Chapter 371

1975 REPLACEMENT PART
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GENERAL PROVISIONS

371.005 "County court" defined. As used in this chapter, unless the context requires otherwise, "county court" includes board of county commissioners.

COUNTY ROAD DISTRICTS

371.055 Establishment of road districts. For the purpose of improving county roads, numbered road districts may be formed from contiguous territory within the county. [Amended by 1971 c.727 §101]

371.060 Drainage districts and cities as separate road districts. Every drainage district consisting of 5,000 acres or more, and every incorporated city, shall constitute a separate road district. The county court shall not divide such territory to include any of it in any other road district unless the people of the drainage district or incorporated city shall, by majority vote at a municipal election held pursuant to law, vote that their municipal territory be included by the county court in a road district established by the county court. The county court may include in the road district of any drainage district contiguous property adjoining or adjacent to such drainage district, but in no event shall the total area added by the county court be more than 50 percent of the area of the drainage district.

371.065 Construction, maintenance and repair in drainage road district; tax levy. Any construction, maintenance and repairs on roads, highways and bridges within the boundaries of a drainage road district shall be only on such public roads, as defined in ORS 368.010, highways and bridges within the district as are designated by order of the board of supervisors of the drainage district. The board of supervisors of such drainage district may cooperate with the county court in construction, maintenance and repairs on roads within the boundaries of the drainage district, and for this purpose may levy in any one year a tax on every acre of land in the district in the proportion that the acre is benefited by the proposed construction, maintenance or repair, but in no event to exceed $1 for any one acre. The amount of the tax shall be certified to the county assessor of each county in which lands of the district are situated, and thereafter collected in the same manner as the annual instalment of drainage tax is certified and collected.

371.070 Islands as separate road districts. Any island or part thereof exceeding in area 12 square miles and located in any one county hereby is constituted a separate and distinct road district of the county.

371.075 Petition for road improvement or grade change; investigation and report; granting petition. Upon the petition of 12 or a majority of the resident freeholders of any road district, approved by the roadmaster, praying for a change in grade or other extensive improvements as defined in ORS 368.010, the county court shall instruct the county surveyor, engineer or roadmaster to proceed as soon as convenient to the place named in the petition and make such investigations, surveys or estimates as the county court requires and report the same in writing to the county court, setting forth all material matters necessary to fully advise the county court. If the county court determines in favor of such improvement, it shall grant the petition and proceed to make the change in grade or improvements.

371.080 Road district meetings; how called and conducted; chairman; secretary. (1) Whenever three freeholders of any road district petition the county court of the county wherein the road district is located to call a road district meeting of the legal voters of the district and state in their petition the object for which the meeting is desired, the county court shall fix a time and place for holding the meeting and cause notice thereof to be posted, published or given as provided by ORS 371.085.

(2) All road district meetings shall be conducted in a decent and orderly manner and shall be governed by the rules of order known as Robert's Rules of Order.

(3) The district road meeting shall elect a chairman and a competent secretary from among their own members who are resident taxpayers of the road district. The chairman shall preside over the deliberations of the meeting and sign the minutes prepared by the secretary, after they have been submitted to and approved by him. The secretary shall keep the minutes of the meeting, submit them to the chairman for his approval or correction and, after being approved and signed by the chairman and secretary, certify and transmit them to the clerk of the county court who shall preserve them on file with other records of the road district.

371.085 Notice of meeting. (1) Notices of any meeting of the legal voters of any road district shall be prepared by the county court, signed by the county judge or a county commissioner and shall set forth the purposes of such meeting and the time and place it is to be held.

(2) The county court shall cause such notices to be posted, at least 10 days before the time stated therein for holding the meeting, in the customary place for posting notices at the courthouse in the county wherein the road district lies. [Amended by 1953 c.480 §3]

371.090 Right to vote at meetings; laws governing meetings. Any legal voter of this state who has been a bona fide resident of the road district 30 days immediately preceding the meeting shall be entitled to vote at any road district meeting. In all other regards the laws of this state governing school district meetings shall control at all road district meetings. [Amended by 1971 c.647 §64]

371.095 Authority for additional special tax. The voters in any road district may vote on the question of levying an additional tax not to exceed one-fourth of one percent (.0025) of the true cash value of all taxable property within the road district, computed in accordance with ORS 308.207, if the county court first approves such additional tax by indorsement to that effect upon the petition for a road district meeting to be held for the purpose of determining whether the additional tax is necessary or desirable, determining the amount of the tax in dollars and calling an election. [Amended by 1953 c.480 §3; 1963 c 9 §19; 1971 c.647 §65]

371.100 Election on question of levying additional tax; levy and collection of tax. (1) If at any meeting called for the purpose of determining whether or not a tax should be levied it is determined that such a tax is necessary, that result together with the amount of the levy in dollars determined to be necessary shall be certified to the county court. The county court shall, at its next regular session, call an election in said district.

(2) If a majority of the votes cast is in favor of the levy of the additional tax, the county clerk shall furnish a certified copy of the results of the election to the county assessor who shall compute and extend the levy therefor on the assessment roll for that year, the same as other taxes are extended.

(3) The tax collector shall collect such taxes in money and turn the same over to the county treasurer in the same manner as other taxes are collected and turned over. [Amended by 1953 c.480 §3; 1957 c.70 §1; 1967 c 609 §7; 1971 c 647 §66]

371.105 Additional tax as special fund; use of fund. (1) The tax moneys mentioned in subsection (3) of ORS 371.100 shall be credited and kept as a special fund by the county treasurer to the account of the road district. No part of such fund shall be transferred or loaned, and, except as provided in subsection (2) of this section, the whole amount thereof shall be expended under the supervision of the county court upon roads within the road district boundary of the district voting the tax as the boundaries existed at the time the tax was voted, and not elsewhere, and within one year from the collecting of the tax.

(2) The fund collected from taxes levied and assessed by a road district comprising and constituted from an incorporated city, and from property situated within such municipal corporation, shall be expended under the supervision of the governing body of the incorporated city and not under the supervision of the county court. This fund shall be paid over to the incorporated city by the county treasurer when collected.

371.110 Effect of change of district boundaries on road tax levy. If the boundaries of any road district are changed after the levy of any road tax in or for such road district and before the expenditure of the tax, provision shall be made by the county court for such expenditure in the localities contemplated at the time of levy, notwithstanding the change in boundaries.

371.205 [Repealed by 1969 c.50 §1]

371.210 [Repealed by 1969 c 50 §1]

371.215 [Repealed by 1969 c 50 §1]

371.220 [Repealed by 1969 c 50 §1]

371.225 [Repealed by 1969 c 50 §1]

371.230 [Repealed by 1969 c 50 §1]

371.235 [Repealed by 1969 c 50 §1]

371.240 [Repealed by 1969 c.50 §1]

SPECIAL ROAD DISTRICTS

371.305 Authority to establish special road districts. Contiguous territory lying within any county and not incorporated within the limits of any incorporated city may be formed into, or included in, a special road district in the manner provided by ORS 371.305 to 371.380. [Amended by 1961 c.681 §1; 1965 c 498 §4]

371.310 [Amended by 1965 c.498 §5; 1969 c.568 §1; repealed by 1971 c.727 §203]

371.315 [Repealed by 1971 c.727 §203]

371.320 [Repealed by 1971 c.727 §203]

371.325 [Repealed by 1971 c 727 §203]

371.330 Appointing first commissioners. If a proposal for formation of a district is approved, the county court shall appoint three persons with the qualifications described in subsection (1) of ORS 371.338 to be the first commissioners of the district and shall designate the term of office of each. [Amended by 1961 c 681 §2; 1965 c 498 §6; 1971 c.727 §102]

371.335 [Repealed by 1971 c 727 §203]

371.336 Powers of district. From the date of formation, the special road district is a municipal corporation for the purpose of improving roads within the district. A special road district shall have the power:

(1) To make contracts.

(2) To acquire, hold, receive and dispose of real and personal property.

(3) To sue and be sued.

(4) To exercise the power of eminent domain.

(5) To assess, levy and collect taxes not to exceed in any one year one-fourth of one percent (.0025) of the true cash value of all taxable real property within the district, computed in accordance with ORS 308.207.

(6) To do any other act necessary to carry out the purposes of ORS 371.305 to 371.360. [1961 c.681 §5; 1963 c.9 §20; 1965 c.498 §7; 1969 c.568 §2; 1971 c 727 §103]

371.338 District board of commissioners; qualification; term; vacancies; oath. (1) The powers of a special road district are vested in a district board of commissioners consisting of three commissioners appointed by the county court. Each commissioner shall reside within the district and shall be a registered voter. The term of office of a commissioner is three years commencing on January 1 of the year of appointment. Vacancies on the board shall be filled by the county court by appointment for the unexpired term.

(2) Notwithstanding the three-year term of office prescribed in subsection (1) of this section, of the commissioners first appointed to a board one shall be appointed for a term ending December 31 of the second year following the year in which he first takes office, one for a term ending December 31 of the year following the year in which he first takes office and one for a term ending December 31 of the year in which he takes office.

(3) Before entering upon his duties, a commissioner shall take and subscribe an oath to support the Constitution and laws of the State of Oregon and of the United States, and to well and faithfully perform the duties of his office to the best of his knowledge and ability. [1961 c.681 §6]

371.340 [Repealed by 1961 c.681 §14]

371.342 Officers of district board; meetings; records. As soon as possible after the first commissioners are appointed to the district board of commissioners, and thereafter during each January, the board shall meet and organize by selecting from their number a president, a secretary and a treasurer. The board shall hold one regular meeting each month at a time and place within the district designated by the board. All meetings of the board shall be open to the public and the records of the district shall be available for public inspection. [1961 c 681 §§7, 8; 1969 c 344 §5; 1969 c 345 §7]

371.344 Special elections for taxes to improve roads in district. (1) After the establishment of a tax base by approval of the voters, the board of commissioners of a district shall order a special election to be held within the district and shall certify to the election officer for submission to the qualified electors the question of whether the board of commissioners, within the limits provided by ORS 371.336, should levy special taxes for the purpose of improving public roads.

(2) Prior to the establishment of a tax base by approval of the voters as provided by section 11, Article XI of the Oregon Constitution, the district board of commissioners may in any year order a special election to be held within the district and certify to the election officer for submission to the qualified electors the question of whether the board, within the limits provided by ORS 371.336, should levy a

special tax for the next fiscal year for the purpose of improving public roads. [1961 c 681 §9; 1963 c.9 §21, 1965 c.498 §8; 1973 c 796 §59]

371.345 Election proceedings. Upon receiving the certified question provided in ORS 371.344, the county clerk shall name the date of the election to be held on the earliest practicable date specified in ORS 255.345 which, shall be not more than 60 days after the clerk receives the certified question provided in ORS 371.344. [Amended by 1959 c.102 §1, 1961 c.681 §10; 1967 c 609 §8; 1971 c.647 §67, 1975 c 647 §32]

371.350 Canvass of vote; certification of tax levy to county assessor. If upon the canvass it appears that a majority of the votes cast at the special election is in favor of the levy of the tax, the county clerk shall inform the county court of the result of the election and the county court shall by order entered in its journal direct that the tax levy authorized at the election be certified to the county assessor for extension upon the next assessment roll of the county. [Amended by 1961 c.681 §11; 1971 c.647 §68]

371.355 [Amended by 1961 c.681 §12, repealed by 1971 c 647 §149]

371.360 Deposit of tax proceeds in bank. (1) The proceeds of the tax levied and collected for the district shall be deposited in a bank or banks designated by the district board of commissioners. Such moneys shall be paid out only upon order of the board by checks or drafts signed by the president and treasurer of the board. All deposits of any district in any bank in excess of the amount protected by Federal Deposit Insurance Corporation insurance shall be secured by deposit of bonds of the United States.

(2) Any moneys on deposit in a county treasury in a special fund of a road district on August 9, 1961, shall be paid to the district board of commissioners for deposit as provided in subsection (1) of this section. [Amended by 1961 c 681 §13]

371.365 [Repealed by 1961 c 681 §14]

371.370 [Repealed by 1961 c 681 §14]

371.375 [1965 c 498 §2; repealed by 1971 c 727 §203]

371.380 [1965 c 498 §3; repealed by 1971 c 727 §203]

371.385 Certain tax limitations not in effect after August 22, 1969. If any district existing on August 22, 1969, had a tax limitation set forth in the petition for formation as provided by ORS 371.310, prior to amendment by section 1, chapter 568, Oregon Laws 1969, the limitation stated in such petition shall not be effective to limit the taxing authority of any such district after August 22, 1969. Such limitation shall be construed to be effective only to limit taxes levied prior to August 22, 1969, and after the formation of the district. [1969 c.568 §3]

Note: 371.385 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 371 or any series therein by legislative action See the Preface to Oregon Revised Statutes for further explanation.

ROAD ASSESSMENT DISTRICTS (IN COUNTIES WITH 19,000 TO 25,000 POPULATION)

371.405 "County court" defined. As used in ORS 371.405 to 371.555, "county court" includes the board of county commissioners sitting for the transaction of general county business. [Amended by 1955 c.227 §1; 1971 c.647 §69]

371.410 Formation of road assessment district. A road assessment district may be located in any county having a population of 19,000 and not more than 25,000, as shown by the decennial federal census, and shall consist of an area of more than 20,000 acres or an assessed valuation of taxable property of not less than $1 million, according to the last county assessment roll. A road assessment district may be formed to provide for the improvement, repair or reconstruction of the public roads within such area of land. [Amended by 1955 c 227 §2; 1971 c 727 §104]

371.415 [Repealed by 1971 c 727 §203]

371.420 [Repealed by 1971 c 727 §203]

371.425 [Repealed by 1971 c 647 §149 and 1971 c 727 §203]

371.430 [Repealed by 1971 c.727 §203]

371.435 [Repealed by 1971 c.647 §149]

371.440 [Repealed by 1971 c 727 §191]

371.445 [Repealed by 1971 c 727 §203]

371.450 Election of district directors; terms; oath; qualifications. (1) Except as provided in subsection (2) of this section, the voters of a district shall elect a board of three directors with a term of four years beginning the first day of July next succeeding their election.

(2) The three directors elected as the first district board shall determine by lot the length of term each shall hold. The term of one director shall be two years and the terms of two directors shall be four years.

(3) Within 10 days after receiving certificates of election, the directors shall take and file their official oath which shall be filed in the office of the directors.

(4) A director shall be a resident owner of taxable property within the district, as shown by the last county assessment roll, and shall have resided within the proposed district for more than 30 days immediately prior to the date of the election. [Amended by 1969 c.669 §6; 1971 c 647 §73; 1971 c 727 §§106, 194; 1973 c.796 §60; 1975 c.647 §33]

371.455 Single nominee to be declared elected. After expiration of the time for filing nominations for an annual election, if it appears that only one qualified candidate has been nominated, it is not necessary to hold an election, and the board of directors, within 10 days after expiration of the time for filing nominations, shall declare such candidate elected. [Amended by 1955 c 227 §3; 1971 c.647 §74]

371.460 [Amended by 1963 c.364 §2; repealed by 1971 c 647 §149]

371.465 [Repealed by 1971 c 647 §149]

371.467 Special elections. Special elections may be called by resolution of the board of directors for any proper purpose. [1963 c.364 §1, 1971 c 647 §75]

371.470 Selection of board of directors' president and secretary; record of proceedings; meetings. (1) Within the first 10 days of July in each year next following their election, excepting the year immediately after the election upon organization, the board of directors shall meet and choose one of their number president of the board and elect some suitable person as secretary. The secretary, who may or may not be a member of the board of directors, shall hold office during the pleasure of the board.

(2) The board of directors shall keep a record of all its proceedings, which shall be open to the inspection of all owners of property within the district.

(3) The secretary shall be paid such amount as the board of directors shall fix.

(4) The board of directors shall hold a regular monthly meeting at a time fixed by it and entered in its records and such special meetings as may be required for the proper transaction of business. Written notice of each special meeting shall be given to each member of the board at least 24 hours prior to the time of meeting, stating the particular business to come before such meeting. No business shall be transacted at special meetings other than as specified in the notice, unless by agreement of all the directors entered in the minutes. [Amended by 1955 c 227 §4; 1971 c.403 §5]

371.472 [1963 c.364 §4; repealed by 1969 c.345 §20]

371.475 General powers of board of directors. The board of directors has the following powers and authority, which are not exclusive but are a general outline of powers to be construed liberally:

(1) To examine, supervise, order, construct, direct and control the repair, construction, maintenance and reconstruction of all the roads and highways within the district, except primary and secondary state highways and other highways under the exclusive jurisdiction of the Department of Transportation, to the end that such roads and highways shall be kept in the best condition and state of repair possible within their power, authority and the financial condition of the district.

(2) To levy and collect assessments as provided in ORS 371.500 and 371.505.

(3) To have surveys, estimates and plans made for improvement, maintenance and reconstruction of the roads of the district.

(4) To request the county court of the county in which the district is situated to provide to the district the services of the county engineer for the work of the district, and, if the county court does not provide for such district a duly qualified engineer, registered by the state, who has had not less than two years' experience in the construction and maintenance of roads and highways, to employ a qualified engineer registered by the state, who has had not less than two years' experience in the construction and maintenance of roads and highways, until such time as the county court may comply with the request of the district.

(5) To designate roads within the district for construction, improvement or repair, to request the county court of the county in which the district is situated to provide the right of way for the roads and to construct, repair and improve the roads in accordance with the plans formulated by the engineer employed by the directors. If the board of

directors certifies to the county court that funds are available to defray the cost of acquiring such rights of way and the construction, improvement or repair of the road, the county court thereupon shall acquire the necessary right of way and proceed with the necessary construction, repair or improvement at the expense of the road assessment district.

(6) To contract under subsection (1) of ORS 366.770 or ORS 366.775 with the approval of the county court of the county in which the district is situated.

(7) To disburse by order signed by the president and the secretary the funds of the district in payment of the expenses of the district or for the costs of road improvement, maintenance or reconstruction.

(8) To sue or be sued in the name of the district.

(9) Any and all authority and power necessary to carry out the particular powers and purposes of ORS 371.405 to 371.555.

371.480 Contracts as to streets in incorporated cities. The board of directors may contract with any incorporated city within or adjacent to the district for the repair, improvement and reconstruction of streets or public ways within the incorporated city, where the improvement of the streets is a part of the general road system of the district. The contract shall be upon terms mutually agreeable to the board of directors of the district and the governing body of the city.

371.485 Authority of district over roads and highways. The district has authority over all roads and highways within the district, except state primary and secondary highways, and streets, alleys or public ways within an incorporated city within the district other than as provided by ORS 371.480.

371.490 [Repealed by 1969 c 344 §8]

371.495 Declaration of legislative intent. It is the intent of the legislature that the districts authorized by ORS 371.405 to 371.555 shall be special assessment districts and all taxable properties therein located shall be benefited in proportion to the assessed valuations of the various taxable properties therein as from time to time determined by the county assessment roll of the property. [Amended by 1955 c 227 §5]

371.500 Computing money to be raised by assessment; apportionment; assessment limited; tax not to interfere with others. (1) The board of directors, in each fiscal year, shall make a computation of the total amount of money to be raised by the district through assessments for the ensuing fiscal year of July 1 to June 30, next following, for any and all purposes whatsoever in carrying out the provisions of ORS 371.405 to 371.555, including estimated delinquencies on assessments. This amount of money, when determined by the board of directors, shall be and constitute an assessment upon all the taxable property in the district and shall be apportioned by the board of directors to the property owned or held by each person, firm or corporation in proportion to the assessed valuation of all taxable property in the district as determined by the assessment roll of the county assessor last prepared.

(2) The assessment shall not exceed one-fourth of one percent (.0025) of the true cash value of the property, computed in accordance with ORS 308.207, unless authorized by a majority of those voting upon the proposition at an annual election, but by such election no assessment in excess of one-fourth of one percent of the true cash value of any property, over and above the one-fourth of one percent assessment above referred to, shall be levied in any one year.

(3) The levy of any tax under this section, ORS 371.505 or 371.515 shall not interfere with or prevent the county court from levying any tax for road purposes it may have the authority and power to do under any other law. [Amended by 1955 c 227 §6; 1963 c 9 §22]

371.505 Copy of assessment resolution to county assessor; duty of assessor; collection and accounting; separate fund. (1) The secretary of the board of directors shall, after the apportionment of the assessment, certify a copy of the resolution levying and apportioning the assessment, to the county assessor of the county in which the district is situated.

(2) The county assessor shall extend the assessment so made against all taxable property within the district in the same manner as county taxes are entered by him on the assessment roll.

(3) The assessments shall be collected and accounted for and the collection enforced in the same manner as the taxes of the county, except that the tax collector shall collect and account for the district assessments separately.

(4) When paid to the county treasurer such moneys shall be held and carried in a fund to be designated "——— Road Assessment Fund." All warrants of the district shall be drawn against and shall be paid from this fund. However, whenever the district secretary shall furnish bond as provided by ORS 198.220 the treasurer shall deliver all funds in the Road Assessment Fund to the secretary on demand. Thereafter the secretary shall disburse the funds on order of the board of directors. [Amended by 1955 c.227 §7; 1963 c.364 §3; 1969 c.345 §8; 1973 c.305 §15]

371.510 County assessor to furnish certificate of assessed valuation. The county assessor, upon request of the board of directors, shall furnish from time to time a certificate showing the total assessed valuation, according to the last completed assessment roll, of all the taxable property within the district. [Amended by 1955 c.227 §8]

371.515 District to pay county for expenses; proceedings on default. The district shall pay the county for all the actual expenses and salary of the county engineer while he is engaged in work for and at the request of the board of directors, and for the cost of all work done by the county in the district at the request of the board of directors, which shall be the amount agreed upon between the county court and board of directors prior to the time such work is commenced or, if no agreement is made, the actual cost of the work done by the county, including a reasonable charge for depreciation of county equipment used. If, after written demand by the county court, the district fails to provide sufficient funds by taxation for the payment of all sums owing to the county, the county court may, by its order entered in its records, extend a special assessment against all the taxable property within the district in an amount sufficient to pay the amounts due the county. This assessment shall be extended upon the county tax roll and shall be assessed and collected in the same manner as the assessments levied by the district, but shall be credited by the county treasurer, when received, to a special fund, to be held for the payment of the indebtedness of the district to the county until such indebtedness is paid from this fund or other funds of the district. [Amended by 1955 c 227 §9]

371.520 District excluded from other districts; certain unexpended funds to district; city within district may make levies. (1) Upon the organization of the district the entire area thereof shall be excluded by such organization from any existing road district theretofore existing and shall not be included within any other road district thereafter created during the life of the road assessment district.

(2) Upon the organization of the district there shall be credited to it the portion of all special road district levies unexpended in the county treasurer's office, or levied upon and uncollected, derived from the area within the road assessment district, except the amounts levied upon and remaining uncollected, or remaining unexpended in the county treasurer's office, derived from assessments upon property within an incorporated city included within the district, which shall be paid to the city as provided by law prior to June 16, 1945, for use by the city upon its local streets.

(3) The inclusion of an incorporated city within the district shall not prevent the incorporated city from levying general or special taxes or assessments upon the property within the city for the purpose of improvement, maintenance, repair or reconstruction of the city streets as authorized or permitted by law or the charter of the city.

371.525 [Repealed by 1971 c.727 §203]

371.530 Exclusion of land area from district. A petition for exclusion of land from a district shall be approved only if the exclusion of the land does not reduce the remaining area of the district to less than an area of 20,000 acres and not less than $1 million assessed valuation of taxable property according to the most recent assessment roll prepared by the county assessor. [Amended by 1955 c.227 §10; 1971 c 727 §107]

371.535 Disposition of funds of dissolved district. If a district is dissolved, all funds then on hand or proceeds of assessments theretofore levied shall be held by the county court for the benefit of the roads within the area theretofore within the boundaries of the district. [Amended by 1971 c.727 §108]

371.540 [1965 c.347 §2; repealed by 1971 c.727 §203]

371.545 [1965 c 347 §3; repealed by 1971 c.727 §203]

371.550 [1965 c.347 §4; repealed by 1971 c.727 §203]

371.555 [1965 c.347 §5, repealed by 1971 c.727 §203]

IMPROVEMENT OF STREETS AND ROADS IN UNINCORPORATED AREAS

371.605 Definitions for ORS 371.605 to 371.660. As used in ORS 371.605 to 371.660, unless the context requires otherwise:

(1) "Owner" means a vendee under a recorded land contract or if there is no such contract, the holder of the record title, which vendee or holder has a present interest equal to or greater than a life estate.

(2) "Engineer" means the county engineer, roadmaster, surveyor or other engineer selected by the county court.

(3) "Improvement" means and includes:

(a) Surveying, clearing, draining, grading, paving, surfacing and constructing roads, streets, curbs or sidewalks within the right of way of a county road, dedicated public road or platted street; or

(b) Installing, constructing, reconstructing, improving, extending or repairing lateral sewers, street mains, sewage disposal systems or similar facilities, and other facilities incidental thereto, within the right of way of a county road, dedicated public road, platted street or easement.

(4) "Sidewalk" means a public way primarily intended for the use of pedestrians within the right of way of a county road, dedicated public road or platted street. [Amended by 1955 c.773 §1, 1973 c 461 §1, 1975 c 738 §2]

371.610 Application of ORS 371.605 to 371.660. (1) ORS 371.605 to 371.660 do not apply to any state highway.

(2) The county court may designate any road or street improved under ORS 371.605 to 371.660 as a county road without invalidating the assessments levied for the purpose of the improvements. [Amended by 1955 c 773 §2, 1959 c.656 §1]

371.615 Petition or resolution for improvement of roads in unincorporated areas. Proceedings to improve a platted street, dedicated public road or county road in an unincorporated area may be initiated by the county court by resolution or by a petition signed by not less than 60 percent of the owners of the land representing not less than 60 percent of the land abutting on the proposed improvement and presented to the county court praying for the improvement. The resolution or petition shall describe the road, street, curbs or sidewalk to be improved or constructed, designating where the improvement shall be made and defining the nature of the improvement desired. [Amended by 1955 c.773 §3; 1961 c 432 §1; 1971 c 327 §1]

371.620 Signers of petition and objection in event of cotenancies. In case of tenants by the entireties, joint tenants or tenants in common the parcel of land is considered as having one owner, which owner shall be deemed to have signed the petition provided for in ORS 371.615 or the objection provided for in ORS 371.630 only if every cotenant of the parcel has signed.

371.625 Investigation and estimation of cost of improvement by engineer. When the resolution is adopted or the petition is filed with it, the county court shall refer the resolution or petition to the engineer, who shall investigate the proposed improvement. If in his judgment the improvement is feasible, the engineer shall make an estimate of the cost of the improvement and report the same to the county court. If the improvement is to be paid for in whole or in part by special assessments against property benefited by the improvement, the engineer shall include in his report:

(1) A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefited;

(2) The description and assessed value of each lot, parcel of land or portion thereof, to be specially benefited by the improvement, with the names of the record owners thereof; and

(3) Where the improvement petitioned for includes the construction and installation of lateral sewers, street mains or similar facilities, a separate statement of the estimated cost of the construction and installation of lateral sewers, street mains or similar facilities. [Amended by 1971 c 327 §2, 1973 c.461 §2]

371.630 Notice to owner of engineer's report; filing objections. (1) If the engineer makes a favorable report on the proposed improvement, the county court shall mail to the owner of each parcel of land to be assessed for the proposed improvement a written notice of the favorable report, the estimated cost of the improvement and the estimated amount of the assessment against his land. The notice shall require the owner to file with the county court within 20 days after the mailing of the

notice, his written objection, if any, to the further prosecution of the improvement.

(2) If objections are received by the county court signed by more than 50 percent of the owners of land representing more than 50 percent of the total amount of the assessment for the proposed improvement, the proposed improvement shall, by order of the court, be declared abandoned and no new petition may be filed and no new resolution may be adopted for the improvement within a period of one year after the date of the order. [Amended by 1955 c 773 §4, 1971 c 327 §3]

371.635 Court order for improvement; recording; vacation of order and removal of lien. (1) If the number of objections mentioned in ORS 371.630 is not received, the county court may, by order describing the land to be assessed, direct the improvement to be made by contract, or by force account. If by contract, it shall be awarded in the same manner as provided for other contracted county road improvement.

(2) The county court shall record the order for the improvement with the county clerk. The recorded order is notice that the land described in the order is subject to a lien of an assessment for the cost of the improvement, in an amount to be determined later by an order of the county court. The county clerk shall indorse upon the order the date of the filing thereof, and shall record and index the same in a lien docket in the office of the county clerk.

(3) If the proposed improvement described in the order of the county court is not commenced within two years after the order for the improvement is recorded, the county court may by a new order vacate its former order for the proposed improvement. The county court shall record with the county clerk the order vacating the former order for the proposed improvement. Thereupon the land described shall be free of such lien and the effect of the former order. The county clerk shall indorse upon the new order the date of the filing thereof, and shall record and index the same in the lien docket referred to in subsection (2) of this section. [Amended by 1955 c.549 §1; 1955 c.773 §5; 1971 c 327 §4]

371.640 Engineer to compile improvement cost; source of payment; reimbursement of source; additional work. (1) After the improvement has been made, inspected by the engineer and accepted by the county court, the engineer shall compile the total cost of the improvement. He may add up to 15 percent of the total cost for engineering and administration. Where the improvement includes the construction and installation of lateral sewers, street mains or similar facilities, the engineer shall separately compile the total cost of those improvements.

(2) Payment of the cost of the improvement other than for the construction and installation of lateral sewers and street mains or similar facilities shall be made from the general road funds or from any funds available for the construction or improvement of county roads. Payment of the cost of the construction and installation of lateral sewers and street mains or similar facilities shall be made from any funds available to the county for such improvements.

(3) The funds expended for the improvement shall be reimbursed or the improvement warrants shall be retired to the extent of the proceeds of an assessment against the land benefited by the improvement, but no assessment shall be made against any operating railroad right of way without the consent of the owner thereof. Each landowner shall be assessed a portion of the cost of the improvement corresponding to the relative benefit to his land from the improvement.

(4) All of the cost of improvements within intersections connected with any improvement under ORS 371.605 to 371.660 may be borne by the county.

(5) Unless notified to the contrary by the owner prior to the acceptance of bids for improvements under ORS 371.605 to 371.660, an existing driveway shall be reconstructed to the property line to conform with the new grade. Additional driveways or other road connections, including retaining walls, may be constructed simultaneously with the improvements, when a written request is filed with the county court prior to the acceptance of bids by the affected abutting landowners. The cost of the driveway and all requested work shall be charged to the abutting owner and added to the assessment against his land. [Amended by 1953 c 573 §2; 1955 c 773 §6; 1961 c 432 §2; 1971 c.327 §5, 1973 c 461 §3]

371.642 Allocation of costs of sidewalk or curb construction and other improvements. Notwithstanding any provision to the contrary in ORS 371.605 to 371.660, the cost of construction of sidewalks under those sections shall be assessed in proportion to the front footage of the land or otherwise, as

provided in those sections, to the owners of land abutting on the side of the street or road on which the sidewalks are constructed and fronting on such sidewalks. The cost of construction of all other improvements under those sections shall be assessed, in the manner provided in those sections, to the owners of land benefited by the improvement. [1955 c.773 §12; 1971 c 327 §6]

371.645 Engineer to ascertain assessment; hearing on objections; court order. (1) The engineer shall ascertain the amount of the assessment against each parcel of land assessed for the improvement and report the same to the county court.

(2) The county court by order shall thereupon set the time, not less than 10 days after the filing of the report, and place for a hearing of objections to the assessments as fixed in the report of the engineer.

(3) Not less than five days prior to the date of the hearing, the county court shall mail to the owner of each parcel of land proposed to be assessed, at his address as shown on the petition or on the latest tax roll of the county, a written notice of the time and place for the hearing of objections and of the amount of the proposed assessment against his land.

(4) After hearing objections, the county court shall by order find and determine from the evidence submitted the amount of assessment against each individual parcel of land. [Amended by 1955 c.773 §7; 1971 c.327 §7]

371.650 Certification of assessment; recording order; lien. (1) The county court shall certify a list and description of the ownership, stating the amount of assessment against each individual parcel of land, and shall record the order with the county clerk, who shall indorse thereon the date of the filing thereof and record and index it in the lien docket referred to in subsection (2) of ORS 371.635.

(2) The assessments and interest are a lien upon the land against which the same are assessed from the date of the filing with the county clerk of the order of the county court for the improvement, as provided in ORS 371.635. Each parcel of land is deemed to be benefited by the improvement to the full amount of the assessment levied thereon. No transfer, sale or division of any such parcel, or change in the legal description thereof, in any way divests the lien from the original parcel and the whole thereof. Failing to enter the name of the owner or a mistake in the name of the owner does not in any way render void any assessment and does not in any way affect the lien on the land described. The lien has priority over all other liens and encumbrances whatsoever, except tax liens.

(3) Upon payment of the assessment in full, the county court shall satisfy the same by a notation in the lien docket referred to in subsection (2) of ORS 371.635, and the parcel of land charged with such assessment is thereby discharged from the lien. [Amended by 1955 c 773 §8, 1959 c.656 §2]

371.655 When assessment due, payable and delinquent; interest; by whom collected. (1) Except as provided in subsection (2) of this section, 30 days after the assessment is certified, the entire amount against each parcel of land shall be due and payable at the office designated by the governing body of the county and, if not so paid, shall be delinquent from that date and shall bear interest at a rate not to exceed seven percent per annum until paid.

(2) The owner of property assessed under ORS 371.605 to 371.660 shall have the right to apply for instalment payment of his assessment as provided in ORS 223.210.

(3) The provisions of ORS 223.205 to 223.295 (Bancroft Bonding Act) and 223.770 relating to the assessment of property benefited by public improvements and to the issuance of bonds and other obligations for the cost of such improvements, 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 and applicable in relation to the assessment by counties of the cost or any portion of the cost of improvements against the property benefited in accordance with ORS 371.605 to 371.660 and to the issuance of bonds and other obligations by the county. However, notwithstanding the provisions of ORS 223.295, in issuing bonds and other obligations under the provisions of this section, a county may incur indebtedness to an amount not exceeding .0375 of the latest true cash valuation of the county.

(4) Where, in ORS 223.205 to 223.295, 223.770 and 287.502 to 287.510, officials of cities are referred to, the corresponding officials of counties where applicable and unless otherwise designated by charter shall perform the required functions. The duties required of the common council, board of trustees, or

other governing body of a city shall be performed as to this section by the governing body of the county. The duties required of the auditor, clerk or other officer charged with keeping the records of a city shall be performed as to this section by the county clerk. The duties required of the mayor or other executive head of a city shall be performed as to this section by the chairman of the governing body of the county. The duties of the city treasurer shall be performed as to this section by the county treasurer. [Amended by 1955 c.773 §9, 1959 c.656 §3, 1961 c 432 §3; 1963 c.545 §1; 1965 c 227 §1, 1971 c.325 §3]

371.660 Delinquent list; execution and sale. (1) One year from the date an assessment for improvements under ORS 371.605 to 371.660 is delinquent, or, in case the assessment has been spread in semiannual instalments, one year from the date any semiannual instalment of the assessment is delinquent, the county court shall prepare a delinquent list of all assessments not wholly paid. The list shall contain a description of the land, the name of the person to whom assessed and the amount of the assessment and interest due.

(2) The county court shall transmit the list to the county clerk, who shall issue a writ of execution thereon, directed to the county court.

(3) The county court shall proceed to collect the unpaid assessments named in the list by advertising and selling each parcel of land in the manner provided by law for the sale of real property on execution, but no parcel shall be sold for a sum less than the amount of the unpaid assessment plus interest thereon and the cost of advertising and sale. [Amended by 1955 c.773 §10; 1959 c.656 §4; 1961 c 432 §4]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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,
October 1, 1975

Thomas G. Clifford
Legislative Counsel