Chapter 451

1955 REPLACEMENT PART

Sewage Disposal Generally

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451.010 to 451.100 [Reserved for expansion]

451.110 Definitions for ORS 451.110 to 451.140. As used in ORS 451.110 to 451.140, "governing body" means the county court or board of county commissioners. [1955 c.509 §1]

451.120 Master plan for sewage disposal in unincorporated urban areas. The governing body of any county may, for the protection of the health, safety and general welfare, prepare and adopt a coordinated master plan for the collection, transportation and treatment of sewage from present and future unincorporated urban areas in the county. [1955 c.509 §2]

451.130 Conformity to master plan required. After a coordinated master plan for the collection and treatment of sewage in the county has been adopted under ORS 451.120, the governing body may require that plans for the installation of any sewerage system or sewage treatment works in areas under county jurisdiction outside the boundaries of cities shall conform to such master plan. [1955 c.509 §3]

451.140 Powers of governing body of a county under ORS 451.110 to 451.140. In carrying out the powers granted to the governing body of a county under ORS 451.110 to 451.140, the governing body may:

(1) Conduct such surveys and investigations as may be necessary to develop a coordinated master plan for a system of trunk sewers to collect and transport sewage from present and future unincorporated urban areas to an appropriate location for treatment.

(2) Prepare master plans for treatment of sewage in both present and future unincorporated urban areas in the county.

(3) Enter into contracts or agreements with cities, other counties, the Federal Government, state agencies, sanitary districts or any person for a period not to exceed 30 years for the cooperative financing of the preparation and development of a coordinated master plan for the collection and treatment of sewage from present and future unincorporated urban areas.

(4) Levy and collect taxes for the purpose of providing funds to prepare a coordinated master plan as provided in ORS 451.120 and 451.130.

(5) Expend funds for such surveys, investigations and studies as may be necessary for the development and preparation of such master plan. [1955 c.509 §4]

451.150 to 451.400 [Reserved for expansion]

451.410 Definitions for ORS 451.410 to 451.580. As used in ORS 451.410 to 451.580, unless the context indicates otherwise:

(1) "County court" includes the board of county commissioners.

(2) "District" means any area in a county for which the county court provides sewage works under ORS 451.410 to 451.580.

(3) "Emergency" means a combination of circumstances or conditions relating to sewage disposal which requires immediate action to protect the public health, safety and general welfare.

(4) "Sewage works" includes all facilities necessary for collecting, pumping, treating and disposing of sewage. [1955 c.685 §1]

451.420 County may construct and operate sewage works. When authorized as provided in ORS 451.410 to 451.580, the county court may construct, maintain and operate sewage works for any district in the county. [1955 c.685 §2]

451.430 Hearing to be held on proposal to construct and operate sewage works. The county court shall hold a public hearing on a proposal to construct, maintain and operate sewage works for a district in the county upon:

(1) The initiative of the county court; or

(2) The receipt of a petition signed by 60 percent or more of the owners of real property in a district in the county requesting that the county court construct, maintain and operate sewage works for the district and defining the boundaries of the district; or

(3) Certification to the county court by the State Sanitary Authority or the county health officer that an emergency exists in the district. [1955 c.685 §3]

451.440 Plans for sewage works required prior to hearing. Prior to a hearing on a proposal to construct, maintain and operate sewage works for a district, the county court shall cause engineering plans to be prepared for the sewage works in the district. The plans shall include:

(1) Plans and specifications for the sewage works to be constructed.

(2) Estimated costs of construction, maintenance and operation.

(3) Recommendations as to boundaries of the district.

(4) Recommendations as to use of any portion of the proposed sewage works for areas in the county outside the district at some future date and the portion of the cost of such sewage works which should be borne by such areas when use is made of any portion of the sewage works.

(5) Recommendations as to the extent to which the proposed sewage works may be integrated into other sewage works constructed or being constructed by the county court under ORS 451.410 to 451.580 and the fair and equitable amount of the cost of construction of such other works the district should bear. [1955 c.685 §4]

451.450 Notice of hearing required; contents of notice. (1) Prior to the hearing on a proposal to construct, operate and maintain sewage works for a district, the county court shall post notice of the hearing for two successive weeks prior to the hearing in three conspicuous places within the proposed boundaries of the district as determined by the county court and publish such notice once a week for two successive weeks prior to the hearing in a newspaper of general circulation published within the proposed boundaries of the district or, if there is no such newspaper, in a newspaper of general circulation published in the county.

(2) The notice of hearing shall contain:

(a) The date, time and place of the hearing.

(b) The proposed boundaries of the district.

(c) A statement that the county court proposes to construct, maintain and operate sewage works for the district.

(d) A statement that all interested persons may appear and be heard. [1955 c.685 §5]

451.460 Boundary determination; notice required when additional territory is included. At the hearing, or any continuance thereof, on a proposal to construct, operate and maintain sewage works for a district, the county court may modify the proposed boundaries of the district. However, the county court may not include land which, in its judgment, will not be directly benefited by the proposed sewage works and may not exclude any land which, in its judgment, will be directly benefited by the proposed sewage works. If land is to be included which was not included in the boundaries set forth in the notice of hearing and the owners of such land have not appeared at the hearing, the hearing shall be adjourned and notice shall be given to the nonappearing landowners by mailing to the address of such owners as shown by the current assessment rolls of the county. The notice shall be mailed at least 10 days prior to the date to which the hearing was adjourned. In lieu of such mailing, notice may be given to nonappearing landowners by publication in the manner provided in ORS 451.450. The notice shall contain a general description of the land proposed to be included in the district and the time, place and purpose of the hearing. [1955 c.685 §6]

451.470 Written protests by more than 50 percent of landowners sufficient to defeat proposal. If at any hearing on a proposal to construct, maintain and operate sewage works for a district initiated by the county court more than 50 percent of the owners of land in the district file written protests against the construction, maintenance and operation of sewage works for the district, the county court shall proceed no further with consideration of the proposal. [1955 c.685 §7]

451.480 Order, after hearing and upon approval of proposal, to be entered; contents of order. If after a hearing on a proposal to construct, maintain and operate sewage works for a district the county court determines that the construction, maintenance and operation of sewage works for the district is necessary for the protection of the public health, safety and general welfare, the county court may enter an order:

(1) Establishing and determining the boundaries of the district.

(2) Determining the facilities to be constructed, maintained and operated.

(3) Determining the manner of financing the construction of the sewage works.

(4) Determining the method by which the district shall bear the share of the cost of construction of the sewage works which is to be apportioned to the district.

(5) Where it appears that any sewers

or treatment plant to be constructed will probably be connected with areas outside the district at some future date, determining the equitable and fair share of the cost of construction of such plant or sewer which should be borne by such areas, which share shall be borne by the revolving fund until such areas are connected with the sewers or plant.

(6) Where the sewage works of the district are to be integrated into other sewage works constructed or being constructed by the county court under ORS 451.410 to 451.580, determining the fair and equitable amount the district should pay toward the construction of such other sewage works, which amount shall be paid to the revolving fund. [1955 c.685 §8]

451.490 Methods of financing sewage works; objections to assessments to be heard. (1) The county court may, in its sound discretion, finance the construction of sewage works for a district by:

(a) Use of funds from the revolving fund established under ORS 451.540 to be repaid by the district without interest.

(b) Assessments against the property in the district with or without issuance of bonds or warrants authorized under ORS 451.530.

(c) Sewer service charges in the district.

(d) Any combination of the provisions of paragraphs (a) to (c) of subsection (1) of this section.

(2) Such assessments and sewer service charges in the district shall, so far as practicable, be apportioned within the district in accordance with the special and peculiar benefit each lot or parcel of land receives from the sewage works.

(3) Where parcels of land, or portions thereof, in the district are undeveloped, the county court may, in its discretion, defer assessing or imposing all or any portion of such assessments or sewer service charges on such parcels until such parcels are connected with the sewage works.

(4) The county court shall afford an opportunity for hearing of individual objections or remonstrances to assessments under this section. [1955 c.685 §9]

451.500 Sewer service charges. The county court may by ordinance, for the purpose of paying the costs of operation and maintenance of sewage works constructed under ORS 451.410 to 451.580, impose sewer service charges on property served by sewage works constructed under ORS 451.410 to 451.580. The county court may, from time to time when necessary, use moneys from the revolving fund for such maintenance and operation on a reimbursable basis. Sewer service charges for operation and maintenance shall be based upon the costs of operation, maintenance and supervision of sewage works serving the property charged. [1955 c.685 §10]

451.510 Collection of sewer service charges. (1) The county court may contract with any city or water or other district serving water in a district established under ORS 451.410 to 451.580 to collect sewer service charges with the water bills, and the serving agency may cut off water for nonpayment of such sewer service charges. The county court may pay the water-serving agency a reasonable charge for such collection services.

(2) Sewer service charges may also be collected and enforced as provided in ORS 224.220. [1955 c.685 §11]

451.520 Assessments to be entered on lien docket; foreclosure for failure to pay; reassessments. (1) When assessments are made under ORS 451.480 and 451.490 they shall be entered in a permanent lien docket which shall be kept in the office of the county clerk of the county. The docket shall show the amount of each lien, property against which it has been assessed, the owner thereof and such additional information as is required to keep a permanent and complete record of the assessment and the payments thereon.

(2) If the owner of the property against which an assessment has been made fails to pay the assessment, or any portion thereof, or the interest thereon, when due, the county court may proceed to foreclose the lien in any manner provided by law for the collection of liens by municipalities or may provide by ordinance a general procedure for the collection of such liens in any manner not inconsistent with law.

(3) The provisions of ORS 223.405 to 223.485 relating to reassessment shall be available to the county court, where applicable, in connection with assessments made under ORS 451.410 to 451.580. [1955 c.685 §12]

451.530 Payment of assessments in instalments; issuance of improvement warrants and bonds. If the cost, or any portion of the cost, of sewage works for a district is assessed against the property directly benefited under ORS 451.480 and 451.490, the provisions of ORS 223.205 to 223.385, relating to the payment of assessments in instalments, and the provisions of ORS 287.502 to 287.510, relating to the issuance of improvement warrants by cities, shall apply in so far as practicable to the county in providing sewage works for a district under ORS 451.410 to 451.580. Where, in ORS 223.205 to 223.385 and 287.502 to 287.510 officials of cities are referred to, the corresponding officials of the county shall perform the required functions. The county court may issue improvement bonds in the total amount of the valid applications it has received to pay assessments in instalments as provided in ORS 223.205 to 223.385. [1955 c.685 §13]

451.540 Tax levy for financing construction of sewage works authorized; revolving fund for such purpose. The county court may, for the purpose of establishing a revolving fund to provide money to finance the construction under ORS 451.410 to 451.580 of such sewage works in the county as may be necessary and in implementation of the master plan provided for in ORS 451.120, levy an ad valorem tax of not to exceed two mills per year, for a period not to exceed five years, on each dollar of assessed valuation in the unincorporated area of the county that will be directly benefited by the sewage works in contemplation of the construction of which the levy is made. The revenues derived from such taxes shall be deposited with the county treasurer and credited to such revolving fund. Moneys in the revolving fund shall be disbursed by the county treasurer on order of the county court and used solely for the purposes authorized in ORS 451.410 to 451.580. [1955 c.685 §14]

451.550 Powers of county court under ORS 451.410 to 451.580. For the purpose of carrying out the powers granted to the county court under other provisions of ORS 451.410 to 451.580, the county court may:

(1) Supervise, manage, control, operate and maintain sewage works constructed under ORS 451.410 to 451.580.

(2) Compel all residents and property owners in a district established under ORS 451.410 to 451.580 to connect their houses and structures requiring sewage disposal with adjacent sewers or other sewage disposal facilities in the district.

(3) Acquire by purchase, gift, devise, condemnation proceedings or by any other means, such real and personal property and rights of way, either within or without the county, as in the judgment of the county court are necessary or proper in the exercise of its powers under ORS 451.410 to 451.580, and to pay for and hold the same.

(4) Make and accept contracts, deeds, releases and documents which, in the judgment of the county court, are necessary or proper in the exercise of the powers of the county court under ORS 451.410 to 451.580.

(5) Employ and pay necessary agents, employes and assistants.

(6) Lay its sewers in any public street, highway or road and for this purpose enter upon the street, highway or road, make all necessary and proper excavations, and thereafter restore the street, highway or road to its proper condition. However, the consent of the appropriate city, county or state authorities, as the case may be, shall first be obtained and the conditions of such consent complied with.

(7) Do any act necessary or proper to the complete exercise and effect of any of its powers or for the purposes for which it was formed. [1955 c.685 §15]

451.560 County court may make agreements for cooperative financing of sewage works, or for use, lease or joint operation of sewage works. (1) The county court may enter into agreements with any city, any county, the Federal Government, the state or any of its agencies, any district organized for a public purpose or any person for a period not to exceed 30 years for the cooperative financing of the construction, maintenance and operation of sewage works constructed under ORS 451.410 to 451.580.

(2) The county court may enter into agreements with any county, city, district organized for a public purpose or person for the use, lease or joint operation of any sewage works, or any portion thereof. [1955 c.685 §16]

451.570 County may adopt and enforce regulations for sewage disposal, garbage removal, street cleaning and sanitary purposes; publication of regulations required. (1) For the protection of the public health,

safety and general welfare, the county court may adopt and enforce reasonable and necessary regulations for:

(a) The control of sewage disposal in a district established under ORS 451.410 to 451.580.

(b) The removal of garbage and other deleterious substances in such district.

(c) The cleanliness of roads and streets of such districts.

(d) All other sanitary purposes not in conflict with the laws of this state.

(2) Such regulations shall not be effective until copies thereof are posted for at least two successive weeks in three conspicuous places in a district and published once a week for two successive weeks in a newspaper of general circulation published in the district or, if there is no such newspaper, in a newspaper of general circulation published in the county. [1955 c.685 §17]

451.580 Disposition of moneys received under ORS 451.410 to 451.580. Except as otherwise provided in ORS 451.410 to 451.580, all moneys received by the county court under ORS 451.410 to 451.580 shall be paid to the county treasurer and deposited by him in the county sanitary fund. The county court may, by ordinance, establish separate accounts in the county sanitary fund or separate funds in the county treasury for the segregation of sinking or reserve funds or accounts, of operating funds or accounts for the various districts established under ORS 451.410 to 451.580 or of any other funds or accounts found necessary or expedient by the county court. However, no moneys received under ORS 451.410 to 451.580 shall be used for any purpose other than for carrying out the purposes of ORS 451.410 to 451.580. [1955 c.685 §18]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel