

# **Wildlife Habitat Conservation and Management Program**

**Manual for Counties and Cities**



**Oregon Department of Fish and Wildlife**

**March 2006**



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## **1. Introduction**

### **Purpose of the habitat program: Provide an incentive for habitat conservation**

The Wildlife Habitat Conservation and Management Program (habitat program), administered by the Oregon Department of Fish and Wildlife (ODFW), is a cooperative effort involving state and local governments and other partners to help private landowners voluntarily conserve native wildlife habitat. The Oregon Legislature created the habitat program to offer an incentive for private landowners who want to provide wildlife habitat on their properties instead of, or in addition to, farming, growing timber or other land uses. Under the habitat program, land subject to an approved wildlife habitat conservation and management plan receives a wildlife habitat special assessment, where property taxes are assessed at the relatively low value that would apply if the land were being farmed or used for commercial forestry.

The process for a county or city to follow to participate in the habitat program, or to add eligible lands, is described in Section 2. The process for a landowner to follow to participate in the program is described in Section 3. Subsequent sections include resources and reference materials.

### **Objective of the habitat program: Preserve, enhance or improve significant native habitat**

The objective of the Wildlife Habitat Conservation and Management Program is to preserve, enhance or improve the composition, structure or function of habitat for native wildlife species. Prior to 2003 the habitat program was available only to rural landowners with properties zoned for exclusive farm use or mixed farm and forest use. House Bill 3616 in 2003 added land that is clearly identifiable as containing significant wildlife habitat. Now, counties and cities can select lands for eligibility based on zoning and/or significant native wildlife habitat.

Significant native habitats are defined as those that:

- Are scarce, becoming scarce or of special ecological significance;
- Are important habitats for ecological restoration to prevent additional loss of native habitats or species;
- Are important to achieve objectives for native habitats or species in public or private land management plans covering multiple land ownerships;
- Provide habitat for federal or state threatened, endangered or sensitive species; and/or
- Are identified as significant wildlife habitat in city or county comprehensive plans or by Metro to address statewide land use planning Goal 5 (see [www.oregon.gov/LCD/docs/goals/goal5.pdf](http://www.oregon.gov/LCD/docs/goals/goal5.pdf) for more information).

[ORS 308A.415; OAR 635-430-0020]

## **History of the habitat program before 2003**

The habitat program began as a pilot in 1993 in Marion and Polk counties. It was expanded in 1997 as a voluntary program available to all Oregon counties. Only properties zoned for exclusive farm use and mixed farm and forest use were eligible.

House Bill 3564 in 2001 expanded the habitat program to include lands with a forest special assessment for property tax purposes. HB 3564 also made the habitat program mandatory, but gave counties the choice to opt out by the end of 2002. A county's decision to opt out or remain in the habitat program could not subsequently be changed, offering little flexibility for counties. Because of this inflexibility and various administrative issues, 22 counties opted out of the program by the end of 2002, leaving 14 counties participating.

In 2002 a Conservation Incentives Work Group was convened to discuss the status of incentive programs in Oregon and to develop recommendations for the 2003 Legislature. The work group had diverse representation from state, federal and local governments, industrial and small woodland forestry, agriculture and conservation groups. One of the topics the work group discussed was the habitat program. House Bill 3616 in 2003 incorporated recommendations from the work group to improve the habitat program and other conservation incentives.

## **Improvements to the habitat program after 2003**

House Bill 3616 in 2003 added significant new provisions to address local governments' concerns about participation in the habitat program. Changes in 2003:

- Allowed cities to participate in the program and select incorporated areas to be eligible for wildlife habitat special assessment;
- Provided a mechanism for counties and cities to add or remove lands eligible for the program to address concerns about fiscal impacts;
- Clarified that establishing a home on a property in the program must meet all local and state requirements, the same as for property not in the program; and
- Created a wildlife habitat special assessment that operates in parallel to other special assessments to improve program administration by state agencies and county assessors.

HB 3616 also improved the habitat program in two other ways. It expanded eligible lands to include:

- Land zoned for forestry; and
- Land with significant habitat.

After HB 3616 passed in 2003, the Oregon Legislature moved the statutes governing the habitat program from Chapter 215 of the Oregon Revised Statutes to Chapter 308A, where the other special assessment statutes reside. In November 2004 the Oregon Fish and Wildlife Commission adopted administrative rules for the habitat program (Oregon Administrative Rules Chapter 635, Division 430), which address changes made in the 2001 and 2003 legislative sessions and resolve inconsistencies between the statutes and the rules. The statutes and rules are included in this manual for counties and cities.

## **Calculating a property's assessed value**

The habitat program provides two options for calculating a property's value: (1) for farm use, under ORS 308A.050 to 308A.128; or (2) as forestland, under ORS 321.354 or 321.812. Property that was specially assessed during the previous assessment year will continue to be valued as farm or forestland, whichever is applicable. Property that was not specially assessed during the previous assessment year is valued for the wildlife habitat special assessment as forestland if it meets relevant stocking and species standards or for farm use if it does not meet the forestland standards.

[ORS 308A.427]

## **Dwellings and homesites**

Participation in the habitat program has no effect on the assessment of homesites (the land located underneath a dwelling). New dwellings must comply with all applicable state and local requirements, and the house location and landscaping must avoid impacts on native wildlife and habitat.

[OAR 635-430-0060(6); 635-430-0100(2)]

## **Moving from one special assessment category to another**

Statutory provisions (ORS 308A.706) allow a landowner to move between certain special assessment categories without incurring a bill for back taxes (also known as a “potential additional tax”). Related provisions (ORS 308A.703) specify the amount of back taxes a landowner must pay when the land no longer qualifies for any of the special assessment categories specified in ORS 308A.706, with a maximum of five or 10 years’ potential additional taxes. The Oregon Legislature amended these statutes, subsequent to House Bill 3616 in 2003, so that they now also apply to wildlife habitat special assessment.

Open space special assessment is not included in ORS 308A.703 and 308A.706. When a property receives an open space special assessment, the owner receives a tax savings based on the difference between the property being assessed at its full market value and its value as open space. If a property eventually is taken out of open space assessment, the owner must pay back, with interest, the tax savings for each year the property was in open space assessment. To avoid a situation in which land is moved from open space special assessment and to wildlife habitat special assessment to reduce or eliminate the open space potential additional tax liability, specific statutory provisions retain the full potential tax liability (without interest) during the time the property is in the habitat program. If the property is later taken out of the habitat program, the potential open space tax liability is the same as when the property entered the habitat program.

[ORS 308A.318]

## **Revenue impacts**

In rural areas, where most properties have a farm or forest special assessment, the habitat program generally has no revenue impact for these specially assessed properties to change to a wildlife habitat special assessment. In more urban areas, where some properties are assessed at full market value, property tax revenues would decrease when a landowner changes to wildlife habitat special assessment for their property. The habitat program is a flexible tool that allows counties and cities to select which lands will be eligible for wildlife habitat special assessment. Counties and cities can limit eligibility to lands zoned for farming or forestry. In addition or alternatively, counties and cities can select significant habitat areas they consider worth investing in. A public investment in reduced property taxes is used to secure the public benefits of the ecosystem services that accompany habitat protection and restoration.



## **2. County and city participation**

### **Counties: Opt-out opportunity in 2002**

House Bill 3564, which passed in 2001, gave counties the choice to opt out of the habitat program by the end of 2002. A county's decision to opt out or remain in the habitat program could not subsequently be changed, which offered little flexibility for counties. Because of this inflexibility and various administrative issues, 22 counties opted out of the program by the end of 2002, leaving 14 counties participating. Both of these concerns – inflexibility for counties and administrative issues – subsequently were addressed by House Bill 3616 in 2003, which provided a method for counties to enter or leave the program.

### **Counties: Current status of participation**

Fourteen counties participate in the program – Benton, Clackamas, Columbia, Deschutes, Douglas, Hood River, Lake, Lane, Marion, Morrow, Multnomah, Polk, Sherman and Wheeler (see map). These 14 counties, which did not opt out in 2002, are deemed to be in the program, with land designated as eligible for wildlife habitat special assessment including areas zoned for exclusive farm use, mixed farm or forest use, or forest use. Washington County is considering opting back in, but has not completed the process as of the date this manual was produced.

[OAR 635-430-0025(5)]

Nine of the 14 participating counties have landowners enrolled in the habitat program, with a total of 226 landowners and almost 34,000 acres (see Table 1). Approximately 40 landowners have 17,000 acres in wildlife habitat special assessment in five other counties, from before these counties opted out of the program in 2002 (see Table 2).

### **Cities: Current status of participation**

Cities also are allowed to participate in the habitat program, as provided by House Bill 3616 in 2003. However, as of the date this manual was produced, no cities have opted in.

[308A.415(2); OAR 635-430-0025(2)]

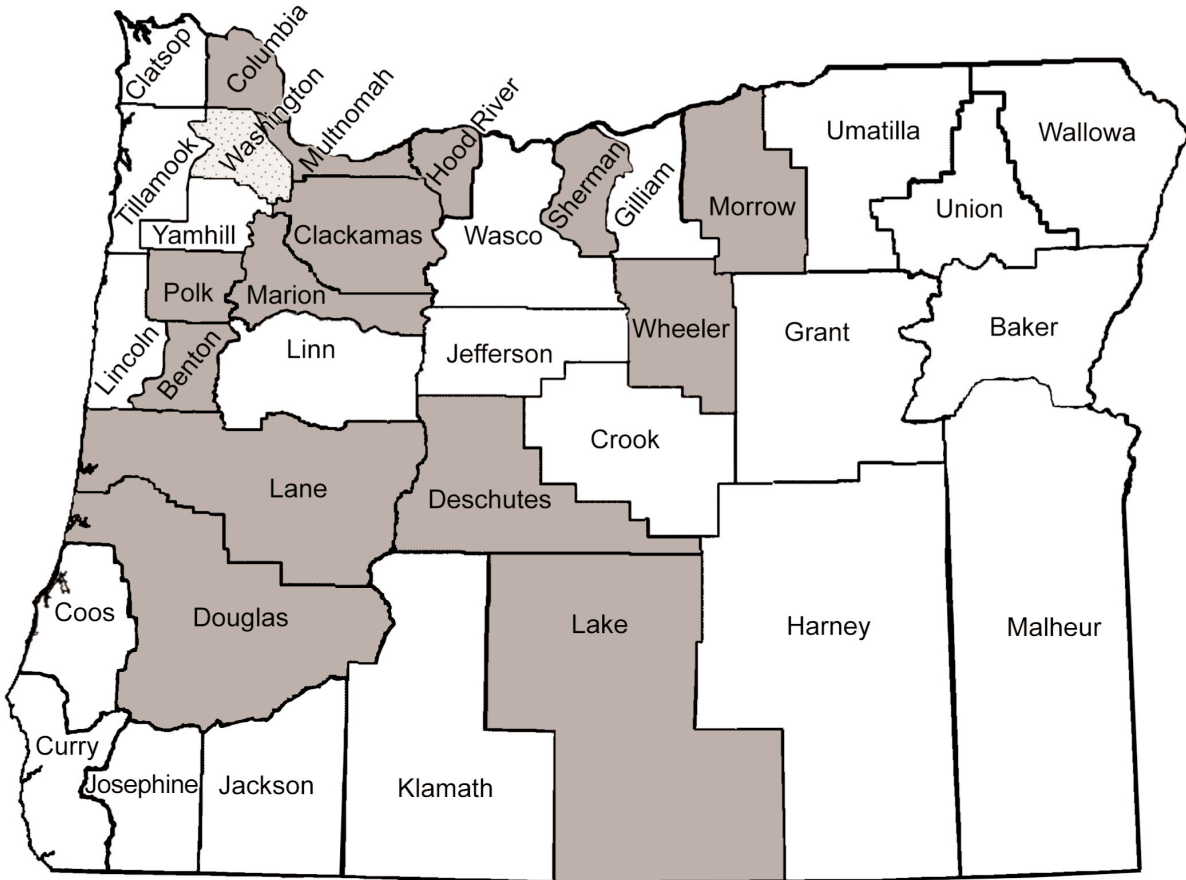
**Table 1: Number of landowners and acres in participating counties**

<b>Participating County</b>	<b>Number of Approved Plans</b>	<b>Number of Acres</b>
Benton	7	51
Clackamas	7	56
Columbia	0	0
Deschutes	104	4,264
Douglas	9	1,112
Hood River	0	0
Lake	0	0
Lane	23	1656
Marion	16	448
Morrow	0	0
Multnomah	8	192
Polk	48	1,632
Sherman	0	0
Wheeler	4	25,016
<b>TOTAL</b>	<b>226</b>	<b>33,863</b>

**Table 2: Number of landowners and acres in non-participating counties**

<b>Non-participating County</b>	<b>Number of Approved Plans</b>	<b>Number of Acres</b>
Curry	2	234
Lincoln	6	436
Linn	4	115
Union	1	555
Yamhill	26	348
<b>TOTAL</b>	<b>39</b>	<b>1,688</b>

# Wildlife Habitat Conservation and Management Program County Participation as of March 1, 2006



- Participating counties:**  
Benton, Clackamas, Columbia, Deschutes, Douglas, Hood River, Lake, Lane, Marion, Morrow, Multnomah, Polk, Sherman, Wheeler
- Considering participation:**  
Washington
- Non-participating counties:**  
Baker, Clatsop, Coos, Crook, Curry, Gilliam, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lincoln, Linn, Malheur, Tillamook, Umatilla, Union, Wallowa, Wasco, Washington, Yamhill

### **Counties and cities: Process to opt in or add eligible lands**

The process is the same for a non-participating county or city to opt in, or for a participating county or city to add eligible land. The governing body of the county or city must decide to participate, select lands they would like to be eligible for the habitat program and submit the request to the Oregon Fish and Wildlife Commission (Commission). Counties may select lands within unincorporated areas, while cities may select lands within incorporated areas. A county, with the prior consent of a city, may select lands within the county and the city for eligibility in the habitat program. Counties and cities may select:

- (1) Land that is zoned for exclusive farm use, mixed farm and forest use, or forest use; and/or
- (2) Land that is clearly identifiable as containing significant wildlife habitat.

[308A.415(1)-(3); OAR 635-430-0025(1)-(3)]

The county or city must submit a request to the Commission indicating the lands being requested for habitat program eligibility. The Commission may designate land as eligible for participation if it finds the designation promotes the objectives of the program. Land does not qualify for wildlife habitat special assessment unless a county or city requests, and the Commission approves, the designation of lands.

[308A.415(4),(5); OAR 635-430-0025(4)]

Interested counties or cities should contact the Oregon Department of Fish and Wildlife, which can provide information and assistance about the habitat program. The timeline for a county or city to begin participating or to add eligible lands is shown in Table 3.

### **Counties and cities: Process for removing eligible lands**

A county or city that requests the Commission to designate land as eligible for the habitat program subsequently may request the Commission to remove the designation for part or all of the lands. In order for the Commission to remove the designation, the county or city must demonstrate, and the Commission must agree, that the designation creates a significant economic burden for the county or city. Additional properties cannot enroll in the habitat program in formerly designated areas, but properties already participating in the program may continue to receive wildlife habitat special assessment.

[ORS 308A.418; OAR 635-430-0025(6)-(8)]

**Table 3: Timeline for a county or city to initiate participation (or add eligible areas)**

<b>Date / Deadline</b>	<b>Action</b>	<b>ORS / OAR Reference</b>
January - April (or earlier) Year 1 only	<ul style="list-style-type: none"> <li>County commission or city council and staff discuss habitat program with ODFW and make decision to participate (or change eligible lands).</li> <li>County commission or city council selects lands that would be eligible.</li> <li>County commission or city council sends request to designate land to Oregon Fish and Wildlife Commission (Commission).</li> </ul>	<ul style="list-style-type: none"> <li>Based on working backward from July 1 deadline in ORS 308A.421 and OAR 635-430-0025(9).</li> </ul>
Late April (or earlier) Year 1 only	<ul style="list-style-type: none"> <li>ODFW staff submits materials for Commission meeting in June. (June is last chance for Commission to approve designation of lands for property tax year that starts July 1.)</li> </ul>	<ul style="list-style-type: none"> <li>Based on working backward from July 1 deadline in ORS 308A.421 and OAR 635-430-0025(9).</li> </ul>
June (or earlier) Year 1 only	<ul style="list-style-type: none"> <li>Commission meets. Landowners become eligible to participate as of July 1 (for July Year 1 - June Year 2 tax year).</li> </ul>	<ul style="list-style-type: none"> <li>ORS 308A.421 and OAR 635-430-0025(9)</li> </ul>
July 1 - Dec. 31 Year 1 +	<ul style="list-style-type: none"> <li>Landowners work with ODFW staff and other partners to develop habitat plans. Habitat plans for newly designated lands can be approved between July 1 and December 31 for the current property tax year.</li> <li>Counties may take up to 30 working days to provide comments to ODFW on a proposed plan.</li> </ul>	<ul style="list-style-type: none"> <li>ORS 308A.421 and OAR 635-430-0025(9)</li> <li>OAR 635-430-0050(3)</li> </ul>
January 1 Year 2 +	<ul style="list-style-type: none"> <li>Any landowner who wants special assessment for current property tax year must have an approved plan.</li> </ul>	<ul style="list-style-type: none"> <li>ORS 308A.424(5)</li> </ul>
April 1 Year 2 +	<ul style="list-style-type: none"> <li>Landowner with approved habitat plan applies to county for current tax year special assessment.</li> </ul>	<ul style="list-style-type: none"> <li>ORS 308A.424(3)</li> </ul>
Year 3+	<ul style="list-style-type: none"> <li>In subsequent years, the January 1 and April 1 deadlines still apply for landowners who wish to participate</li> <li>In subsequent years, the 30-day period for counties to review submitted plans still applies.</li> </ul>	<ul style="list-style-type: none"> <li>See above</li> </ul>

## **Resources counties and cities can provide to assist landowners**

When developing a wildlife habitat conservation and management plan, a landowner must include a map and aerial photo of the property. A county or city may be able to assist the landowner by providing one or more of these:

- Aerial photos;
- Map with topography;
- Map with property boundary (plat map);
- Map with soils;
- Map with buildings and roads;
- Map with aquatic habitats (rivers, streams, lakes, ponds, wetlands);
- Map with upland habitats (oak woodlands, prairies, savannas, grasslands);
- Map with endangered, threatened or sensitive species; and/or
- Map with Goal 5 habitat resources.

### **3. Landowner process to participate in habitat program**

#### **Obtain certification of eligibility from county or city**

To participate in the habitat program, an interested landowner first needs to contact the county or city planning department to ensure the property is eligible for the program. To be eligible, (1) the county or city must be participating in the habitat program, and (2) the property must be in an area selected by the county or city and designated by the Commission for the program. A local county or city official must complete the ODFW Certification Form (see next page) to confirm the property's eligibility.

[OAR 635-430-0040(1) and 635-430-0050(1)]

#### **Develop a habitat plan**

The landowner must develop a habitat plan that specifies the conservation and management practices that will be conducted to protect and restore native habitat and native wildlife species. The habitat plan must be developed in conjunction with a cooperating agency, such as the Oregon Department of Fish and Wildlife or another qualified agency or person (e.g., the U.S. Fish and Wildlife Service, Natural Resources Conservation Service, Oregon State University extension service, soil and water conservation district or qualified contractor). The habitat plan must meet the standards and objectives of the program and can accommodate agricultural or forestry activities that are consistent with the habitat objectives of the program. Habitat plans should be written to emphasize native habitat values on the property and may need to exclude parts of the property where ongoing uses and activities do not support habitat conservation as the primary objective. A habitat plan does not grant public access to a landowner's property.

[ORS 308A.409; OAR 635-430-0060(2)]

#### **Information needed in a habitat plan**

A habitat plan must include:

- A signed certification of eligibility from the county or city;
- Contact information for the landowner and cooperating agency;
- Location, tax lot numbers and acreage;
- Aerial photo and maps (scale 1"=400');
- Written descriptions of physical features, habitats, plants, animals and soils;
- Location of state or federal threatened, endangered or sensitive species;
- Location and nature of farming or forestry activities; and
- Habitat conservation and management objectives, practices and timeline.

[OAR 635-430-0040]



## WILDLIFE HABITAT CONSERVATION AND MANAGEMENT PROGRAM

### City / County Planning Department Eligibility Certification Form

(To be completed by local planning official)

- ☐ This application **is** within an area or zone designated for participation in the Wildlife Habitat Conservation and Management Program.
- ☐ This project **is not** within an area or zone designated for participation in the Wildlife Habitat Conservation and Management Program.

\_\_\_\_\_  
Signature of local planning official

\_\_\_\_\_  
Title

\_\_\_\_\_  
City / County

\_\_\_\_\_  
Date



## **Conservation and management actions in a habitat plan**

Each habitat plan identifies landowner practices that benefit native wildlife species and their habitats. These include, but are not limited to:

- Protecting existing native vegetation;
- Restoring, enhancing or creating wetlands, riparian areas or other native habitats;
- Planting native trees, shrubs, grasses and other native vegetation;
- Removing or controlling invasive, non-native plant or animal species;
- Leasing or selling instream water rights;
- Using prescribed burns to maintain fire-dependent native vegetation;
- Improving habitat diversity and structure by adding boulders and logs in streams or snags and downed wood in uplands;
- Installing fencing to exclude livestock and protect habitat and plant communities;
- Removing artificial features such as buildings, pavement, fences and culverts and placing new structures to minimize impacts on native habitat areas; and
- Using farm or forest management practices that protect, restore or enhance habitat.

[OAR 635-430-0030]

## **Submission of a habitat plan for review**

Once the habitat plan is complete, the landowner submits it simultaneously to ODFW and to the county or city planning department for review. The county has 30 working days to review the plan and provide comments to ODFW. Within 90 days of receiving a complete plan, ODFW will review the plan to ensure it meets the program standards and to ensure implementation has begun. ODFW will approve, recommend changes or reject the habitat plan, and will notify the landowner of the decision in writing. The landowner can appeal the decision. ODFW also will send a copy of the approved plan to the county or city planning department. ODFW may limit the number of plans reviewed each year due to workload constraints and may postpone consideration of additional plans until the following year.

[ORS 308A.412; OAR 635-430-0050(2)-(8); OAR 635-430-0080(1)-(3)]

## **Application for wildlife habitat special assessment**

The landowner may apply to the county assessor, on a form created by the Oregon Department of Revenue and supplied by the assessor, for wildlife habitat special assessment. Applications must be submitted by April 1 for the tax year for which special assessment is desired, for a habitat plan that was approved prior to January 1. The application must include a copy of the approved habitat plan, a copy of ODFW's notification of the plan's approval and a copy of the certification of eligibility. The application for wildlife habitat special assessment will be considered approved if the assessor does not notify the landowner of a denial before August 15.

[ORS 308A.424; OAR 635-430-0050(9)-(10)]

## **Monitoring by ODFW**

ODFW periodically will monitor approved habitat plans (including an on-site inspection with prior notification), to ensure land is being managed in accordance with the plan. If the plan is not being implemented as approved, ODFW will notify the landowner in writing and indicate what changes need to occur within six months. If the plan still is not being implemented as required by ODFW at the end of the six-month period, ODFW will notify the landowner and the county assessor, and the property will be disqualified from wildlife habitat special assessment.

[ORS 308A.430; OAR 635-430-0800(4); OAR 635-430-0090(1)-(6)]

## **Amending an approved habitat plan**

A landowner may request an amendment to an approved habitat plan by contacting the local ODFW office. Review will follow the same procedures as review of the original habitat plan.

[OAR 635-430-0070)]

## **Change of ownership**

If the land changes ownership, ODFW will provide the new landowner with a copy of the approved habitat plan. If the new landowner does not continue to implement the habitat plan, the property will be disqualified from wildlife habitat special assessment. Back taxes would be determined in the same manner as with other reasons for disqualification from the program.

[OAR 635-430-0090(4)]

## **Disqualification of a property from wildlife habitat special assessment**

The county assessor removes land from wildlife habitat special assessment when the property is disqualified from the habitat program. Disqualification will result when the:

- Habitat plan is not being implemented;
- Landowner requests to withdraw from the habitat program;
- Land is sold or transferred to an owner exempt from property taxes;
- Land qualifies for another special assessment; or
- Land is included in a recorded subdivision plat.

When land is disqualified from wildlife habitat special assessment, the county assessor provides a written explanation to the landowner. Upon disqualification, the landowner faces a potential additional tax liability. If the land does not qualify for another special assessment, the landowner will owe back taxes for up to five or 10 years, depending on zoning, land uses and the number of years the land received wildlife habitat special assessment. If the land was under open space special assessment prior to wildlife habitat special assessment and the land no longer qualifies as open space, back taxes will be owed for all years the land was under open space special assessment.

[ORS 308A.318; 308A.430, 308A.703-743; OAR 635-430-0080(4), OAR 635-430-0900(7)]