

## **TYPES OF COUNTY GOVERNMENT STRUCTURES**

The basic provisions for the government of Oregon counties are contained in the Oregon Constitution and the Oregon Revised Statutes. A county is the largest political subdivision of the state having corporate powers. It is vested by the Legislature with the powers necessary to provide for the health and welfare of the people within its borders. The specific organizational structure of a county in Oregon will vary from county to county.

### **County as Distinguished from a City**

There is a fundamental distinction between a county and a city. Counties lack broad powers of self-government that Oregon cities have (e.g., cities have broad revenue generating authority and counties do not). In addition, legislative control over counties is more complete than it is over cities. Unless restricted by a specific provision of the state constitution, the Legislature may delegate to the counties any of the functions that belong to the state itself. Conversely, the state may take back to itself and resume the functions that it has delegated to counties (e.g., state funding of trial courts).

### **Types of Counties**

The Oregon Constitution recognizes two types of counties: general law counties and charter counties. General law counties adhere to state law as to the number and duties of county elected officials (three commissioners, unless another number is established by ordinance, sheriff, clerk, assessor, treasurer and surveyor). Charter counties, on the other hand, have a limited degree of “home rule” authority that may provide for the election, compensation, terms, removal, and salary of the governing board; for the election or appointment, compensation, terms, and removal of all county officers; for the powers and duties of all officers; and for consolidation and segregation of county offices. A charter does not give county officials extra authority over local regulations, revenue-raising abilities, budgetary decisions, or intergovernmental relations.

A county may adopt, amend, or repeal a charter with majority vote approval. The Board of Commissioners, a charter commission, or an initiative petition may propose a new charter or the amendment or repeal of an existing charter. The provisions of a charter are the law of the county and have the force and effect of legislative enactments. There are currently 27 general law counties and 9 charter counties in Oregon.

### **County Powers**

The Oregon Constitution authorizes a county to make and enforce local ordinances that do not conflict with general laws. A county also has the power to sue and be sued, purchase and hold land, manage or dispose of its properties, and levy and collect taxes authorized by law. Many additional powers only have been granted to counties by the Legislature.

The powers of a county can only be exercised by the Board of Commissioners or through officers acting under the authority of the Board or authority conferred by law. In addition, the Board must follow the procedural requirements in the statutes or its actions will not be valid. For example, if the Legislature has provided a method by which a county may abandon a road, that

method must be followed. Also, where state law requires land use zoning by an ordinance, this statutorily prescribed method is binding on the county. On the other hand, where the law does not specifically prescribe a method for accomplishing a task, the county may adopt any reasonably suitable means.

The legislative grant of power has, however, been significantly broadened, with the most dramatic change occurring in 1973 with the adoption of ORS 203.035. That statute grants significant corporate authority to general law counties providing in part...”the governing body or the electors of a county may by ordinance exercise authority within the county over matters of county concern, to the fullest extent allowed by constitutions, and laws of the United States and this state, as fully as if each particular power comprised in that general authority were specifically listed in ORS 203.030 to 203.075.”

### **The Board of Commissioners**

Unlike the separation of powers that characterizes the federal and state governments, The Board of Commissioners is both the legislative and the executive authority of the county. It also has quasi-judicial responsibilities.

### **Board Structure**

Oregon Revised Statute ORS 203.030, 203.111 and 203.240, require each county to have a Board of Commissioners consisting of three members or county court consisting of a county judge and two commissioners. The section applies to general law counties and to charter counties, except where a county’s charter provides otherwise.

### **Board of Commissioners Powers**

The Board of Commissioners exercises its power and authority by undertaking the following roles: executive, legislative, and quasi-judicial.

### **Executive Role**

The Board performs its executive role when it sets priorities for the county. The Board oversees most county departments and programs and annually approves their budgets; supervises the conduct of county officers and employees; controls all county property; and appropriates and spends money on programs that meet county residents’ needs. The Board of Commissioners also has the power to direct and control the conduct of litigation in which the county or any public entity, which the Board governs, is a party, and by a two-thirds vote, it may employ outside attorneys to assist the county counsel in conducting such litigation.

### **Legislative Role**

As the legislative body of the county, The Board of Commissioners may act by resolution, by board order, or by ordinance. A resolution is not ordinarily equivalent to an ordinance and is usually a declaration about future purposes or proceedings of the Board or a policy statement by

the Board. A Board order is usually a directive from the Board of Commissioners to its subordinate county officers. An ordinance is a local law adopted with all the legal formality of a statute.

County Revenue Authority – The Board of Commissioners can raise local revenue by imposing or increasing a tax, an assessment, or a fee. Each of these local revenue sources has its own constitutional and statutory authority and unique laws governing its use. A county can impose only those taxes, assessments, and fees which the Legislature or the Constitution allow the county to impose.

### **Quasi-Judicial Role**

In its quasi-judicial role, the Board of Commissioners may settle claims made against the county and may examine and audit the accounts of all county officers as they relate to the management and disbursement of funds. The Board also sits as a quasi-judicial body in the case of appeals of land use decisions.

### **Other Duties – Intergovernmental Relations**

A commissioner may serve in other capacities on various boards, commissions, or special districts. The roles and functions of various entities primarily relate to planning for future development and the associated service needs and impacts