five directors, the number of directors for the district may be increased to seven. Notwithstanding any unexpired term of office to which a member may have been elected, all five zone positions shall be placed on the ballot at the next following general election. The department shall determine the terms of office for the positions as provided in ORS 568.560 (5)(d). Any vacancy that occurs in a zone position shall be filled as provided under ORS 568.560.”

ORS 568.560 (5)(d) states, “Of the zone directors elected as provided under ORS 568.565 (2), three shall serve until January first following the first general election and two shall serve until

January first following the second general election after the date of their election, as determined by lot at the meeting referred to in ORS 568.565 (2).”

Zone Boundary Changes

ORS 568.560(1) states, “...To ensure proper representation of all the people in the district and to facilitate district functions, the State Department of Agriculture shall provide for the zoning of each district, and shall provide each time directors are elected or appointed for the proper and equitable representation for each zone.” The statute allows ODA to consider requests for zone changes submitted by conservation districts. The procedure for conservation district zoning is outlined in OAR 603-071-0025.

OAR 603-071-0025 Procedure for District Zoning and Elections Affected Thereby

In accordance with the provisions of subsection (1) of ORS 568.560, whereby the department is directed to provide for the zoning of each Soil and Water Conservation District in order to assure proper representation of all people in the district and to facilitate district functions, the following procedure shall be followed:

(1) Each Soil and Water Conservation District Board of Directors shall prepare a map of the district indicating the Board's proposed zones for the election of directors. In those districts where the Board of Directors consists of five members, the zones shall be three in number, and in those districts where the Board of Directors consists of seven members the zones shall be five in number.

(2) After preparation of said zoning map, the same shall be submitted to the department which shall review the proposed zones for compliance with the provisions of ORS 568.560, and thereafter either adopt the zones as proposed or modify the zones so as to cause the same to be in compliance with above cited statute.

(3) The department shall notify each Soil and Water Conservation District Board of Directors of the approved zoning of the district. Each director elected from one of the established zones shall meet the "land manager" requirements of subsection (1) of ORS 568.560, and the statutory provision for election of two "land occupiers" to a board (who need not be land managers), may be complied with by the election of two members at-large. Any registered voter residing within the district is qualified to be elected to an at-large position on the board."

The previous ORS and OARs do not state how zones are to be determined; they only address proper and equitable representation. For a conservation district to change one or more zone boundaries, these steps must be followed:

1. The conservation district board determines what zone boundary changes are needed.

2. The conservation district board develops a map showing the proposed new boundaries. The proposed zone boundary changes must be approved by official board action. Zone boundaries must follow rivers and streams, roads, and highways, and/or township, range and section lines.
3. The conservation district submits a request for the proposed zone boundary change to ODA's SWCD Program. The request must include:
 - a. Map showing proposed zone boundary changes.
 - b. Letter of explanation of the zone boundary changes.
 - c. Documentation of board action approving the request for zone boundary changes (e.g., meeting minutes).
4. ODA acts on the request, and if approved, issues a map and a written description of the new zone boundaries. ODA determines if the current zone directors qualify under the new zone boundaries as per ORS 568.560(3). ODA will provide a copy of the new zone boundaries map and a list identifying the current director representing each zone to the local county clerk and to the conservation district.
5. The new zone boundaries go into effect when the above steps are completed.

Conservation District Boundary Changes

The legal process to change boundaries of conservation districts is set forth in ORS 568.431 and 568.471 and is different from other special districts. Conservation district boards, either by resolution or by petition, can initiate the process of conservation district boundary change for the purpose of including territory that is already in an adjacent conservation district, see ORS 568.445. Landowners may petition for the inclusion of territory not in a conservation district, or for the withdrawal of territory already in a conservation district, see ORS 568.431 and 568.433. Factors to consider when deliberating a boundary change, include the effects of taxing conservation district boundaries, the reaction of landowners, and the effect on other conservation districts.

Conservation districts interested in modifying the conservation district boundaries should contact the ODA SWCD Program to obtain assistance.

Consolidation of Conservation Districts

ORS 568.450 through 568.471 describes the process to consolidate conservation districts. The procedure to consolidate districts may be initiated by petition or resolution. ODA recommends that the affected conservation districts hold joint informational meetings to discuss the pros and cons of consolidation, legal and financial obligations and liabilities, and other pertinent factors.

Conservation districts interested in consolidating should contact ODA SWCD Program staff to obtain assistance.

Insurance

ORS 568.550(p) authorizes conservation districts “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.”

Conservation districts should work with their insurance agent to ensure they have the appropriate insurance coverage. Currently the Oregon Watershed Enhancement Board (OWEB) requires certain minimum liability insurance coverage to enter into written grant agreements.

Resources

Statute, Laws, and Rules

ORS 244–Government Ethics

https://www.oregonlegislature.gov/bills_laws/ors/ors244.html

ORS 568–Soil and Water Conservation; Water Quality Management

https://www.oregonlegislature.gov/bills_laws/ors/ors568.html

ORS 561–Natural Resources Division; duties; insurance for soil and water conservation districts

https://www.oregonlegislature.gov/bills_laws/ors/ors561.html

Chapter 806–Financial Responsibility Law

https://www.oregonlegislature.gov/bills_laws/ors/ors806.html

OAR 603–ODA: Referendum and Election Procedures

http://arcweb.sos.state.or.us/pages/rules/oars_600/oar_603/603_tofc.html

ORS 279–Public Contracting–Miscellaneous Provisions

https://www.oregonlegislature.gov/bills_laws/ors/ors279.html

ORS 279A–Public Contracting–General Provisions

https://www.oregonlegislature.gov/bills_laws/ors/ors279a.html

ORS 279B–Public Contracting–Public Procurements

https://www.oregonlegislature.gov/bills_laws/ors/ors279b.html

ORS 279C–Public Contracting–Public Improvements and Related Contracts

https://www.oregonlegislature.gov/bills_laws/ors/ors279c.html

OAR 137, Div. 45–Public Contracting–Review of Public Contracts

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=296>

OAR 137, Div. 46–Public Contracting Model Rules–General Provisions Related to Public Contracting

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=297>

OAR 137, Div. 47–Public Contracting Model Rules–Public Procurement for Goods and Services

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=298>

OAR 137, Div. 48–Public Contracting Model Rules–Consultant Selection: Architectural, Engineering and Land Surveying Services and Related Services Contracts

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=299>

ORAR 137, Div. 49—Public Contracting Model Rules—General Provisions Related to Public Contracts for Construction Services

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=300>

The Americans with Disabilities Act

<http://www.ada.gov>

Other Information

State Motor Pool

Fleet & Parking Services

1100 Airport Road SE

Salem, OR 97301

Phone: 503.378.4377

<https://www.oregon.gov/das/fleetpark/pages/index.aspx>

Government Ethics Law

Oregon Government Ethics Commission

3218 Pringle Road SE, Suite 220

Salem, OR 97302

Phone: 503.378.5105

www.oregon.gov/oqec

Oregon Government Ethics Law: A Guide for Public Officials

<https://www.oregon.gov/oqec/Documents/2021%20PO%20Guide%20Final%20Adopted.pdf>

SWCD Director Training Ethics Fact Sheet

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

Sample resolution to set the date for the annual meeting:

<https://www.oregon.gov/ODA/shared/Documents/Publications/NaturalResources/SWCDAnnualMeetingResolutionsample.doc>

Annual and Long-Range Business Plan Examples and Templates:

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

Legal Assistance

Special Districts Association of Oregon

P.O. Box 12613

Salem, OR 97309

Phone: 503.371.8667

Toll Free: 800.285.5461

<https://www.sdao.com>

Bureau of Labor and Industries

800 NE Oregon, Suite 1045

Portland, OR 97232

Phone: 971.673.0761

<https://www.oregon.gov/boli/Pages/index.aspx>

Oregon Department of Revenue

955 Center St. NE

Salem, OR 97301

Phone: 503.378.4988

Toll Free: 800.356.4222

<https://www.oregon.gov/dor/Pages/index.aspx>

Secretary of State's Elections Division

255 Capitol St. NE, Suite 501

Salem, Oregon 97310

Phone: 503.986.1518

<https://sos.oregon.gov/voting-elections/Pages/default.aspx>

Secretary of State's Audits Division

Public Service Building Suite 500

255 Capitol St. NE

Salem OR 97310

Phone: 503.986.2255

<https://sos.oregon.gov/audits/Pages/muniaudits.aspx>

Public Contracting

Department of Justice

100 Justice Building

1162 Court St. NE

Salem, OR 97301

Phone: 503.378.2992

<https://www.doj.state.or.us>

Attorney General's Public contracting Handbook (2010)

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

State Surplus Property Programs

Property Distribution center

1655 Salem Industrial Drive NE

Salem, OR 97301

Phone: 503.378.6020

<https://www.oregon.gov/das/Surplus/Pages/Index.aspx>

Oregon cooperative Procurement Program Department of Administrative Services

Procurement Services Office

1225 Ferry St. SE Salem, OR 97301

Phone: 503.378.3976

<https://www.oregon.gov/das/Procurement/Pages/Orcpp.aspx>