

County Highway System and Municipalities

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Mileage and Responsibility

The Oklahoma Tax Commission uses County Highway System mileage, county land area and county population to allocate fuel taxes and motor vehicle collection taxes out to a counties' County Highway Fund. The Tax Commission receives the certified County Highway System mileage from the Oklahoma Department of Transportation before June of each year. **(Title 69 § 316)** The following is a breakdown on what the counties' road responsibilities are as it relates to streets and roads within municipalities.

1. The Board of County Commissioners has the maintenance and construction responsibility of all roads within a municipality with a population less than 2,500. **(Title 69 § 316)** The Oklahoma Department of Transportation adds this mileage to a county's highway system mileage and provides this to the Oklahoma Tax Commission.
2. The Board of County Commissioners may enter into an agreement to have all the maintenance and construction responsibility of all roads and streets within a municipality that has a population of 2,500 to less than 5,000. **(Title 69 § 316) (Title 11 § 36-113(C))** This agreement must be forwarded to Planning Division at the Oklahoma Department of Transportation to be included in the county's County Highway System mileage.
3. The Board of County Commissioners may enter into an agreement to construct, make improvements (not maintenance), on roads and/or bridges within a municipality that has a population of 5,000 or greater if the project is on a road that is a continuation of the county's County Highway System. **(Title 11 § 36-112(C))**
4. The Board of County Commissioners may enter into an agreement to utilize county labor, equipment and supplies on roads and/or bridges within a municipality that has a population less than 15,000 if the county or municipality has passed a sales tax that apportions part of the tax towards road and street construction or maintenance in the county. **(Title 19 § 339(A)(16)) (Title 11 § 36-113(C))**

Annexation

The municipality is required to include the road and road right-of-way if it is next to the parcels of land being annexed. **(Title 11 § 21-103(C))**

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Referenced Statues

Title 69. Roads, Bridges and Ferries; § 316. Certification of county road mileage

The Commission, on or before the first day of June of each year, shall certify to the Oklahoma Tax Commission the county road mileage of each county and the total county road mileage of the state as such mileage existed on the first day of January of such year. Such mileage shall be the computation of the existing road mileage for counties including any mileage represented by streets or roads in municipalities with a population of less than two thousand five hundred (2,500) and any other streets and roads in municipalities with a population of less than five thousand (5,000) that the county has agreed to construct, maintain, or repair. Any roads removed from the State Highway System by the Transportation Commission and returned to the county road system shall be added to the total county road mileage of the said county.

Title 11. Cities and Towns; § 36-112. Intersections and crossings--Participation by counties and state highway commission in street improvements

- A. The municipal governing body, in its discretion, may provide for the payment of the cost for improving street intersections and alley crossings out of the general revenues.
- B. The State Highway Commission is authorized in its sole discretion to enter into agreements with the governing body of any municipality for participation with State Highway Construction and Maintenance Funds in the cost of any improvements on streets which are a part of the State Highway System. Such agreements may provide for the award and supervision of the contract by the municipality. The state's share of the cost is to be due and payable upon completion of the project.
- C. Any board of county commissioners, in its discretion, may enter into agreements with the governing body of any municipality for participation with county highway funds in the cost of any improvements on streets which are in the limits of the municipality and are part of the county highway system. Such agreements may provide for the award and supervision of the contract by the municipality. The county's share of the cost is to be due and payable upon completion of the project.

Title 11. Cities and Towns; § 36-113. Municipalities under 5,000 population--Construction, improvement, repair or maintenance of streets--Department of Transportation and Boards of County Commissioners

- A. The Department of Transportation may, or the board of county commissioners of any county or federally recognized tribal government shall, by agreement with the governing body of a municipality having a population less than five thousand (5,000), construct, improve, repair or maintain any of the streets of the municipality.

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B. Subject to the provisions of Section 339 of Title 19 of the Oklahoma Statutes, the board of county commissioners may construct, improve, repair, or maintain any of the streets of a municipality having a population of less than five thousand (5,000).

C. Subject to the provisions of Section 339 of Title 19 of the Oklahoma Statutes, the board of county commissioners may construct, improve, repair or maintain any of the streets of a municipality having a population of less than fifteen thousand (15,000) if the county has passed a sales tax with the proceeds earmarked to construct, improve, repair or maintain any of the streets or roadways of such county.

Title 19. Counties and County Officers; § 339. General powers of commissioners

A. The county commissioners shall have power:

1. To make all orders respecting the real property of the county, to sell the public grounds of the county and to purchase other grounds in lieu thereof; and for the purpose of carrying out the provisions of this section it shall be sufficient to convey all the interests of the county in those grounds when an order made for the sale and a deed is executed in the name of the county by the chair of the board of county commissioners, reciting the order, and signed by the chair and acknowledged by the county clerk for and on behalf of the county;

2. To audit the accounts of all officers having the care, management, collection or disbursement of any money belonging to the county or appropriated for its benefit;

3. To construct and repair bridges and to open, lay out and vacate highways; provided, however, that when any state institution, school or department shall own, lease or otherwise control land on both sides of any established highway, the governing board or body of the same shall have the power to vacate, alter or relocate the highway adjoining the property in the following manner:

If it should appear that it would be to the best use and interest of the institution, school or department to vacate, alter or relocate such highway, the governing board or body shall notify the board of county commissioners, in writing, of their intention to hold a public hearing and determine whether to vacate, alter or relocate the highway, setting forth the location and terminals of the road, and all data concerning the proposed right-of-way if changed or relocated, and shall give fifteen (15) days' notice of the hearing by publication in some newspaper in the county or counties in which the road is located, and the hearing shall be held at the county seat of the county in which the road is located, and if a county line road, may be heard in either county. At the hearing testimony may be taken, and any protests or suggestions shall be received as to the proposed measure, and at the conclusion thereof if the governing board or body shall find that it would be to the best use and interest of the institution, school or department, and the public generally, they may make an appropriate order either vacating, altering or relocating the highway, which order

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- shall be final if approved by the board of county commissioners. The institution, school or department may by agreement share the cost of changing any such road. No property owner shall be denied access to a public highway by the order;
4. To recommend or sponsor an employee or prospective employee for job-related training and certification in an area that may require training or certification to comply with state or federal law as such training or certification is provided by the Department of Transportation, the Federal Highway Administration, or any other state agency, technology center school, or university;
 5. Until January 1, 1983, to furnish necessary blank books, plats, blanks and stationery for the clerk of the district court, county clerk, register of deeds, county treasurer and county judge, sheriff, county surveyor and county attorney, justices of the peace, and constables, to be paid for out of the county treasury; also a fireproof vault sufficient in which to keep all the books, records, vouchers and papers pertaining to the business of the county;
 6. To set off, organize and change the boundaries of townships and to designate and give names therefor; provided, that the boundaries of no township shall be changed within six (6) months next preceding a general election;
 7. To lease tools, apparatus, machinery or equipment of the county to another political subdivision or a state agency. The Association of County Commissioners of Oklahoma, the Oklahoma State University Center for Local Government Technology and the Office of the State Auditor and Inspector, together, shall establish a system of uniform rates for the leasing of such tools, apparatus, machinery and equipment;
 8. To jointly, with other counties, buy heavy equipment and to loan or lease such equipment across county lines;
 9. To develop minimum personnel policies for the county with the approval of a majority of all county elected officers;
 10. To purchase, rent, or lease-purchase uniforms, safety devices and equipment for the officers and employees of the county and provide incentive awards for safety-related job performance. However, no employee shall be recognized more than once per calendar year and the award shall not exceed the value of Two Hundred Fifty Dollars (\$250.00); further, no elected official shall be eligible to receive a safety award. The county commissioners may pay for any safety training or safety devices and safety equipment out of the general county funds or any county highway funds available to the county commissioners;
 11. To provide for payment of notary commissions, filing fees, and the cost of notary seals and bonds;
 12. To do and perform other duties and acts that the board of county commissioners may be required by law to do and perform;

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13. To make purchases at a public auction pursuant to the county purchasing procedures in subsection D of Section 1505 of this title;
 14. To deposit interest income from highway funds in the general fund of the county;
 15. To submit sealed bids for the purchase of equipment from this state, or any agency or political subdivision of this state;
 16. To utilize county-owned equipment, labor and supplies at their disposal on property owned by the county, public schools, two-year colleges or technical branches of colleges that are members of The Oklahoma State System of Higher Education, state and municipalities with a population less than five thousand (5,000) or with a population less than fifteen thousand (15,000) if the municipality or county has passed a sales tax with the proceeds earmarked for construction, maintenance, improvement or repair of any of the streets or roadways in the county. Cooperative agreements may be general in terms of routine maintenance or specific in terms of construction and agreed to and renewed on an annual basis. Work performed pursuant to Section 36-113 of Title 11 of the Oklahoma Statutes shall comply with the provisions of this section;
 17. To enter into intergovernmental cooperative agreements with the federally recognized Indian tribes within this state to address issues of construction and maintenance of streets, roads, bridges and highways exclusive of the provisions of Section 1221 of Title 74 of the Oklahoma Statutes;
 18. To execute hold harmless agreements with the lessor in the manner provided by subsection B of Section 636.5 of Title 69 of the Oklahoma Statutes when leasing or lease-purchasing equipment;
 19. To accept donations of right-of-way or right-of-way easements pursuant to Section 381 et seq. of Title 60 of the Oklahoma Statutes;
 20. To establish by resolution the use of per diem for specific purposes in accordance with the limitations provided by Sections 500.8 and 500.9 of Title 74 of the Oklahoma Statutes;
 21. To apply to the Department of Environmental Quality for a waste tire permit to bale waste tires for use in approved engineering projects; and
 22. To enter into the National Association of Counties (NACo) Prescription Drug Discount Program.
- B. The county commissioners of a county or, in counties where there is a county budget board, the county budget board may designate money from general county funds for the designated purpose of drug enforcement and drug abuse prevention programs within the county.

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C. When any lease or lease purchase is made on behalf of the county by the board pursuant to the provisions of this section, the county shall be allowed to have trade in values for transactions involving the Oklahoma Central Purchasing Act. [FN1]

D. In order to timely comply with the Oklahoma Vehicle License and Registration Act [FN2] with regard to county vehicles, the board of county commissioners may, by resolution, create a petty cash account. The board of county commissioners may request a purchase order for petty cash in an amount necessary to pay the expense of license and registration fees for county motor vehicles. Any balance in the petty cash account after the license and registration fees have been paid shall be returned to the account or fund from which the funds originated. The county purchasing agent shall be the custodian of the petty cash account, and the petty cash account shall be subject to audit.

E. When the board of county commissioners approve an express trust, pursuant to Sections 176 through 180.3 of Title 60 of the Oklahoma Statutes, for the purpose of operating a county jail, the trustees of the public trust may appoint commissioned peace officers, certified by the Council on Law Enforcement Education and Training, to provide security for inmates that are required to be transported outside of the detention facility, and investigate violations of law within the detention facility. Other personnel necessary to operate the jail may be employed and trained or certified as may be required by applicable state or federal law.

Title 11. Cities and Towns; § 21-103. Cities--Annexation procedure

A. Before the governing body of a city may annex any territory adjacent or contiguous to the city, it must obtain the written consent of the owners of at least a majority of the acres to be annexed to the municipality and provide for notice and a public hearing on the proposed annexation of the territory in the manner provided in subsection B of this section; except that no such consent is needed where:

1. The territory to be annexed is subdivided into tracts or parcels of less than five (5) acres and contains more than one residence; or

2. Three sides of the territory to be annexed are adjacent or contiguous to the property already within the municipal limits if:

a. the adjacent property on each side constitutes an area in width greater than three hundred (300) feet at its narrowest point excluding a roadway or right-of-way that is adjacent or contiguous to the territory,

b. the municipal governing body makes findings that the annexation furthers municipal purposes relating to airports, spaceports and military installations and such findings are included in the public hearing provided for in subsection D of this section, or

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- c. prior to the effective date of this act, [FN1] the municipality has directed that notice be published in accordance with subsection B of this section.
- B. The governing body shall provide the notice and public hearing required in subsection A of this section in the following manner:
1. The governing body of the municipality shall direct that notice of the proposed annexation of the territory be published in a legally qualified newspaper of general circulation in the territory and shall describe the boundaries of the territory proposed to be annexed by reference to a map, geographical locations, legal or physical description or other reasonable designation. The notice shall state the date, time, and place the governing body shall conduct a public hearing on the question of annexing the territory. The notice shall be published in a legal newspaper of general circulation in the territory sought to be annexed within fourteen (14) days following the date the governing body directed the notice to be published;
 2. A copy of the notice of annexation shall be mailed by first-class mail to all owners of property to be annexed as shown by the current year's ownership rolls in the office of the county treasurer and to all owners of property abutting any public right-of-way that forms the boundary of the territory proposed to be annexed; provided that the notice of annexation shall be mailed by certified mail to every person who owns a parcel of land of five (5) acres or more used for agricultural purposes; and
 3. The public hearing of such annexation shall be held no earlier than fourteen (14) days nor more than thirty (30) days following the publication and mailing of the notice.
- C. Unless otherwise provided by law, a roadway or road right-of-way that is adjacent or contiguous to the territory to be annexed shall be considered a part and parcel to the territory to be annexed.
- D. Before any territory is annexed to a municipality, without the written consent of the owners of at least a majority of the acres to be annexed to the municipality in accordance with subsection A of this section, the governing body of the municipality shall direct that notice of the proposed annexation of the territory be published in a legally qualified newspaper of general circulation in the territory and shall hold a public hearing on the proposed annexation. Prior to the publication of notice, the municipality shall prepare a plan to extend municipal services including, but not limited to, water, sewer, fire protection, law enforcement and the cost of such services appropriate to the proposed annexed territory. The plan shall provide that the municipality complete the implementation of the plan in accordance with any existing capital improvement plan applicable to the portion of the municipality adjacent to the territory proposed to be annexed. If no such capital improvement plan has been adopted, the municipality shall complete the service plan within one hundred twenty (120) months from the date of annexation unless a different time is determined by consensus between property owners and the municipality at the hearing. The time for completion of the service plan shall be set forth in the ordinance annexing the

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territory. If municipality services are not substantially complete within the prescribed time, then the territory shall be detached by the governing body as provided in Section 21-110 of this title. For purposes of this subsection, services may be provided by any method or means available to the municipality to extend municipal services to any other area of the city. Such notice, hearing and plan shall be subject to the following provisions:

1. The notice shall describe the boundaries of the territory proposed to be annexed by reference to a map, geographical locations, legal or physical description or other reasonable designation and shall state that the proposed service plan is available for inspection at a specified location. The notice shall state the date, time, and place when the governing body shall conduct a public hearing on the question of annexing the territory. The notice shall be published in a legal newspaper of general circulation in the territory sought to be annexed within fourteen (14) days following the date the governing body directed the notice to be published. A copy of the notice of annexation shall be mailed by first-class mail to all owners of property to be annexed as shown by the current year's ownership rolls in the office of the county treasurer and to the Department of Transportation for purposes of clarifying any road maintenance responsibilities; provided that the notice of annexation shall be mailed by certified mail to every person who owns parcel of land of five (5) acres or more used for agricultural purposes and to the board of county commissioners of the respective county where the proposed annexation is located. If the territory to be annexed encroaches upon any adjacent county, a copy of the notice of annexation shall be mailed by first-class mail to the board of county commissioners of the adjacent county and of the county where the proposed annexation is located;
2. The public hearing of such annexation shall be held no earlier than fourteen (14) days nor more than thirty (30) days following the publication and mailing of the notice; and
3. The proposed service plan shall be available for inspection and be explained to the property owners of the territory to be annexed at the public hearing. The plan may be amended through negotiation at the hearing. The final service plan shall be incorporated into and made part of the ordinance annexing the territory.

E. As used in this section:

1. "Airport" means any facility owned by any legal entity or by a county, a municipality or a public trust having at least one county or municipality as its beneficiary which is used primarily for the purpose of providing air transportation of persons or goods or both by aircraft powered through the use of propellers, turboprops, jets or similar propulsion systems;
2. "Military installation" means those facilities constituting the active or formerly active bases owned by the Department of Defense or other applicable entity of the United States government or by any entity of local government after transfer of title to such installation; and

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3. "Spaceport" means any area as defined pursuant to Section 5202 of Title 74 of the Oklahoma Statutes.

F. Except for ordinances enacted pursuant to Section 43-101.1 of this title, parcels of land five (5) acres or more used for agricultural purposes annexed into the municipal limits on or after July 1, 2003, shall be exempt from ordinances restricting land use and building construction to the extent such land use or construction is related to agricultural purposes. Where there is no residence within fifty (50) feet of the boundaries of such a parcel of land, the property shall not be subject to ordinances regulating conduct that would not be an offense under state law; provided, that any such property that discharges into the municipal water, wastewater, or sewer system shall be subject to any ordinances or regulations related to compliance with environmental standards for that system.

G. Parcels of land situated within an area that is or may be subject to any form of land use or other regulatory control as a result of proximity to an airport, spaceport or military installation shall not be exempt from municipal ordinances or other laws regulating property for the purpose of operations necessary for the use of an airport, spaceport or military installation and such parcels of land shall be subject to all ordinances enacted pursuant to Section 43-101.1 of this title.