

## Chapter 265

### Cemetery Maintenance Districts

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#### CROSS REFERENCES

Cooperative or joint action by districts, Ch. 190	Limitation on power to tax, Const. Art. XI, § 11
Discontinuance of cemeteries within city limits, 97.450	Serial tax levies excepted from constitutional limitation, 280.060
Testing validity of organization and subsequent proceedings of districts, 33.710, 33.720	Tax levies by public corporations, Ch. 310
265.140	Tax supervising commission in certain counties, 294 610
Gifts and bequests in trust for cemeteries, 97.730	



**265.010 Territory which may be formed into cemetery maintenance district.** Contiguous territory not incorporated with any cemetery maintenance district and lying within any county having less than 50,000 inhabitants may be formed into a cemetery maintenance district in the manner and under the proceedings set forth in this chapter.

**265.020 Petition for formation of district; court order; publication of notice.** (1) When 15 or more resident owners of land aggregating not less than 4,000 acres in one body, and whose names appear as such upon the last county assessment roll, or such owners of land lying in one body of less extent, but having an assessed valuation of not less than \$200,000, as shown by such assessment roll, present to the county court of any county a petition setting forth the boundaries of the proposed district and asking that the district so described be formed into a cemetery maintenance district under this chapter; the county court shall make an order declaring its intention to organize the territory into a cemetery maintenance district, naming the district and describing its boundaries.

(2) The order shall fix the time and place for a hearing on the matter not less than 30 days after adoption of the order. The order shall direct the clerk of the county court to publish the notice of intention of the court to form the cemetery maintenance district and the time and place fixed for the hearing, and shall designate some newspaper of general circulation published in the county and circulated in the proposed district. The order shall state the fact that the county court has fixed a time and place to be stated in the notice for a hearing on the matter of the formation of a cemetery maintenance district, describing the territory and specifying the boundaries thereof.

(3) The notice shall be published once a week for two consecutive weeks prior to the time fixed for the hearing.

**265.030 Presentation of objections at hearing; changing boundaries; court order.** (1) At the time and place fixed for the hearing any person interested may appear and present objections to the granting of the petition and the formation of the district. The county court shall hear such objections.

(2) If, after hearing, the county court is of the opinion that the boundaries of the district should be changed, reducing the area of the proposed district, or if prior to the

date of the hearing a petition signed by 50 percent or more of the owners of land in any area adjacent to the district, as shown by the last county assessment roll, is filed with the county court praying for inclusion of such lands in the proposed district, the county court may change such boundaries and, subject to ORS 265.040, determine whether any such petition shall be granted. If the county court determines to grant any such petition it shall enter upon its records an order setting forth the name of the district and the description of the territory embraced therein. The cemetery maintenance district shall be deemed established upon the entry of such order upon the record.

**265.040 Special election for district formation; court order; ballots; election procedure; voter qualifications.** (1) If written objection, signed by 25 percent of the owners of real property within the district as shown by the last assessment roll, is filed with the county court on or before the date of the hearing, the county court shall provide by order for the holding of a special election within the proposed district and for the submission to the qualified electors owning real property within the district of the question of forming the district.

(2) The order shall set forth the boundaries of the proposed district as described in the order of the county court approving the boundaries and shall specify the date of the special election, which shall be held not less than 31 days nor more than 50 days thereafter, as the county court shall determine.

(3) At the election there shall be submitted to the qualified voters of that portion of the county embraced in the limits described in the order the question whether that portion shall be formed as a cemetery maintenance district. The ballot title to be used at the election shall be written as follows: "Shall that portion of — County, State of Oregon, described as (insert description) be organized as a cemetery maintenance district?" The affirmative of the measure on the official ballot shall be numbered 300 and the negative shall be numbered 301, both in numerals. The official ballot shall be prepared by the county clerk in accordance with existing laws relative to elections.

(4) The county clerk shall appoint three judges and three clerks of election, who shall be electors within the district. If any of the judges or clerks so appointed fail to attend,

their places shall be filled in the manner provided by law in the case of general elections. The county clerk shall name the place or places of holding the election, which shall be within the boundaries of the proposed district. Polls shall be kept open between the hours of 2 p. m. and 7 p. m. on the day of election. The procedure for such elections, except as otherwise specifically set out in this chapter, shall be as provided for in the case of general elections.

(5) No person is authorized to vote at the election unless he is an elector in this state and has resided in the district for a period not less than 90 days last preceding the election and has the other qualifications provided in this section.

**265.050 Election of directors; petitions for candidates; names on ballot.** (1) At the special election at which the question of organization of a proposed cemetery maintenance district is submitted to the voters of the district, there shall be elected three directors of the district, each of whom shall be a qualified voter and freeholder within the district.

(2) Petitions for candidates to be voted for as directors shall contain the names of not less than 15 voters entitled to vote at the election and shall be filed with the county clerk not less than 10 days before election.

(3) County clerks, at the time of making up the official ballot, shall place thereon, to be voted at election for formation of the district, the names of all electors petitioned for as directors whose petitions have been filed at his office not later than 10 days before election.

**265.060 Return of canvass and ballots to county clerk; canvass and journal entry by county court; certificates of election.** (1) The judges and clerks shall return the canvass of the vote, together with the ballots cast, to the county clerk.

(2) On the seventh day after the election the county court shall order a special session and proceed to canvass the vote. If, upon the canvass, it appears that the majority of the votes cast at the special election favors formation of the cemetery maintenance district, the county court shall cause to be entered upon its journal a proclamation declaring the formation of such district and shall direct the county clerk to issue certificates of election to the three persons receiving the highest number of votes for director.

**265.070 Compensation of election officials; deposit for election expenses.** Each judge and clerk of the special election shall receive for his services \$4 and no more and shall be paid by the county clerk from a fund for that purpose. At the time of filing the petition for formation of the district there shall be deposited with the county clerk by the petitioners \$30 to pay the election expenses.

**265.080 Election of directors where objections not filed.** If written objection to formation of the district is not filed, as provided in ORS 265.040, and the county court has made an order establishing the district, the county court shall order at the time of establishment of the district that an election be held within the district for election of three directors. The directors shall possess the qualifications provided in ORS 265.050. The election shall be held in the same manner and at the same time as provided in ORS 265.040 for election on formation of the district.

**265.090 District power in board of directors.** The power and authority given to a cemetery maintenance district under this chapter, except as therein otherwise provided, is vested in and shall be exercised by a board of three directors.

**265.100 Organization of board of directors; terms of first directors.** Within 10 days after issuance of their certificates of election, the three directors who receive the highest votes at the election shall meet and organize by first taking and subscribing an oath of office to the effect that they will discharge faithfully the duties of their office to the best of their ability. They shall first determine by lot the length of term each shall hold, the shortest term being until January 1 of the following year, and the longest term for two years after January 1 of the following year. The term shall be so arranged that the term of one member expires each year.

**265.110 Annual election of directors.** (1) The general election shall be held in the cemetery maintenance district on the first Monday in December of each year for election of one director, who shall take office the following January 1 and serve for a term of three years; and to elect directors to fill any vacancies which may then exist, such directors to serve out the unexpired terms

of the directors whose places they have been elected to fill.

(2) In case of a vacancy the board of directors is authorized to name a successor to fill the vacancy until the next general election.

(3) At all elections the voters shall have the qualifications of the electors of this state and shall have resided within the district for at least 90 days preceding the election.

(4) At the regular meeting of the directors in November of each year, or, if the regular meeting is less than 15 days before election, at a special meeting in November, they shall select three judges of election, who shall be electors at the election and who shall constitute a board of election of the district. The directors shall select the polling place for the regular election in the district and shall cause to be given notices of the place of holding the election and the names of judges of election. The notices shall be posted in three public places in the district not less than 10 days prior to the day of election.

(5) The secretary of the directors shall prepare an official ballot upon which shall be printed the names of all persons nominated for directors whose petitions contain the names of not less than 15 electors in the district and which petitions have been filed with the secretary not less than 15 days before the election.

(6) The election shall be conducted, and the votes counted and canvassed, by the directors and a certificate of election issued the same as in general state and county elections. However, the polls shall remain open on the election day from the hours of 2 p. m. until 7 p. m. only.

**265.120 Special elections.** The directors at any regular meeting may call a special election of the electors of the district, notices of which the directors shall cause to be posted in three conspicuous places within the district for a period of not less than 10 days prior to the date of the special election.

**265.130 Meetings of board of directors; officers of board.** (1) The directors shall hold meetings at such time and place within the district as they may determine upon. They shall hold at least one regular meeting in each month on a day to be fixed by them and may hold such special meetings under such rules as they may make.

(2) The directors shall, at the time of

their organization, choose from their number a chairman, a secretary and a treasurer. The secretary and treasurer may be the same person. All officers shall hold their offices until the first regular meeting in January following election and until their successors are elected and qualified. These officers shall have, respectively, powers to perform the duties usual in such cases.

(3) A majority shall constitute a quorum to do business.

(4) The treasurer shall give bond as such to the cemetery maintenance association, conditioned for the paying over by him of all moneys coming into his hands as treasurer. The amount of the bond shall be from time to time fixed by the directors, based upon the amount of money likely to come into his hands as treasurer. The expense incident to giving such bond shall be paid by the cemetery maintenance district out of its general funds.

**265.140 Powers of district.** The board of directors shall transact all business pertinent to the affairs of the district. The district shall constitute a body politic with power:

(1) To sue and be sued.

(2) To purchase, take by gift or devise, own, hold, manage and operate land for cemetery purposes.

(3) To acquire in any manner permitted by law existing cemeteries and to manage, operate, enlarge, maintain and beautify them.

(4) To plat and lay out in suitable cemetery lots and blocks for burial purposes any land it may own or control.

(5) To make such contracts and to purchase and own such personal property as may be necessary or convenient for carrying out the purposes of this chapter.

(6) To sell or perpetually lease cemetery lots or tracts for burial purposes.

(7) To set aside, at the discretion of the board of directors, not to exceed one-half of the moneys derived from the sale or lease of cemetery lots and tracts as an irreducible maintenance fund. Any money gift or bequest, if so designated in the instrument creating the same, shall be placed and held in the irreducible maintenance fund, and the interest of such fund shall be used in the perpetual upkeep and beautification of the cemetery and lots therein. Such fund shall be invested only in such securities as state

funds may be invested in by the State Treasurer under the laws of this state.

(8) To do any and all things necessary or convenient for proper ownership, operation, maintenance and management of the district property.

(9) To levy a tax not to exceed three mills upon the taxable lands of the district for the purpose of defraying the expenses of operation of the district and purchase of necessary property therefor. The first tax levy of the district shall be submitted by the board of directors to the qualified electors of the district at a regular annual election of the district or at a special election called for the purpose by the board of directors in the manner provided for in ORS 265.120.

#### **265.150 Disposition of district funds.**

All funds collected on behalf of the district through the levy of taxes, and all donations, contributions, bequests or equities, or from any other source, shall be deposited with the county treasurer to the credit of the district fund and shall be drawn out only upon proper order and warrant or check. The warrant or check shall bear the signature of the treasurer and countersignature of the chairman.

#### **265.160 Interest on unpaid warrants.**

All warrants for payment of any indebtedness of the cemetery maintenance district which are unpaid for want of funds shall bear interest at a rate to be fixed by the board of directors, but in no event to exceed six percent per annum from the date of endorsement "not paid for want of funds." The aggregate amount of warrants issued shall not exceed the revenue to be received for the year in which the indebtedness is incurred.

**265.170 Annexation of contiguous territory.** Any territory contiguous to a cemetery maintenance district and not within the boundaries of another cemetery maintenance district may be annexed to such cemetery maintenance district in the following manner:

(1) Whenever 15 owners of lands lying in one body, as shown by the last county as-

essment roll, file with the county clerk of the county in which the territory is located a petition praying for such annexation, such proceeding shall be had before the county court as in the case of an original petition to form a cemetery maintenance district. The petition, however, shall be approved by the board of directors of the cemetery maintenance district by an endorsement thereon.

(2) Should a petition be signed and accepted by the owners of all lands to be annexed, as shown by the last county assessment roll, specifically describing the lands, and be so approved by endorsement, an election in the territory and a hearing on the petition shall be dispensed with and the county court shall enter its order incorporating the territory within the existing cemetery maintenance district. However, except when petitioned by the owners of all such lands, no order shall be entered incorporating the additional territory as a part of an existing cemetery maintenance district until the board of directors of the district certifies to the county court that an election has been held in the district on such question and that a majority of the votes cast was favorable to inclusion of the territory.

(3) Should the petition be signed and accepted by owners of only a part of the lands to be annexed, the order of the county court shall not be entered until the board of directors of the existing cemetery maintenance district and the county clerk of the county in which is located the contiguous territory to be annexed verify to the county court that an election has been held, in the cemetery maintenance district and in the territory to be annexed, on the question; and that a majority of the votes cast in the existing district and a majority of the votes cast in the territory to be annexed, severally, were favorable to such annexation.

(4) Upon the entry of the order of the county court incorporating the contiguous territory with the existing cemetery maintenance district, the territory shall become to all intents and purposes regularly incorporated in the district.