Chapter 368

1993 EDITION

County Roads

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GENERAL PROVISIONS

368.001 Definitions. As used in this chapter:

(1) "County road" means a public road under the jurisdiction of a county that has been designated as a county road under ORS 368.016.

(2) "County road official" means the roadmaster, engineer, road supervisor, public works director or other administrative officer designated by the county governing body as being responsible for administration of the road activities of the county.

(3) "Local access road" means a public road that is not a county road, state highway or federal road.

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

(5) "Public road" means a road over which the public has a right of use that is a matter of public record.

(6) "Road" means the entire right of way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways or alleys;

(b) Road related structures that are in the right of way such as tunnels, culverts or similar structures; and

(c) Structures that provide for continuity of the right of way such as bridges. [1981 c.153 §2]

368.005 [Amended by 1971 c 135 §1; repealed by 1981 c.153 §79]

368.010 [Amended by 1963 c.501 §1; repealed by 1981 c.153 §79]

368.011 County authority to supersede statutes; limitations. (1) Except as otherwise provided in this section, a county may supersede any provision in this chapter by enacting an ordinance pursuant to the charter of the county or under powers granted the county in ORS 203.030 to 203.075.

(2) A county shall not enact an ordinance to supersede any of the following provisions: This section and ORS 368.001, 368.016, 368.021, 368.026, 368.031, 368.051, 368.705, 368.707, 368.710, 368.720 and 368.722. [1981 c.153 §3]

368.016 County authority over roads; limitations. (1) Except as provided in this section or as otherwise specifically provided by law, the exercise of governmental powers relating to a road within a county is a matter of county concern.

(2) A county governing body:

(a) Does not have jurisdiction over any public road that is a state highway.

(b) Shall only take action involving a local access road within a city if the city governing body consents to the action.

(c) May by resolution or order make any public road within its jurisdiction a county road.

(3) Any road that has a classification as a county road on November 1, 1981, shall retain that classification unless the classification is changed under ORS 368.026 or as otherwise provided by law.

(4) A county governing body may seek assistance from the Department of Transportation as provided under ORS 366.155. [1981 c.153 §4; 1993 c.741 §44]

368.021 County authority over trails. (1) A county governing body has the same jurisdiction over trails as it has over local access roads.

(2) This section applies to trails that:

(a) Are easements over land or by watercourse that are not part of a road right of way;

(b) Provide certain forms of ingress to or egress from land or water or permit travel between places;

(c) Do not provide vehicle access of the type provided by a road; and

(d) Are not under the jurisdiction of a state or federal agency. [1981 c.153 §5]

368.026 Withdrawal of county road status; report; notice; hearing. (1) A county governing body shall use the following procedure to withdraw county road status from a portion of a county road that is outside a city:

(a) The county governing body may initiate proceedings by having the county road official prepare a report stating reasons for the proposed withdrawal and the effects the proposed withdrawal may have on land abutting the county road proposed to be withdrawn.

(b) The county governing body shall fix a date for a hearing on the withdrawal.

(c) The county governing body shall provide for notice of the hearing on the proposed withdrawal to be served on owners of land abutting the portion of county road proposed to be withdrawn. Notice shall be served in the manner provided under ORS 368.401 to 368.426.

(d) Any interested person shall have access to the report prepared by the county

road official under this section from a day not less than 20 days prior to the date of hearing.

(e) At the hearing, the county governing body shall accept the report of the county road official prepared under this section and shall accept testimony from persons favoring or objecting to the proposed withdrawal.

(f) After completion of the procedures under this section, the county governing body may retain the portion of county road as a county road or may by order or resolution declare county road status withdrawn from all or part of the portion of the road under consideration.

(2) The withdrawal of county road status from any county road that is within a city is subject to ORS 373.270.

(3) If a county governing body withdraws county road status from a portion of a county road, the road shall continue to be a public road. [1981 c.153 §6]

368.031 County jurisdiction over local access roads. A local access road that is outside a city is subject to the exercise of jurisdiction by a county governing body in the same manner as a county road except as follows:

(1) A county and its officers, employees or agents are not liable for failure to improve the local access road or keep it in repair.

(2) A county governing body shall spend county moneys on the local access road only if it determines that the work is an emergency or if:

(a) The county road official recommends the expenditure;

(b) The public use of the road justifies the expenditure proposed; and

(c) The county governing body enacts an order or resolution authorizing the work and designating the work to be either a single project or a continuing program. [1981 c.153 §7]

368.036 Standards for county roads and road work. (1) County roads and work performed on county roads shall comply with specifications and standards, including standards for width, adopted by the county governing body. If the county governing body does not have specifications for work performed on county roads, the work shall comply with standards and specifications adopted by the Department of Transportation.

(2) If a county governing body provides for work to be performed on a local access road, the standards for the road or specifications for work performed on the road may differ from standards and specifications for county roads, but the county governing body shall provide for the work to be performed in the same manner as it provides for work to be performed on county roads. [1981 c.153 §8]

368.041 Widths of county roads; maintenance of designated roads as county roads. (1) Unless otherwise provided under ORS 368.036, a public road that is designated as a county road after August 2, 1951, shall be 50 feet or any greater width the county governing body establishes. The proposed width shall be stated in all petitions or notices that initiate consideration of the designation of a road as a county road. The width established for a road shall be stated in orders or resolutions accepting the road as a county road under ORS 368.016.

(2) After a resolution or order designating a public road as a county road is final, the county shall maintain the public road as a county road. [Formerly 368.415]

368.046 County road official; duties. (1) A county governing body may employ an engineer or practical road builder as a county road official.

(2) A county road official shall work under the direction of the county governing body and shall:

(a) Assist the county governing body in preparing specifications for county work to be done on any road within the county;

(b) Superintend work done by the county upon roads within the county, whether the work is done under contract or otherwise;

(c) Recommend to the county governing body methods to be adopted for the construction, improvement, repair and maintenance of roads; and

(d) Perform other duties assigned by the county governing body. [1981 c.153 §9]

368.051 Accounting for county road work. The county road official or such other person as may be designated by the county governing body shall maintain a complete and accurate cost account for road work performed by the county as required under ORS 279.023. [Formerly 368.150]

368.055 [Amended by 1963 c.519 §36; repealed by 1981 c.153 §79]

368.056 Permit for gate construction on public road. A county governing body may issue a permit to a person to allow construction of a gate or stock guard on a public road under the jurisdiction of the county governing body. The county governing body may impose any conditions or specifications on the permit it determines advisable to preserve the purposes of the public road. Conditions on a permit under this section may include a requirement that the person issued the permit shall bear all costs of con-

struction and maintenance of the gate or stock guard. [1981 c.153 §33]

368.060 [Repealed by 1981 c.153 §79]

368.062 Transferring road within city to county jurisdiction. (1) Jurisdiction over a road within a city may be transferred to a county under this section whenever:

(a) The governing body of the city deems it necessary, expedient or for the best interest of the city to surrender jurisdiction over any road or portion thereof within the corporate limits of the city; and

(b) The governing body of the county deems it necessary or expedient and for the best interests of the county to acquire jurisdiction over the road or part thereof to the same extent as it has over other county roads.

(2) To initiate a proceeding for the transfer of jurisdiction under this section, the governing body of the city, upon its own motion or upon the request of the county by its governing body, shall give notice by:

(a) Posting in three public places in the county, one of which shall be within the unincorporated area of the county; or

(b) Publishing the notice once a week for four successive weeks in some newspaper of general circulation in the city.

(3) Notice under this section shall give the time and place of hearing and a succinct statement of the proposed action requested and describing the road or portion thereof proposed to be surrendered by the city to the county with convenient certainty.

(4) At the time and place mentioned in the notice under this section or at such adjournment as it may fix, the governing body of the city shall hear the matter, consider any objections or testimony offered by any person interested and determine whether it is necessary, expedient or for the best interests of the city to surrender jurisdiction over the road or portion thereof to the county.

(5) If the governing body of a city determines to surrender jurisdiction under this section and initiates action under this section:

(a) The governing body of the city shall make an order to that effect and offer to the county to surrender jurisdiction over the road or portion thereof, and may limit the time for the acceptance of the offer; and

(b) The county by order or resolution may within the time specified accept the city offer to surrender jurisdiction under this section.

(6) If a county governing body determines to initiate action under this section for the surrender of jurisdiction by a city over a road within a city:

(a) The county governing body may initiate the action by passage of a resolution or order that requests surrender and that may set any time or other limitations upon acceptance by the county of the surrender; and

(b) The governing body of the city may surrender jurisdiction of the road without further action by the county if the governing body of the city adopts an order surrendering the road that meets the limitations established by the county in its order or resolution.

(7) When a county adopts an order or resolution accepting a city's order and offer under subsection (5) of this section or when the governing body of a city adopts an order meeting the limitations established by the county under subsection (6) of this section:

(a) The jurisdiction of the city over the road or portion thereof as a road within the city, or for its improvement, construction or repair shall cease;

(b) The full and absolute jurisdiction over the road for all purposes of repair, construction, improvement and the levying and collection of assessments therefor shall vest in the county; and

(c) The county shall have the same jurisdiction over the road or portion thereof as by its charter or the laws of the state are given or granted it over any of the county roads of such county.

(8) This section is applicable to all roads within a city, whether acquired by the city or the public by condemnation, defective condemnation and user, user or prescription or in any manner provided by law or in which the easement for road purposes is in the public. [1989 c.220 §2]

368.065 [Repealed by 1981 c.153 §79]

368.070 [Repealed by 1981 c.153 §79]

ACQUISITION OF PROPERTY FOR ROADS

368.073 Initiation of proceedings to acquire property for road purposes. A county governing body may initiate proceedings to acquire title or a lesser interest in real property for public road purposes:

(1) On its own action; or

(2) If a person files the following with the county governing body:

(a) A petition described in ORS 368.081; or

(b) A written proposal to dedicate or donate land owned by that person for public road purposes. [1981 c.153 §10]

368.075 [Repealed by 1975 c.774 §3 (368.076 enacted in lieu of 368.075)]

368.076 [1975 c.774 §4 (enacted in lieu of 368.075); repealed by 1981 c.153 §79]

368.080 [Repealed by 1981 c.153 §79]

368.081 Requirements for petition to initiate road proceedings. (1) A petition to initiate proceedings under ORS 368.073 must contain all of the following:

(a) A statement of the public necessity for the public road.

(b) A description of the proposed public road.

(c) A list containing the names and mailing addresses of any owner of property that:

(A) Is proposed to be acquired for the public road;

(B) Abuts the proposed public road; or

(C) Would otherwise be affected by the proposed acquisition of property for the public road.

(d) The signatures and mailing addresses of a majority of the owners of property that would abut the proposed road.

(2) The petition described under this section is subject to the following:

(a) Where a signature from an owner is required, the signature of an owner of property that has multiple ownership is valued as a fraction of an owner signature for that property in the same proportion as that owner's interest in the property bears to the interest of all other owners of the same property.

(b) Any person signing the petition may withdraw the signature by filing a written withdrawal with the county governing body.

(c) A signature that is required on the petition does not qualify for purposes of the petition if the signature is withdrawn or if the person whose signature appears on the petition files an objection under ORS 368.091.

(3) A county governing body may establish and require payment of a fee for the filing of a petition under this section. [1981 c.153 §11]

368.085 [Repealed by 1981 c.153 §79]

368.086 Road proceedings; hearing; notice. (1) If proceedings to acquire real property for public road purposes are initiated by filing a petition described under ORS 368.081, a county governing body shall not begin any proceedings described under ORS 368.096 until the county governing body has conducted a hearing to determine whether the public interest would be served by continuing the proceedings.

(2) A county governing body shall provide notice of the hearing required under this section to property owners:

(a) Owning property that would abut or be acquired for the proposed public road; and

(b) Owning property that would not be acquired for or abut the proposed public road if the county governing body determines the property might be affected by the proposed public road.

(3) Notice required under this section shall be by service under ORS 368.401 to 368.426 except that:

(a) Those persons signing the petition may be given notice by first class mail to the person's address shown on the petition; and

(b) The county governing body may provide for notice to persons owning property that would not be acquired for or abut the proposed public road by posting under ORS 368.401 to 368.426 if the county governing body determines that posting is more likely to provide notice to those persons. [1981 c.153 §12]

368.090 [Repealed by 1981 c.153 §79]

368.091 Owners' rights to terminate road proceedings. (1) A county governing body shall discontinue any proceedings to acquire real property for public road purposes that are initiated by a petition described ORS 368.081 at any time before acquisition of the property if a majority of the owners of property that would abut the proposed road file objections to establishing the road with the county governing body.

(2) Multiple ownership of property is subject to the same conditions as a signature on a petition under ORS 368.081 for purposes of determining the number of owners. [1981 c.153 §13]

368.095 [Amended by 1969 c.518 §1; 1971 c.121 §1; repealed by 1981 c.153 §79]

368.096 Alternative methods to acquire property for roads. (1) If proceedings to acquire real property for public road purposes have been initiated under ORS 368.073, a county governing body may acquire the property by any of the following methods:

(a) Acceptance of a dedication or donation.

(b) Acquisition by purchase or other agreement.

(c) Exercise of the power of eminent domain under ORS chapter 35.

(d) Use of road viewers under ORS 368.161 to 368.171.

(2) Nothing in this section:

(a) Supersedes procedures for establishing roads by subdividing or partitioning land under ORS chapter 92;

(b) Precludes public acquisition of any property interest by adverse possession or prescription; or

(c) Restricts the ability of a public body to acquire an interest in property by any other method permitted by law. [1981 c.153 §14]

368.100 [Repealed by 1981 c.153 §79]

368.101 Authority to change road proceedings; limitation. (1) At any time after a proceeding is initiated under ORS 368.073 for the acquisition of real property for public road purposes, a county governing body may:

(a) Change the method of proceeding or the property subject to the proceeding in any manner the county governing body determines to be in the public interest.

(b) Discontinue the proceeding if the county governing body determines that the proceedings or the establishment of the proposed road is not in the public interest.

(2) Notwithstanding subsection (1) of this section a county governing body shall not make any change in or discontinue any proceeding that is initiated by a petition described under ORS 368.081 unless the governing body has provided an opportunity for a hearing described under ORS 368.086. [1981 c.153 §15]

368.105 [Repealed by 1981 c.153 §79]

368.106 Records and survey of property acquired for road. If a county governing body acquires an interest in real property for public road purposes, the county governing body shall cause:

(1) Any order or resolution enacted and deed or other document establishing an interest in the property for public road purposes to be recorded;

(2) The road right of way to be surveyed and monumented;

(3) The survey to be prepared in compliance with ORS 209.250; and

(4) The survey to be recorded with the county surveyor. [1981 c.153 §16]

368.110 [Amended by 1973 c.518 §1; repealed by 1981 c.153 §79]

368.111 Assessment of costs and damages from road proceedings. (1) If a county incurs costs or is required to pay damages in the acquisition of property necessary for a public road, the county governing body may assess those costs or damages to and order the costs or damages to be paid by any of the following:

(a) The county governing body.

(b) If the proceedings for acquisition were initiated by a petition described under ORS 368.081, the petitioners.

(c) If the acquisition is of land that is donated or dedicated, the person donating or dedicating the land.

(d) An owner of land that is specially benefited.

(2) This section does not limit the ability of a county governing body to provide for the payment of the costs of acquiring property for a public road in any manner permitted by law.

(3) Any person directed to pay costs or damages under an order issued under this section shall pay those costs or damages within 60 days after entry of the order or resolution. Any person who does not pay costs or damages as directed by an order or resolution under this section within the time established under this section is liable for those costs or damages. [1981 c.153 §17]

368.115 [Amended by 1973 c.518 §2; repealed by 1981 c.153 §79]

368.116 Acquisition of railroad right of way. (1) Whenever in the location, relocation, construction or betterment of a public road, a county governing body determines that it is necessary to locate, relocate or construct the public road, or any part thereof, upon the right of way of a railroad company, the county may negotiate and agree with the railroad company for the right to use or occupy the right of way, or any portion necessary for public road purposes.

(2) If agreement cannot be reached, then the county governing body may acquire the right of way by exercise of the power of eminent domain under ORS chapter 35.

(3) Nothing in this section authorizes the use or occupancy of the railroad right of way which would interfere with the operation of the railroad or its necessary appurtenances, taking into consideration the use of the railroad right of way by the company for yards, terminals, station grounds and necessary additional trackage, or which would jeopardize the safety of the public. [Formerly 368.290]

368.120 [Amended by 1973 c.518 §3; repealed by 1981 c.153 §79]

368.121 Financial assistance to persons displaced by county road acquisition. (1) When federal funds are available for payment of direct financial assistance to persons displaced by county road acquisition, a county may match such federal funds to the extent provided by federal law and to provide such direct assistance in the instances and on the conditions set forth by federal law and regulations.

(2) When federal funds are not available or used for payment of direct financial assistance to persons displaced by county road acquisition, the county may provide direct financial assistance to such persons. Financial assistance authorized by this subsection shall not exceed the total amount that would have been payable under subsection (1) of this section if federal funds had been avail-

able or used. The county may adopt rules and regulations to carry out this subsection. [Formerly 368.310]

368.125 [Repealed by 1981 c.153 §79]

368.126 Order establishing new road along existing road to identify parts of existing road to be vacated. When a county governing body establishes a new public road following the general alignment of an existing public road, the final order or resolution shall identify all parts of any existing road that are to be vacated. Vacation of those parts described is effective without any other proceedings. A road so vacated shall not be closed to public use until the road laid out to replace it is actually opened to travel. [Formerly 368.540]

368.130 [Repealed by 1981 c.153 §79]

368.131 Right of way over United States public lands. The county governing body may by resolution accept the grant of rights of way for the construction of public roads over public lands of the United States. This section does not invalidate the acceptance of such grant by general public use and enjoyment. [Formerly 368.555]

368.132 [1973 c.518 §6; repealed by 1981 c.153 §79]

368.135 [Repealed by 1981 c.153 §79]

368.140 [Repealed by 1981 c.153 §79]

368.150 [1971 c.121 §2; 1981 c.153 §64; renumbered 368.051]

ROAD VIEWERS

368.161 Use of road viewers to establish road. (1) When proceedings have been initiated under ORS 368.073 to acquire real property for public road purposes, the county governing body may establish a board of road viewers and acquire property for the proposed road in the manner described in ORS 368.161 to 368.171.

(2) A board of road viewers established under this section shall consist of a county road official and two other persons whose duties and qualifications shall be determined by the county governing body. The board of road viewers shall meet and determine whether the board believes the establishment of the proposed road is in the public interest.

(3) If the board of road viewers recommends the establishment of the proposed road, the board shall file a report that includes the following with the county governing body:

(a) A description of the proposed location of the road;

(b) An assessment of damages created by the proposed road and the names of persons entitled to such damages; and

(c) Any other information required by the county governing body.

(4) If a board of road viewers recommends against the establishment of the public road, a county governing body may:

(a) Discontinue proceedings under ORS 368.161 to 368.171 to acquire property for the road; or

(b) Require the road viewers to complete a report on a proposed location under this section. [1981 c.153 §18]

368.166 Road viewer report; hearing; notice. (1) If a county governing body does not discontinue proceedings under ORS 368.161, it shall do the following upon receipt of a board of road viewers report containing information on the location of a proposed road:

(a) Set a time and place for a hearing on the establishment of the road; and

(b) Cause notice to be given to the persons and in the manner described in ORS 368.086.

(2) Any person owning land that will be affected by acquisition of property under ORS 368.161 to 368.171 may file with the county governing body an answer controverting any matter presented to the county governing body in the proceedings and alleging any new matter relevant to the proceedings. An answer filed under this subsection must be filed more than 10 days before the hearing required under this section.

(3) Within 10 days of the hearing, the county governing body shall provide for notice of any answer filed under this section to persons filing an answer or petition in the proceedings. Notice required under this subsection shall be by service under ORS 368.401 to 368.426. The county governing body may require a person filing an answer to pay the cost of providing notice under this subsection. [1981 c.153 §19]

368.171 Order, costs and damages under proceeding with road viewers. (1) After completion of proceedings under ORS 368.161 to 368.171 and consideration of matters and issues presented during the proceedings, the county governing body shall determine whether a public need exists for the public road and shall enter an order or resolution granting or denying the property acquisition. If the county governing body enters the order or resolution establishing a public road, the order or resolution shall:

(a) Describe the exact location and width of any public road established;

(b) Designate amounts of damages and costs incurred under the proceedings, persons entitled to payment of costs or damages and persons liable for payment of the costs or damages; and

(c) Assess costs under ORS 368.111.

(2) The requirements under this section are in addition to requirements under ORS 368.106. [1981 c.153 §20]

LEGALIZATION OF ROADS

368.201 Basis for legalization of road. A county governing body may initiate proceedings to legalize a county road under ORS 368.201 to 368.221 if any of the following conditions exist:

(1) If, through omission or defect, doubt exists as to the legal establishment or evidence of establishment of a public road.

(2) If the location of the road cannot be accurately determined due to:

(a) Numerous alterations of the road;

(b) A defective survey of the road or adjacent property; or

(c) Loss or destruction of the original survey of the road.

(3) If the road as traveled and used for 10 years or more does not conform to the location of a road described in the county records. [1981 c.153 §21]

368.205 [Amended by 1975 c.774 §1; 1977 c.338 §1; repealed by 1981 c.153 §79]

368.206 Proceedings for legalization of roads; report; notice. (1) If proceedings for legalization of a road are initiated under ORS 368.201, the county governing body shall:

(a) Cause the road to be surveyed to determine the location of the road and the width of the road according to:

(A) The laws governing the width of roads at the time the road was originally established; or

(B) If the original width of the road cannot be determined, to the width for roads of the same class established by the standards under ORS 368.036;

(b) Cause the county road official to file a written report with the county governing body including the survey required under this section and any other information required by the county governing body; and

(c) Cause notice of the proceedings for legalization to be provided under ORS 368.401 to 368.426 by service to owners of abutting land and by posting.

(2) In a proceeding under this section, any person may file with the county governing body information that controverts any matter presented to the county governing body in the proceeding or alleging any new matter relevant to the proceeding. [1981 c.153 §22]

368.210 [Repealed by 1981 c.153 §79]

368.211 Compensation for property affected by road legalization. (1) A county governing body shall provide for compensation under this section to any person who has established a structure on real property if the structure encroaches on a road that is the subject of legalization proceedings under ORS 368.201 to 368.221.

(2) To qualify for compensation under this section, a person must file a claim for damages with the county governing body before the close of the hearing to legalize the road. The county governing body shall consider a claim for damages unless the county governing body determines that:

(a) At the time the person acquired the structure, the person had a reasonable basis for knowing that the structure would encroach upon the road;

(b) Upon the original location of the road, the person received damages;

(c) The person or the person's grantor applied for or assented to the road passing over the property; or

(d) When making settlements on the property, the person found the road in public use and traveled.

(3) The compensation allowed under this section shall be just compensation for the removal of the encroaching structure.

(4) The county governing body may proceed to determine compensation and acquire the structure by any method under ORS 368.096.

(5) If a county governing body determines that removal of the encroaching structure is not practical under this section, the county governing body may acquire property to alter the road being legalized. [1981 c.153 §23]

368.215 [Repealed by 1981 c.153 §79]

368.216 Order under road legalization proceeding. (1) After considering matters presented in a proceeding to legalize a road under ORS 368.201 to 368.221, a county governing body shall determine whether legalization of the road is in the public interest and shall enter an order abandoning or completing the legalization procedures on the road.

(2) When a county governing body legalizes a road under ORS 368.201 to 368.221, the county governing body shall comply with ORS 368.106.

(3) Courts shall receive any order filed under this section as conclusive proof that the county road exists as described in the order.

(4) Upon completion of the legalization procedures under ORS 368.201 to 368.221:

(a) Any records showing the location of the road that conflict with the location of the road as described in the order are void; and

(b) The road exists as shown on the order legalizing the road. [1981 c.153 §24]

368.218 [1975 c.774 §2; repealed by 1981 c.153 §79]

368.220 [Repealed by 1975 c.771 §33]

368.221 Legalization; county determination of lesser width. Notwithstanding ORS 368.036, a county governing body may legalize a road at any width that is less than the width of the road described in ORS 368.206 if the county governing body determines that:

(1) The legalization of the road at the lesser width is in the public interest; or

(2) An encroachment on the road may not be practically removed under ORS 368.211. [1981 c.153 §25]

368.225 [Repealed by 1975 c.771 §33]

368.230 [Amended by 1971 c.659 §4; repealed by 1975 c.771 §33]

368.235 [Amended by 1965 c.10 §1; repealed by 1975 c.771 §33]

368.240 [Repealed by 1975 c.771 §33]

368.245 [Amended by 1969 c.423 §3; repealed by 1975 c.771 §33]

368.250 [Repealed by 1975 c.771 §33]

ROAD HAZARDS

368.251 Obstruction of road drains prohibited. No person shall stop, obstruct or in any other manner impair or damage any drain, ditch or other man-made or natural waterway that:

(1) Prevents water from causing damage to, flowing across or standing on a public road under county jurisdiction; or

(2) Benefits a public road under county jurisdiction. [1981 c.153 §26]

368.255 [Repealed by 1975 c.771 §33]

368.256 Creation of road hazard prohibited. (1) Except as authorized by the county governing body, an owner or lawful occupant of land shall not allow:

(a) Any water to overflow, seep or otherwise discharge from that land onto a public road under county jurisdiction including, but not limited to, water that is passing over the land, diverted from the land by an obstruction on the land, flowing from the land because of rainfall or discharged from an irrigation sprinkler or other device.

(b) Any structure, tree, drainage way, soil deposit or other natural or man-made thing on that land to present a danger to or create a hazard for the public traveling on a public road or facilities within the right of way of the public road by obstructing, hanging over or otherwise encroaching or threatening to encroach in any manner on a public road that is under county jurisdiction.

(2) A person is not in violation of this section if there is no reasonable method for the person to control, stop or remove the cause of the violation. [1981 c.153 §27]

368.260 [Repealed by 1981 c.153 §79]

368.261 Order to abate road hazard. (1) A county road official may order a person who is in violation of ORS 368.256 to remove, divert or otherwise discontinue the violation.

(2) An order issued under this section shall:

(a) Describe the nature and location of the violation;

(b) Direct the person to abate the violation within a specified period of time;

(c) Explain procedures the county road official may follow if the violation creates an emergency; and

(d) Explain that a hearing will be held under ORS 368.266 if the violation is not abated.

(3) If a violation of ORS 368.256 is not abated within the time allowed by the order issued under this section, the county governing body shall hold a hearing described in ORS 368.266. [1981 c.153 §28]

368.265 [Repealed by 1981 c.153 §79]

368.266 Hearing on abatement of road hazard; notice. (1) If a hearing is required under ORS 368.261, the county road official shall establish a place, date and time for the hearing. The hearing will be held if the violation is not abated before the date of the hearing. Notice provided under this section shall include the date and time set for the hearing.

(2) The order described under ORS 368.261 shall be included as part of the notice of hearing under this section. Notice of hearing under this section shall be given by service under ORS 368.401 to 368.426 to:

(a) The owner of the land that is the source of the violation; and

(b) Any persons lawfully occupying that land during the time of the violation if the county road official has reason to know of the occupancy.

(3) At the hearing the county governing body shall determine the person responsible for violation of ORS 368.256 and shall order that person to abate the violation within a time fixed by the county governing body, which time shall not be less than 10 days. [1981 c.153 §29]

368.270 [Repealed by 1981 c.153 §79]

368.271 Abatement of road hazard by county. (1) A county road official may abate a violation of ORS 368.256 at any time if any of the following occur:

(a) If the period of time established for abatement of the violation under ORS 368.266 passes and the person ordered to abate the violation has not done so within that time.

(b) If a reasonable attempt to provide service under ORS 368.266 has been made and no owner or lawful occupant of the property has been located and served.

(c) If the county road official determines that the violation creates a substantial risk of damage, injury or other emergency condition that requires abatement without delay and without notice or hearing. A county road official is not required to comply with ORS 368.261 and 368.266 when the county road official abates a violation under this paragraph.

(2) A county road official may take any reasonable actions under this section to abate the violation of ORS 368.256.

(3) A county and its officers, agents and employees are exempt from liability for any reasonable acts performed under this section, including, but not limited to, any reasonable trespass or conversion of personal property.

(4) If a county road official performs any acts under this section, the county road official shall file a written report with the county governing body. The report shall contain:

(a) An explanation of the acts performed;

(b) The reasons for performing the acts described;

(c) The costs incurred in abating the violation; and

(d) Any other information required by the county governing body. [1981 c.153 §30]

368.275 [Repealed by 1981 c.153 §79]

368.276 Hearing, notice, costs and damages when county abates road hazard. (1) Upon receipt of a report under ORS 368.271, a county governing body shall establish a time, place and date for a hearing to assess costs for acts performed under ORS 368.271 and to determine persons liable for payment of those costs.

(2) Notice of the hearing shall be provided by service under ORS 368.401 to 368.426 to:

(a) The person determined under ORS 368.266 to be in violation of ORS 368.256; or

(b) If no determination of violation has been made under ORS 368.266, the owner of the land that is the source of the violation and to any persons lawfully occupying that land during the time of the violation.

(3) After consideration of matters presented at the hearing, the county governing body shall issue an order:

(a) Establishing costs to be paid; and

(b) Directing the person the county governing body determines to be responsible for payment of the costs to pay the costs within the time established by the county governing body, which time shall not be less than 60 days.

(4) If the county governing body cannot establish responsibility for payment of costs under this section, the owner of the property that is the source of the violation of ORS 368.256 shall be responsible for payment unless the owner can establish that there was no reasonable method for the owner to control, stop or remove the cause of the violation.

(5) The county governing body shall provide for notice of the results of the hearing to persons ordered to pay costs by service under ORS 368.401 to 368.426. Any person who does not pay costs as directed by an order under this section is liable for those costs. [1981 c.153 §31]

368.280 [Repealed by 1981 c.153 §79]

368.281 County recovery of costs for road hazard abatement; lien. (1) The county governing body may recover costs ordered paid under ORS 368.276, by:

(a) Bringing an action for recovery of the costs in any court of competent jurisdiction; or

(b) If the person ordered to pay costs owns real property within the county, filing a copy of the order with the county clerk to be entered as a lien upon the real property of that person within the county.

(2) If a lien is filed under paragraph (b) of subsection (1) of this section:

(a) That lien, when docketed, is prior and superior to all other liens or charges on the property except taxes; and

(b) If the costs ordered to be paid under ORS 368.276 are not paid within the time established by the county governing body in the order, the county governing body shall cause the lien to be foreclosed as provided in ORS chapter 88.

(c) The county governing body may increase the county road budget by the amount of costs recovered or to be recovered under this section. [1981 c.153 §32]

368.285 [Repealed by 1981 c.153 §79]

368.290 [Amended by 1981 c.153 §65; renumbered 368.116]

368.295 [Amended by 1955 c.247 §1; repealed by 1981 c.153 §79]

368.300 [Repealed by 1981 c.153 §79]

368.305 [Repealed by 1981 c.153 §79]

368.310 [1969 c.296 §2; renumbered 368.121]

VACATION OF COUNTY PROPERTY

368.326 Purpose of vacation proceedings; limitation. ORS 368.326 to 368.366 establish vacation procedures by which a county governing body may vacate a subdivision, part of a subdivision, a public road, a trail, a public easement, public square or any other public property or public interest in property under the jurisdiction of the county governing body. The vacation procedures under ORS 368.326 to 368.366:

(1) Shall not be used by the county governing body to vacate property or an interest in property that is within a city.

(2) Are an alternative method to the method established under ORS chapter 92 for the vacation of a subdivision. [1981 c.153 §34]

368.331 Limitation on use of vacation proceedings to eliminate access. A county governing body shall not vacate public lands under ORS 368.326 to 368.366 if the vacation would deprive an owner of a recorded property right of access necessary for the exercise of that property right unless the county governing body has the consent of the owner. [1981 c.153 §35]

368.336 Abutting owners in vacation proceedings. Where the property proposed to be vacated under ORS 368.326 to 368.366 is a public road, a person owning property that abuts either side of the road is an abutting property owner for purposes of ORS 368.326 to 368.366 even when the county governing body proposes to vacate less than the full width of the road. [1981 c.153 §36]

368.341 Initiation of vacation proceedings; requirements for resolution or petition. (1) A county governing body may initiate proceedings to vacate property under ORS 368.326 to 368.366 if:

(a) The county governing body adopts a resolution meeting the requirements of this section;

(b) The person who holds title to property files with the county governing body a petition meeting the requirements of this section and requesting that the property be vacated; or

(c) The owner of property abutting public property files with the county governing body a petition meeting the requirements of this section and requesting vacation of the public property that abuts the property owned by the person.

(2) A county governing body adopting a resolution under this section shall include the following in the resolution:

(a) A declaration of intent to vacate property;

(b) A description of the property proposed to be vacated; and

(c) A statement of the reasons for the proposed vacation.

(3) Any person filing a petition under this section shall include the following in the petition:

(a) A description of the property proposed to be vacated;

(b) A statement of the reasons for requesting the vacation;

(c) The names and addresses of all persons holding any recorded interest in the property proposed to be vacated;

(d) The names and addresses of all persons owning any improvements constructed on public property proposed to be vacated;

(e) The names and addresses of all persons owning any real property abutting public property proposed to be vacated;

(f) Signatures, acknowledged by a person authorized to take acknowledgments of deeds, of either owners of 60 percent of the land abutting the property proposed to be vacated or 60 percent of the owners of land abutting the property proposed to be vacated; and

(g) If the petition is for vacation of property that will be redivided in any manner, a subdivision plan or partitioning plan showing the proposed redivision.

(4) The county governing body may require a fee for the filing of a petition under this section. [1981 c.153 §37]

368.346 Report, notice and hearing for vacation proceedings. Except as provided in ORS 368.351:

(1) When a vacation proceeding has been initiated under ORS 368.341, the county governing body shall direct the county road official to prepare and file with the county governing body a written report containing the following:

(a) A description of the ownership and uses of the property proposed to be vacated;

(b) An assessment by the county road official of whether the vacation would be in the public interest; and

(c) Any other information required by the county governing body.

(2) Upon receipt of the report under subsection (1) of this section, a county governing body shall establish a time and place for

a hearing to consider whether the proposed vacation is in the public interest.

(3) Notice of the hearing under this section shall be provided under ORS 368.401 to 368.426 by posting and publication and by service on each person with a recorded interest in any of the following:

(a) The property proposed to be vacated;

(b) An improvement constructed on public property proposed to be vacated; or

(c) Real property abutting public property proposed to be vacated.

(4) During or before a hearing under this section, any person may file information with the county governing body that controverts any matter presented to the county governing body in the proceeding or that alleges any new matter relevant to the proceeding. [1981 c.153 §38]

368.351 Vacation without hearing. A county governing body may make a determination about a vacation of property under ORS 368.326 to 368.366 without complying with ORS 368.346 if:

(1) The county road official files with the county governing body a written report that contains the county road official's assessment that any vacation of public property is in the public interest; and

(2) The proceedings for vacation under ORS 368.326 to 368.366 were initiated by a petition under ORS 368.341 that contains the acknowledged signatures of owners of 100 percent of any private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting any public property proposed to be vacated. The petition must indicate the owners' approval of the proposed vacation. [1981 c.153 §39]

368.356 Order, damages and costs in vacation proceedings. (1) After considering matters presented under ORS 368.346 or 368.351, a county governing body shall determine whether vacation of the property is in the public interest and shall enter an order or resolution granting or denying the vacation of the property under ORS 368.326 to 368.366.

(2) An order or resolution entered under this section shall:

(a) State whether the property is vacated;

(b) Describe the exact location of any property vacated;

(c) Establish the amounts of any costs resulting from an approved vacation and determine persons liable for payment of the costs;

(d) Direct any persons liable for payment of costs to pay the amounts of costs established; and

(e) If a plat is vacated, direct the county surveyor to mark the plat as provided under ORS 271.230.

(3) When an order or resolution under this section becomes final, the county governing body shall cause the order to be recorded with the county clerk and cause copies of the order to be filed with the county surveyor and the county assessor. The order or resolution is effective when the order or resolution is filed under this subsection.

(4) Any person who does not pay costs as directed by an order under this section is liable for those costs. [1981 c.153 §40]

368.361 Intergovernmental vacation proceedings. (1) Notwithstanding ORS 368.326, a county governing body may vacate property that is under multiple public jurisdiction or that crosses and recrosses from public jurisdiction to public jurisdiction if:

(a) Vacation proceedings are initiated by each public body with jurisdiction;

(b) The public bodies proceed separately with vacation proceedings or conduct a joint proceeding; and

(c) Each public body reaches a separate decision about the proposed vacation.

(2) Each public body must reach a separate decision to vacate property under this section before the vacation may be completed. If each public body has determined that the property should be vacated, each public body shall issue a separate order or resolution vacating those portions of the property under their respective jurisdictions.

(3) Notwithstanding ORS 368.326, a county governing body may vacate property that is under the jurisdiction of the county and that is entirely within the limits of a city if that city, by resolution or order, concurs in the findings of the county governing body in the vacation proceedings.

(4) Public bodies vacating property under this section shall each use procedures for vacation that each uses for other vacation proceedings. [1981 c.153 §41; 1989 c.219 §1]

368.366 Ownership of vacated property. (1) When a county governing body vacates public property under ORS 368.326 to 368.366, the vacated property shall vest as follows:

(a) If the county holds title to the property in fee, the property shall vest in the county.

(b) If the property vacated is a public square the property shall vest in the county.

(c) Unless otherwise described in paragraph (a) or (b) of this subsection, the va-

cated property shall vest in the rightful owner holding title according to law.

(d) Except as otherwise provided in this subsection, the vacated property shall vest in the owner of the land abutting the vacated property by extension of the person's abutting property boundaries to the center of the vacated property.

(2) Notwithstanding subsection (1) of this section, a county governing body may determine the vesting of property vacated under ORS 368.326 to 368.366 in the order or resolution that vacates the property. [1981 c.153 §42]

NOTICE

368.401 General notice provisions. (1) ORS 368.401 to 368.426 establish standard methods for providing notice by service, posting or publication in actions or proceedings affecting real property. The methods established in ORS 368.401 to 368.426 for providing notice are applicable when notice is required by law to be made under ORS 368.401 to 368.426.

(2) ORS 368.401 to 368.426 do not:

(a) Limit the use of public moneys for providing notice or providing other information.

(b) Limit the persons to whom notice or information may be provided.

(c) Limit the manner in which notice may be provided.

(d) Apply where other methods for providing notice are specifically provided by law.

(e) Supersede any specific provision for providing notice that is part of any law requiring or permitting notice to be given under ORS 368.401 to 368.426. [1981 c.153 §43]

368.405 [Repealed by 1981 c.153 §79]

368.406 Notice by service. (1) When the law requires notice to owners of certain real property by service, the person providing notice by service may have notice personally served or may have the notice mailed.

(2) A person providing notice shall accomplish notice that is personally served by obtaining a signed acknowledgment of receipt of notice from:

(a) The person being served; or

(b) A person 18 years of age or older who resides at the address of the person being served.

(3) A person providing notice by mail shall accomplish notice by certified mail, return receipt requested, to the address of the person being served.

(4) A person's refusal to sign a receipt for notice that is personally served or mailed under this section is a waiver of any objection based on nonreceipt of the notice in any proceeding.

(5) Except where the person providing notice under this section has personal knowledge of a more appropriate address for the notice, the address to be used for notice personally served or mailed under this section is the address of the person to be served as shown on the tax rolls.

(6) A person serving notice under this section must serve notice at least 30 days before the date of the proceeding that is the subject of the notice. [1981 c.153 §44]

368.410 [Repealed by 1981 c.153 §79]

368.411 Notice by posting. (1) Where the law requires notice by posting, the person providing notice shall post notices in no less than three places. The places where notice may be posted include any of the following:

(a) The property subject to the proceeding that is the subject of the notice; or

(b) Property within the vicinity of the property described in paragraph (a) of this subsection.

(2) Notice that is posted on property under this section must be plainly visible from a traveled public road.

(3) Notwithstanding subsection (1) of this section, a person providing notice under this section may post fewer than three notices if the small size of the property limits the value of the number of postings.

(4) A person posting notice under this section must post notice at least 20 days before the date of the proceeding that is the subject of the notice. [1981 c.153 §45]

368.415 [Amended by 1953 c.229 §2; 1971 c.427 §1; 1981 c.153 §66; renumbered 368.041]

368.416 Notice by publication. (1) Where the law requires notice by publication, the person providing notice shall publish the notice in a newspaper of general circulation in the county where the property that is the subject of the proceeding is located.

(2) A person publishing notice under this section must publish the notice once at least 20 days before and once within 10 days of the date of the proceeding that is the subject of the notice. [1981 c.153 §46]

368.420 [Repealed by 1981 c.153 §79]

368.421 Record of notice. A person providing notice under any provision of ORS 368.401 to 368.426 shall complete and sign an affidavit containing a record of the procedure followed to provide notice under those sections. The person shall file the affidavit with the public body with jurisdiction over

the proceeding that is the subject of the notice or in a place designated by that public body. [1981 c.153 §47]

368.425 [Repealed by 1981 c.153 §79]

368.426 Contents of notice. Any notice under ORS 368.401 to 368.426 must include all of the following:

(1) A short plain statement of the subject matter of the proceeding that requires the notice.

(2) A statement of matters asserted or charged or action proposed to be taken at the proceeding.

(3) An explanation of how persons may obtain more detailed information about the proceeding.

(4) A statement of any right to hearing afforded any parties under law.

(5) The time and place of any proceeding that will take place.

(6) A reference to particular sections of statute, charter, ordinance or rule that provide the jurisdiction and process for the proceeding that is the subject of the notice. [1981 c.153 §48]

368.430 [Repealed by 1981 c.153 §79]

368.435 [Repealed by 1981 c.153 §79]

368.440 [Repealed by 1981 c.153 §79]

368.445 [Repealed by 1981 c.153 §79]

368.450 [Repealed by 1981 c.153 §79]

368.455 [Repealed by 1981 c.153 §79]

368.460 [Repealed by 1981 c.153 §79]

368.465 [Repealed by 1981 c.153 §79]

368.470 [Repealed by 1981 c.153 §79]

368.475 [Repealed by 1981 c.153 §79]

368.480 [Repealed by 1981 c.153 §79]

368.485 [Amended by 1971 c.135 §2; repealed by 1981 c.153 §79]

368.490 [Repealed by 1981 c.153 §79]

368.495 [Repealed by 1981 c.153 §79]

368.500 [Repealed by 1981 c.153 §79]

368.505 [Repealed by 1981 c.153 §79]

368.510 [Repealed by 1981 c.153 §79]

368.515 [Repealed by 1981 c.153 §79]

368.520 [Repealed by 1981 c.153 §79]

368.525 [Repealed by 1981 c.153 §79]

368.530 [Repealed by 1981 c.153 §79]

368.535 [Repealed by 1981 c.153 §79]

368.540 [Amended by 1981 c.153 §67; renumbered 368.126]

368.545 [Repealed by 1961 c.556 §3]

368.546 [1961 c.556 §1; repealed by 1981 c.153 §79]

368.550 [Repealed by 1961 c.556 §3]

368.551 [1961 c.556 §2; 1973 c.244 §1; repealed by 1981 c.153 §79]

368.555 [Amended by 1967 c.256 §1; 1981 c.153 §68; renumbered 368.131]

368.560 [Repealed by 1981 c.153 §79]

368.565 [Amended by 1971 c.287 §2; repealed by 1981 c.153 §79]

368.570 [Repealed by 1981 c.153 §79]

368.575 [Amended by 1977 c.275 §2; repealed by 1981 c.153 §79]

368.580 [Amended by 1963 c.501 §2; repealed by 1981 c.153 §79]

368.582 [1963 c.501 §§3, 4; repealed by 1981 c.153 §79]

368.585 [Repealed by 1981 c.153 §79]

368.590 [Repealed by 1981 c.153 §79]

368.595 [Repealed by 1981 c.153 §79]

368.600 [Amended by 1971 c.741 §35; 1979 c.873 §4; repealed by 1981 c.153 §79]

368.605 [Repealed by 1981 c.153 §79]

368.610 [Repealed by 1981 c.153 §79]

368.615 [Amended by 1957 c.12 §1; repealed by 1981 c.153 §79]

368.620 [Amended by 1957 c.575 §1; repealed by 1981 c.153 §79]

COUNTY ROAD FUNDS

368.705 General road fund; tax levy; use of fund. (1) In addition to a tax authorized by the electors of a county as provided by ORS 280.040 to 280.140 and by subsection (3) of this section, the county governing body of each county may levy an ad valorem tax on all taxable property within the county, which shall be set apart in the county treasury as a general road fund. The tax shall be paid in money. The tax shall be levied and collected in the same manner as other county taxes and subject to the limits set forth in ORS 310.150.

(2) The general road fund mentioned in subsection (1) of this section shall be used:

(a) In establishing, laying out, opening, surveying, altering, improving, constructing, maintaining and repairing county roads and bridges on county roads; or

(b) In like manner alone or in cooperation with the state on roads within the county known as state roads, or such roads or any portion thereof built in cooperation with the United States in accordance with the Act of July 11, 1916, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads and for other purposes," or any other Act of Congress, rule or regulation of any department of the United States.

(3) Taxes levied pursuant to ORS 369.020 may be levied under the authority of this section if the county governing body transmits to the county assessor and county clerk with its notice of levy a certificate of the levy made pursuant to ORS 369.020 for the previous tax year together with its request to continue the former levy for market road purposes as a levy for county road purposes.

(4) No county funds derived from any ad valorem tax levy other than those mentioned

in subsections (1) and (3) of this section shall be used or expended by the county governing body upon any roads or bridges except taxes levied serially under ORS 280.040 to 280.140. [Amended by 1963 c.9 §18; 1967 c.203 §1; 1973 c.240 §3; 1983 c.582 §1; 1987 c.667 §5; 1991 c.459 §388]

368.707 Apportionment of serial levies to cities. Taxes levied serially as provided by ORS 280.040 to 280.140 shall be apportioned and transferred to cities as provided by ORS 368.710. [1967 c.203 §3]

368.710 Apportionment of general road fund; road taxes to be apportionable. (1) The tax imposed under ORS 368.705 shall be apportioned as follows:

(a) Not less than 50 percent of the tax shall be apportioned to the several road districts, including districts composed of incorporated cities and towns, in such proportion as the amount of taxable property in each district bears to the whole amount of taxable property in the county. The amount apportioned to any incorporated city or town shall be transferred to it to be expended under the management of its officials for the improvement and repair of county roads and for the improvement, repair and maintenance of improved streets within the boundaries of the city or town.

(b) The entire remaining revenue shall be applied to roads in such locality in the county as the county governing body directs.

(2) No road tax shall be included in any general fund levy or in any other fund in such a manner that it cannot be readily ascertained for apportionment as provided in this section. [Amended by 1991 c.459 §388a]

368.715 Using county funds for non-county roads during emergency. Notwithstanding the limitations in ORS 368.031 or any other statute that limits the expenditure of county funds for roads, the county governing body may expend available funds on other public roads during an emergency when, as a result of a disaster such as flood or other destructive force, a county road is closed because of destruction or disrepair of the county road caused by the disaster or, if no public road is available, on private property temporarily open to public use. [1965 c.270 §2; 1981 c.153 §69]

368.720 Using road funds outside of county. (1) The county governing body of any county may expend any portion of the funds apportioned to it from its share of funds derived under the Oregon motor vehicle law, or any other county money provided by law to be used in road construction, for the construction, maintenance and repair of streets, roads and highways in the state outside of the county.

(2) All such work of construction, maintenance or repair shall be done under an intergovernmental agreement that sets forth the terms under which the funds may be used and the party to the agreement that is responsible for the direction, supervision and maintenance of the work. [Amended by 1991 c.260 §1]

368.722 Expenditure of general road fund on city streets and bridges. Counties may expend funds received by the general road fund pursuant to ORS 294.060 on city streets and bridges under such terms and conditions as the county may determine pursuant to the provisions of ORS 373.260. [1975 c.292 §2]

368.725 [Repealed by 1981 c.153 §79]

368.730 [Repealed by 1953 c.158 §4]

368.735 [Repealed by 1953 c.158 §4]

368.740 [Repealed by 1953 c.158 §4]

368.805 [Repealed by 1981 c.153 §79]

368.810 [Repealed by 1981 c.153 §79]

368.815 [Repealed by 1981 c.153 §79]

368.820 [Repealed by 1967 c.454 §119]

MISCELLANEOUS PROVISIONS

368.905 [Repealed by 1981 c.153 §79]

368.910 Owner to repair sidewalks and curbs along road; county may repair if owner fails. (1) Whenever in an unincorporated area, sidewalks or curbs are constructed along county roads or are existing along roads taken over by the county, the owner of the abutting real property shall maintain and repair the sidewalks or curbs. If any such sidewalk or curb is out of repair, the county governing body shall send a notice by mail to the owner of the abutting property to repair the sidewalk or curb, setting forth the nature and extent of repairs and the time, not less than 30 days, within which they must be made.

(2) If the owner does not make the repairs within the time allowed, the county governing body may order the repairs to be made. The county governing body shall file the order for the repairs with the county clerk, the order describing the abutting property. The recorded order is notice that the described property is subject to a lien for the cost of the repairs, in an amount to be determined later by an order of the county governing body. The county clerk shall indorse upon the order the date of the filing and record and index the order in special books to be kept by the county clerk for such purpose.

368.915 Payment and reimbursement when county makes repairs. (1) After the repairs mentioned in ORS 368.910 have been completed the county governing body shall compute the cost to which may be added up

to 10 percent of the cost for administration. Payment for the repairs shall be made from the general fund of the county.

(2) The fund drawn upon for the repairs shall be reimbursed by an assessment of the total cost against the abutting property. After the owner has been given notice and an opportunity to be heard, the county governing body shall by order determine the cost to be assessed against the abutting property. Notice of the determination of the assessment shall be mailed to the owner within 10 days after the cost is determined. The county governing body shall certify the order to the county assessor and shall record the order with the county clerk. The clerk shall indorse on the order the date of filing and record and index it in the special books kept by the clerk for such purpose.

368.920 Expense of repairs as lien on abutting property. The assessment mentioned in ORS 368.915 and interest are a lien upon the abutting property from the date of the filing with the county clerk of the order of the county governing body for the repairs under ORS 368.910. No transfer, sale or division of the abutting land, or change in its legal description, divests the lien from the whole of the original abutting land. Failure to enter the name of the owner or mistake in the name of the owner in the order for repairs in no way renders void any assessment and in no way affects the lien on the property described. The lien has priority over all other liens and encumbrances, except tax liens. Upon payment in full of the assessment and interest, the county sheriff shall enter satisfaction by a notation in the record kept by the county clerk, and the property is thereby discharged from the lien.

368.925 Delinquency in paying assessment for repairs; execution sale. (1) Thirty days after the notice of the determination of the assessment mentioned in ORS 368.915 is mailed to the owner, the entire amount is due and payable at the office of the county sheriff, and if not so paid shall be delinquent from that date and shall bear interest at the rate of eight percent per year until paid.

(2) One year from the date an assessment is delinquent, the county sheriff shall transmit to the county clerk a written description of the property, the name of the person to whom assessed, the amount of the assessment and the interest due. The county clerk shall issue a writ of execution thereon, directed to the sheriff of the county. The sheriff shall proceed to collect the unpaid assessment by advertising and selling the property in the manner provided by law for the sale of real property on execution, but no property shall be sold for a sum less than the amount of the unpaid assessment plus interest and the cost of advertising and sale.

368.930 [Amended by 1973 c.518 §4; repealed by 1981 c.153 §79]

368.935 [Repealed by 1965 c.500 §2]

368.940 [1965 c.500 §1; repealed by 1969 c.429 §6]

368.942 Posting notices, signs or pictures on structures within county road right of way prohibited. Except as provided in ORS 368.950, no person may paste, paint, brand or in any manner whatever place or attach to any building, fence, gate, bridge, tree, rock, board, structure or anything whatever within the limits of the right of way of any county road any written, printed or painted advertisement, bill, notice, sign, picture, card or poster, except within the limits of any incorporated city through which the county road runs. [1973 c.462 §2]

368.945 Authority of county road official to remove unlawfully posted matter. A county road official may lawfully remove or destroy, without resort to legal proceedings, any advertisement, bill, notice, sign, picture, card or poster placed in violation of ORS 368.942. [1973 c.462 §3]

368.950 Applicability of ORS 368.942 and 368.945. ORS 368.942 and 368.945 do not apply to:

(1) The posting or maintaining of any notice required by law to be posted or maintained; or

(2) The placing and maintaining, within the limits of the right of way of any county road, of:

(a) Signs approved by the county governing body and giving information about scenic, historical, resort or recreational areas;

(b) Signs approved by the county governing body and giving information about community or civic enterprises of a noncommercial nature, or the proximity of tourist facilities, directions or distances for the information of the traveling public;

(c) Facility location signs of a public utility or telecommunications utility, when such signs are approved by the county governing body;

(d) Benches utilized as outdoor advertising signs, if approved by the county governing body; or

(e) Outdoor advertising signs on bus shelters erected or maintained for use by and convenience of customers of a mass transit district, a transportation district or any other public transportation agency, when such signs are approved by the county governing body. [1973 c.462 §4; 1987 c.403 §1; 1987 c.447 §143]

368.955 Posting notices, signs or pictures within view of county road on property of another without consent prohibited. No person may paste, paint, brand or in any manner whatever place or attach to any building, fence, gate, bridge, tree, rock, board, structure or anything whatever on the property of another within view of a county road, without the written consent of the owner or person entitled to possession of such property, any written, printed or painted advertisement, bill, notice, sign, picture, card or poster. [1973 c.462 §5]

368.960 Authority of property owner to remove unlawfully posted matter. The owner or person entitled to possession of any property described in ORS 368.955 may lawfully remove or destroy, without resort to legal proceedings, any advertisement, bill, notice, sign, picture, card or poster placed upon such property in violation of ORS 368.955. [1973 c.462 §6]

PENALTIES

368.990 Penalties. (1) Violation of ORS 368.251 or 368.256 is punishable, upon conviction, by a fine not exceeding $100 or by imprisonment in the county jail not exceeding 60 days, or both. Justices' courts shall have concurrent jurisdiction with the circuit courts of such offenses.

(2) Violation of ORS 368.942 is punishable, upon conviction, for each violation by a fine of not more than $100 or imprisonment in the county jail for not more than 30 days or both. [Subsection (4) enacted as 1973 c.462 §7; 1981 c.153 §70]