

## Chapter 2.16

### INDUSTRIAL DEVELOPMENT BOARD

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#### 2.16.010 Definitions. As used in this chapter:

A. "Administrative Services" means clerical and other internal administrative services necessary to call and hold meetings of the industrial development board and to create and maintain the records of the industrial development board in compliance with public meetings and public records laws.

B. "Development project" means both the process and the result of acquisition, design, improvement, rehabilitation, construction, operation, or maintenance of an industrial facility or a tourist facility or public improvements required for an industrial facility or tourist facility.

C. "Economic Diversification" means both the process and the result of promoting, creating, and augmenting employment opportunities in the county in many and varied private industrial facilities and tourist facilities, so that stagnation or decline in one industry or enterprise will not have an inordinate negative impact on the overall economic well-being of the county.

D. "Entity" means a partnership, joint venture, limited partnership, limited liability company, professional corporation, business corporation, limited liability partnership, nonprofit corporation, public agency, or other legal entity, organization, or juristic person.

E. "Industrial facility" means any land, structure, improvement, fixture, machinery, equipment, or other facility that is used for or is suitable for industrial, commercial, manufacturing, research and development, product distribution, or

warehousing purposes, but excluding port facilities, railroads, or facilities that are subject to regulation by the Public Utility Commissioner of Oregon.

F. "Permanent job" means one full time equivalent position available for at least twelve months.

G. "Person" means a natural person.

H. "Personal Services" means services that require specialized technical, artistic, or professional skills or talent including, without limitation, the services of accountants, advertising consultants, appraisers, arbitrators, architects, artists, attorneys, auctioneers, broadcasters, economists, engineers, landscape architects, land surveyors, photographers, real estate brokers and agents, and soil scientists.

I. "Public Agency" means and includes a city, a county, a special district listed in ORS 198.010 or ORS 198.180, a school district, an educational service district, a community college district, an intergovernmental entity formed under ORS Chapter 190, or other unit of local government as defined in ORS 190.003; an agency of the State of Oregon or another state; the United States or a federal agency or instrumentality; or an American Indian tribe.

J. "Tourist facility" means any land, structure, improvement, fixture, personal property, or other facility that is used to provide goods, services, and activities that attract and receive substantial and sustainable revenues from tourists including, without limitation, property used for convention centers, museums, trade centers, and zoological parks. (Ord.98-4-2, 1999)

2.16.020 Declaration of county concern and purpose. The board of county commissioners finds and declares pursuant to ORS 203.035 that the following purposes of this chapter are matters of county concern and that the county should exercise its authority to fulfill these purposes to the fullest extent allowed by the Constitutions and laws of the United States and of the State of Oregon:

A. Creation and maintenance of long-term economic stability through economic diversification within the county.

B. Development of industrial facilities and tourist facilities that augment economic diversification, growth, and prosperity in the county consistent with the values and the quality of life that characterize communities within the county.

C. Cooperation among the county, public agencies, private entities, and persons to share financial, technical, proprietary, and human resources for development projects and other endeavors that result in economic diversification.

D. Creation of permanent jobs that will provide sufficient income to support families. (Ord.98-4-2, 1999)

2.16.030 Powers. To fulfill the purposes stated in Section 2.16.020 the county, acting by and through the industrial development board in accordance with the provisions of this chapter, is empowered:

A. To acquire ownership or any other beneficial interest in industrial facilities or tourist facilities in Douglas County by purchase, gift, grant, donation, lease, exchange, or other legal means;

B. To lease industrial facilities and tourist facilities to persons and entities on reasonable terms and conditions;

C. To sell and convey industrial or tourist facilities owned by the county, other than facilities acquired by tax foreclosure, by public or private sale, with or without advertisement;

D. To enter into intergovernmental agreements and grant agreements with other public agencies to facilitate development projects including an intergovernmental agreement that requires the county to reimburse a public agency for expenditures made by the public agency or to pay financial obligations that are incurred by a public agency for a development project; (Ord. 99-8-4, 1999)

E. To offer incentives for private investment in industrial facilities and tourist facilities that are leased or sold by the county pursuant to this chapter;

F. To enter into agreements to finance the costs of development projects that will create permanent jobs by loaning revenues from sources other than taxes to any persons or entities under such terms and with such security as required by this chapter;

G. To develop and adopt written goals and strategies for achieving the purposes of this chapter and for exercising the powers granted to the industrial development board by this chapter.

H. To enter into contracts for personal services that are needed to implement the goals, strategies, decisions, transactions, and other actions of the industrial development board;

I. To enter into contracts for administrative services; and

J. To borrow money to finance the costs of a development project. (Ord. 98-4-2, 1999; Ord. 99-8-4, 1999)

#### 2.16.040 Industrial development board-- Creation and appointment of members.

A. The board of county commissioners hereby creates the industrial development board. Subject to the limitations of section 2.16.130 of this chapter, the board of county commissioners delegates exclusive authority to the industrial development board to:

1. Execute those powers enumerated in section 2.16.030 and take other actions authorized by this chapter,

2. Execute those powers granted to the board of county commissioners by ORS 271.510 to 271.540 and ORS 275.318.

B. The industrial development board will consist of nine voting members and not more than sixteen non-voting members who will be appointed by the board of county commissioners. All members of the industrial development board must be residents of the county and appointments must be representative of various communities and geographic areas of the county. Non-voting members may be appointed ex-officio. Twelve non-voting members will represent the cities in the county; one non-voting member will be nominated by each city. One non-voting member will be nominated by Umpqua Community College. (Ord. 2004-01-02, 2004) (Ord. 2009-03-01, 2009)

C. Each voting member will be appointed or re-appointed for a term of three years. Non-voting members will be appointed for indefinite terms, and in the case of an ex-officio non-voting member for the duration of his or her official appointment or term of office. (Ord. 2004-01-02, 2004)

D. All members of the industrial development board will serve at the pleasure of the board of county commissioners and may be removed by the board of county commissioners with or without cause.

E. If a voting member of the industrial development board resigns or is removed by the board of county commissioners, a replacement will be appointed to fill the vacancy through the end of the unexpired term. (Ord. 98-4-2, 1999)

2.16.050 Industrial development board-- Officers.

A. The members of the industrial development board shall elect a president and a vice-president.

B. The industrial development board may delegate authority to the president or vice-president or both to execute specific decisions or transactions that are made or approved by the industrial development board. (Ord. 98-4-2, 1999)

2.16.060 Industrial development board-- Meetings.

A. The industrial development board shall meet at the call of the president, five voting members, or the board of county commissioners.

B. Four voting members of the industrial development board will constitute a quorum for the transaction of all business at meetings. The president, if present, shall preside over meetings of the industrial development board and shall conduct meetings in accordance with procedures adopted by the industrial development board. In the absence of the president, the vice-president shall perform the duties of the president. (Ord. 98-4-2, 1999; Ord. 2004-01-02, 2004)

2.16.070 Industrial development board--Contracts for personal services and administrative services.

A. Contracts for personal services and administrative services under Subsections G and H of Section 2.16.030 must conform to Douglas County's Local Contract Review Board Rules and rules adopted by the board of county commissioners for selection of contractors to perform personal services.

B. The industrial development board cannot hire employees. All services must be performed by persons or entities who qualify as independent contractors under ORS 670.600 or by employees of independent contractors. (Ord. 98-4-2, 1999)

2.16.080 Industrial development board -- Committees. The industrial development board may appoint committees to assist and advise the industrial development board in performance of its duties under this chapter. Committees may be composed of members of the industrial development and other qualified persons. Committees cannot exercise any of the powers delegated to the industrial development board by this chapter. (Ord. 98-4-2, 1999)

2.16.090 Industrial development board --Compensation. Members of the industrial development board will not be paid for their services, but they will be reimbursed for expenses incurred for travel, meals, and lodging in the performance of their duties on the same basis as county employees. (Ord. 98-4-2, 1999)

2.16.100 Management of industrial facilities. The county will not operate an industrial facility as a business enterprise in any manner, except for undeveloped land and public improvements, industrial facilities that have been purchased or developed by the county for sale to another person or entity, and industrial facilities that the county operates or maintains as a lessor or as a trustee, receiver, or other interim manager to preserve the county's investment in the industrial facility. (Ord. 98-4-2, 1999; Ord. 99-8-4, 1999)

2.16.110 Constitutional disclaimer.

A. Nothing in this chapter is intended to permit or empower the county to become a stockholder in any joint company, corporation or association, whatever, or raise money for, or loan its credit to or in aid of, any such company, corporation or association in violation of Article XI, Section 9 of the Oregon Constitution. (Ord. 98-4-2, 1999)

B. Nothing in this chapter is intended to permit or empower the county to incur debt in violation of Article XI, Section 10 of the Oregon Constitution. (Ord. 99-8-4, 1999)

2.16.120 Participation in development projects and loans.

A. Subject to the limitations stated in this chapter the industrial development board may participate in a development project by exercising any of the powers granted by Subsections A through F of Section 2.16.030, if, after reasonable investigation, it finds that:

1. There is a need for the proposed development project;
2. Participating in the proposed development project is consistent with the goals and strategies adopted pursuant to Subsection I of Section 2.16.030 of this chapter;
3. The proposed development project is feasible and a reasonable risk from practical and economic standpoints; and
4. Sufficient moneys for implementation of the proposed development project are in the industrial development revolving fund or are otherwise available from other sources.

B. For a development project that includes a loan from the county, the industrial development board may approve participation in the project and the loan, if the industrial development board finds, in addition to findings required by Subsection A of this section:

1. The proposed loan is likely to be repaid;
2. The applicant for the loan can provide good and sufficient collateral for the loan;
3. The applicant's financial resources and investment in the project are adequate to assure success of the project;
4. Loaning the moneys promotes the purposes of this chapter.

C. A loan for a development project will not be made for refinancing an existing debt owed by the applicant or restructuring an existing loan unless the industrial development board by a vote of a least five members specifically finds, in addition to the findings required by Subsections A and B of this section that: (Ord. 2004-01-02, 2004)

1. Exceptional circumstances warrant such a loan; and
2. Substantial adverse economic conditions exist requiring immediate financial support for the development project which is not readily available elsewhere; and
3. The loan would increase opportunities for gainful employment in Douglas County, and that those opportunities will be lost but for the loan.

D. If a development project will require use of property or other resources of the county, the industrial development board shall execute any instruments necessary to assure that the reasons for the county's participation in the development project are fulfilled. Instruments authorizing the county's participation in a development project must address the following conditions:

1. The number of permanent jobs to be created by the development project and the wages that will be paid to employees;
2. The investments that participants in the development project will make;
3. Evidence of any factual representations made the by the applicant;
4. The schedule for beginning operation of the development project and the requirements for ongoing operation;
5. Events that will result in a default and procedures for declaration of default by the industrial development board, including notification of all participating Public Agencies; and
6. Remedies available to the county if other participants in the development project are in default.

E. If a loan is made for a development project, before funds are disbursed, the industrial development board must enter into a loan contract with the borrower secured by good and sufficient collateral which establishes conditions that the industrial development board considers necessary to ensure proper utilization of the loan funds including conditions described in Subsection D of this section. The loan contract:

1. Must provide for repayment moneys borrowed from the county with interest at a rate set by the industrial development board;
2. Must establish a schedule of payments and the period of the loan which must not exceed the usable life of the development project or 15 years from the date of the contract, whichever is less;
3. May provide for reasonable extension of the time for making any repayment in emergency or hardship circumstances if approved by the industrial development board;
4. May require the principals for the applicant to provide personal guarantees for repayment of the loan; and
5. May require subordination of other debts of the applicant.(Ord. 98-4-2, 1999)

#### 2.16.125 Borrowing funds for development projects.

A. Except as otherwise allowed by Oregon Law, if the county enters an intergovernmental agreement that requires the county to reimburse a public agency for expenditures made by the public agency or to pay financial obligations that are incurred by a public agency for a development project pursuant to Subsection D of Section 2.16.030, or if the county borrows money to finance the costs of a development project pursuant to Subsection J of Section 2.16.030, such obligations will not be general obligations of the county and will be structured to conform to Oregon law regarding the Article XI, Section 10 of the Oregon Constitution.

B. The county may grant a security interest in certificates of deposit and other securities in which county funds are lawfully invested as collateral for an obligation described in this section to create a special fund for purposes of Article XI, Section 10 of the Oregon Constitution. (Ord. 99-8-4, 1999)

2.16.130 Review and ratification of actions of the industrial development board.

A. The industrial development board shall give the board of county commissioners written notice of actions taken by the industrial development board pursuant to Subsections A through G of Section 2.16.030. Such actions of the industrial development board will be binding on the county unless the board of county commissioners overrules the action within ten days after the board of commissioners receives written notice of the action. The board of commissioners may ratify an action of the industrial development board in writing at any time after the board of commissioners receives notice of the action.

B. Transactions of the industrial development board under Subsections H or I of Section 2.16.030 for services, including personal services will take effect without notice to the board of commissioners or ratification by the board of commissioners, but a copy of each contract must be forwarded to the board of commissioners to be recorded in the county journal. (Ord. 98-4-2, 1999)

2.16.140 Industrial development revolving fund.

A. To serve the purposes of this chapter, the industrial development revolving fund is hereby created. All moneys received by the county from the State of Oregon for economic development that are not granted for specific projects or activities, revenue from the sale or lease of industrial facilities, revenue from development projects, and payments on loans for development projects will be appropriated to the county industrial development revolving fund. The county may appropriate revenues from other sources to the industrial development revolving fund.

B. All expenditures approved by the industrial development board pursuant to this chapter will be paid from the industrial development revolving fund. (Ord 99-8-4, 1999)

2.16.150 Use of other funds for industrial development.

A. To the extent permitted by Oregon law, upon the request of the industrial development board, the board of county commissioners may approve expenditures from the county road fund for improvement of county roads, city streets, and state highways that will directly or indirectly benefit development projects.

B. Upon the request of the industrial development board, the board of county commissioners may approve expenditures from the water resources development fund for water supply projects that are needed for achieving the purposes of this chapter. (Ord. 98-4-2, 1999)

C. Upon the request of the industrial development board, and subject to restrictions imposed by Oregon law, the board of county commissioners may invest county funds from any source in certificates of deposit and other securities that are pledged as collateral for an obligation described in Section 2.16.125. If expenditure of such funds for a development project is restricted by Oregon Law and a security interest in the collateral is foreclosed, the source of funds invested in the collateral will be repaid from the industrial development revolving fund. (Ord. 99-8-4)

2.16.160 Delegation of Authority. Notwithstanding any provision of Douglas County Code chapter 2.16 to the contrary, including but not limited to sections 2.16.030, 2.16.040, 2.16.050, 2.16.070, 2.16.120, and 2.16.130, the industrial development board's authority to sign any contract, agreement, or any other commitment to spend money or otherwise to commit the county and/or the industrial development board to any financial obligations shall be subject to the prior written approval of both the county accountant and the board of county commissioners. (Ord. 03-4-1 §1, 2003)