Chapter 215

1959 REPLACEMENT PART

County Planning; Zoning Districts

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COUNTY PLANNING

215.010 Definitions. As used in ORS 215.020 to 215.190, unless the context requires otherwise:

(1) "Freeholder" means a record owner of real property or the purchaser under a duly recorded contract of purchase of real property, but does not include the vendor under a duly recorded contract of purchase of real property.

(2) "Subdivide land," "subdivision" and "plat" shall have the meanings given those terms in ORS 92.010. [Amended by 1955 c.756 §25]

215.020 Authority to establish county planning commission. The governing body of any county may create by ordinance a county planning commission, appoint its members and provide funds for its operation.

215.030 Membership of planning commission. (1) The county planning commission shall consist of five, seven or nine members appointed by the governing body for four-year terms, or until their respective successors are appointed and qualified; provided that in the first instance the terms of the initial members shall be staggered for one, two, three and four years. Any vacancy shall be filled by the governing body who may after hearing remove any member for misconduct or nonperformance of duty.

(2) Members of the commission shall serve without compensation other than reimbursement for duly authorized expenses.

(3) Members of the commission shall be residents of the county and a majority shall reside in the unincorporated area thereof.

(4) In addition to the regular members, the county engineer, the county agricultural agent, if there is one, the county assessor and the county manager, if there is one, shall be ex officio non-voting members.

215.040 Officers and employes of commission; rules. The commission may:

(1) Appoint necessary employes and fix their compensation with the approval of the governing body of the county.

(2) Select from its membership a chairman to serve for one year.

(3) Appoint a secretary who shall keep permanent and complete records of its proceedings.

(4) Adopt rules governing the transaction of its business.

215.050 Development pattern. (1) For the purpose of furthering the health, safety and general welfare of the people of the county, the county planning commission shall make and adopt a development pattern for the physical and economic development of the county, or any portion of the county, including surface mining.

(2) The development pattern, with the accompanying maps, plats, charts and descriptive matter, shall show the commission's recommendations for the development of the county or any portion thereof, and may include among other things the creation of or division of the county or any portion thereof into districts:

(a) Within some of which it shall be lawful and within others of which it shall be unlawful to erect, construct, alter or maintain certain buildings, or to carry on certain trades, industries or callings, including surface mining;

(b) Within which the height and bulk of future buildings and the area of yards, courts and other open spaces, and the future uses of land or buildings shall be limited; or

(c) Within which future building setback lines shall be established. [Amended by 1955 c.439 §2]

215.055 Standards for development pattern. The development pattern and regulations and ordinances adopted by the commission or the governing body of the county under ORS 215.010 to 215.190 shall be designed to promote the public health, safety and general welfare. The commission and the governing body of the county shall give reasonable consideration, among other things, to the character of the areas involved, the buildings, structures and uses presently in the areas, the peculiar suitability or adaptability of the areas for particular uses, the needs of agriculture, industry and business in the future growth of the areas, the need for healthful surroundings and conditions, the conservation of property values and the direction and trend of building development in the areas. Provisions relating to height, bulk and construction of buildings and the areas of yards, courts and other open spaces shall be uniform for each class of buildings throughout each zoning area included in the development pattern. Provisions relating to the construction, location and use of buildings or structures shall be designed to secure safety from fire

and other dangers and to insure sanitary conditions and adequate light, air and access. [1955 c.439 §3]

215.060 Adoption of development pattern by commission. Adoption by the commission of the development pattern, or any change therein, may be in whole or in part, but must be by the affirmative vote of a majority of the whole commission. However, prior to any such adoption a public hearing shall be held not less than 15 days after notice thereof is posted in at least three public places within the area affected. The resolution adopting the pattern, or any part covering one or more of the functional elements which may be included within the pattern, shall refer expressly to the maps, charts and descriptive matters forming the pattern or part thereof.

215.070 General powers of commission. In general, the commission shall have such powers as may be appropriate to enable it to fulfill its functions and duties to promote county planning and to carry out the purposes of ORS 215.010 to 215.190.

215.080 Power to enter upon land. The commission, and any of its members, officers and employes, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain the necessary monuments and markers thereon.

215.090 Information made available to commission. All public officials, departments and agencies, having information, maps and data deemed by the commission pertinent to county planning shall make such information available for the use of the county planning commission.

215.100 Cooperation with other agencies. The county planning commission shall advise and cooperate with other planning commissions within the state, and shall upon request, or on its own initiative, furnish advice or reports to any city, county, officer or department on any problem comprehended in county planning.

215.104 Interim zoning or land use ordinance. If the commission in good faith intends within a reasonable time to recommend to the governing body of the county the adoption of a zoning or land use ordinance, and has conducted preliminary studies or hearings in connection with the proposed ordinance, the commission may prepare and submit to the governing body of the county an interim zoning or land use ordinance prohibiting, for a period not to exceed three years, any construction, reconstruction, alteration, use or transfer which would be in conflict with the proposed ordinance. The governing body of the county may adopt such interim ordinance if the governing body considers the interim ordinance necessary to insure that the purposes and objectives of the proposed zoning and land use ordinance will not be defeated. [1955 c.439 §4]

215.108 Building code ordinance. (1) The governing body of a county may adopt ordinances establishing building codes for the county, or any portion thereof, in conformity with the standards set forth in ORS 215.104. Such ordinances may adopt by reference published building codes, or any portions thereof, which conform to such standards, and a certified copy of such code or codes shall be filed with the county clerk of said county.

(2) Any governing body of a county which adopts ordinances establishing building codes shall by ordinance provide procedures for appeals from decisions made under the authority of the ordinances establishing building codes. [1955 c.439 §5]

215.110 Preparation of ordinances by commission; submission to county governing body. The commission may, for the benefit and welfare of the county, prepare and submit to the governing body of the county drafts of ordinances for the purpose of carrying out the development pattern, or any part thereof, previously adopted by the commission, including:

(1) Zoning or land use regulations,

(2) The making of official maps and the preservation of the integrity thereof,

(3) Procedure for appeals from decisions made under the authority of such ordinances, and

(4) Regulations for the conservation of the natural resources of the county.

215.120 Adoption of ordinances submitted by commission; election. (1) The governing body of the county may adopt ordinances submitted under ORS 215.110 by the commission.

(2) Prior to the enactment of any zoning or land use ordinances submitted under ORS 215.110, the county court or board of county

commissioners shall refer to the legal voters of the county at a general or special election called for that purpose the question "Shall the county court or board of county commissioners be authorized to enact zoning and land use regulations?"

(3) Notice of the election shall be given by publication in a newspaper of general circulation in the county once a week for four successive weeks prior to the election.

(4) If a majority of the legal voters voting at the election vote in favor thereof, the county court or board of county commissioners shall thereafter have the authority to enact zoning or land use ordinances as provided in this section. If a majority of the legal voters of the county voting at the election vote against the proposition, but a majority of the legal voters residing in an unincorporated area totaling not less than two square miles within the county shall thereafter by petition request the county court or board of county commissioners to enact such parts of such ordinances as affect the two square mile area, the court or board shall thereupon enact such an ordinance. [Amended by 1957 c.568 §2]

215.124 [1955 c.683 §§2, 4; 1957 c.568 §3; repealed by 1959 c.387 §1]

215.126 Petition by voters or order of county governing body requesting adoption of ordinances; hearing; preparation by county planning commission; election. (1) Whenever 10 percent or more of the persons who are legal voters in an area in the county file with the county clerk a petition requesting the governing body of the county to adopt zoning or land use ordinances for such area prepared and submitted to the governing body by the county planning commission under ORS 215.110 or whenever the governing body of the county on its own motion enters an order specifying an area for which it desires to adopt zoning or land use ordinances, the county planning commission shall hold a hearing on the petition or order, as the case may be.

(2) Prior to the hearing the county planning commission shall give notice of the hearing by posting and publication as provided in subsection (9) of this section. The notice shall contain the date, time and place of the hearing and a description of the boundaries of the area.

(3) At the public hearing, or any continuance thereof, the county planning commission may exclude certain lands from the area when such exclusion will not result in defeating the development of the area in accordance with the development pattern of the county planning commission.

(4) Within 30 days after the county planning commission approves a petition or order, as the case may be, in original or modified form, at such hearing, the county governing body may approve the area for the enactment of zoning or land use ordinances.

(5) If the county governing body approves the area for the enactment of zoning or land use ordinances, the county planning commission shall adopt a development pattern for the area as provided under this chapter, if it has not already done so.

(6) The county planning commission shall prepare and submit to the governing body of the county drafts of zoning or land use ordinances to carry into effect the development pattern.

(7) The governing body may adopt as ordinances for a period not to exceed three years the drafts of zoning or land use ordinances submitted by the county planning commission. Before the end of the three-year period, the governing body of the county shall hold a hearing on the ordinances. Notice of the hearing shall be given as provided under subsection (9) of this section. Subsequent to the hearing the governing body of the county may adopt zoning or land use ordinances for the area which are not limited as to their duration; or it may call for an election within the area on the question:

"Shall the _____
(insert the name of the governing body of the county)
be authorized to adopt zoning and land use ordinances for _____?"
(insert the name or description of the area)

Notice of the election shall be given as provided under subsection (9) of this section. If the majority of the legal voters voting at the election vote in favor of the question, the governing body of the county may adopt zoning or land use ordinances for the area which are not limited as to their duration. If the majority of the legal voters voting at the election vote against the question, the governing body of the county shall revoke the zoning or land use ordinances for the area which were adopted under this subsection for the three-year period.

(8) Before the end of the three-year period and before the governing body of the county adopts zoning or land use ordinances which are not limited as to their duration, 15 percent of the legal voters residing within the area may petition the governing body of the county to call for an election within the area on the question:

"Shall the _____
(insert the name of the governing body of the county)
be authorized to adopt zoning and land use ordinances for _____?"
(insert the name or description of the area)

Upon receiving the petition, the governing body of the county shall call for the election. Notice of the election shall be given as provided under subsection (9) of this section. If the majority of the legal voters voting at the election vote in favor of the question, the governing body of the county may adopt zoning or land use ordinances for the area which are not limited as to their duration. If the majority of the legal voters voting at the election vote against the question, the governing body of the county shall revoke the zoning or land use ordinances for the area which were adopted for the three-year period under subsection (7) of this section.

(9) Notices of hearing or election required to be given under this section shall be posted for 30 days prior to the hearing or election, as the case may be, in three conspicuous places in the area and published once a week for four successive weeks prior to such hearing or election in a newspaper of general circulation published in the area or, if there is no such newspaper, in a newspaper of general circulation published in the county. The notice of election shall include the date and time of the election, a description of the polling places established within the area by the governing body and a description of the boundaries of the area. The governing body of the county shall make all necessary arrangements for the election. The general election laws of the state shall, so far as applicable, apply to elections under this section.

(10) The provisions of ORS 215.126 are intended to be in addition to and exclusive of the provisions of ORS 215.120. [1955 c.683 §3; 1957 c.568 §1; 1959 c.387 §2]

215.130 Application of ordinances. (1) No ordinance adopted under ORS 215.010 to 215.190 shall regulate lands used for grazing, agriculture, horticulture or for the growing of timber.

(2) Any ordinance adopted under ORS 215.010 to 215.190 shall be a local law within the meaning of and subject to ORS 254.310.

(3) Existing nonconforming uses may be continued although not in conformity with zoning regulations established by ordinance.

215.140 Renaming public ways. (1) The county planning commission shall recommend to the governing body of the county the renaming of any existing street, road or highway other than state highways in the county and outside of incorporated cities and towns, if in the judgment of the commission such renaming is for the benefit and welfare of the county.

(2) Upon receiving such recommendation the governing body of the county shall afford persons particularly interested, and the general public, an opportunity to be heard, at a time and place to be specified in a notice of hearing published in a newspaper of general circulation in the county not less than once within the week prior to the week within which the hearing is to be held.

(3) After the opportunity for hearing has been afforded, the governing body of the county by resolution or ordinance shall rename the street or highway in accordance with the recommendation or by resolution shall reject the recommendation.

215.150 Subdivision regulations. The governing body of the county may:

(1) Adopt regulations for the subdivision of land within the unincorporated territory under its jurisdiction.

(2) Require that after July 4, 1947, no land may be subdivided and no subdivision plat filed or recorded until submitted to and approved by the county planning commission. [Amended by 1955 c.439 §8]

215.160 Construction permits; fees. The governing body of a county may authorize and provide for the issuance of permits as a prerequisite to construction, alteration or enlargement of any building or structure otherwise subject to ORS 215.010 to 215.190, and may establish and collect reasonable fees therefor.

215.170 Authority of incorporated communities in unincorporated area. The authority granted by law to incorporated communities to approve subdivision plats and to rename streets, roads and highways within

the unincorporated area adjacent to their corporate limits is not abrogated by ORS 215.010 to 215.190 except and until the governing body of the county having jurisdiction over such adjacent area establishes a planning commission, and adopts initial regulations for subdivision control within adjacent areas. Authority of the adjacent municipality shall be suspended on the effective date of the county regulation with respect to all areas governed by county subdivision regulations.

215.180 Unlawful construction or use a nuisance. The erection, construction, reconstruction, alteration, maintenance or use of any building or structure, or the use or subdivision of any land, in violation of ORS 215.010 to 215.190 or of any ordinance or regulation, or amendment thereto, adopted pursuant to ORS 215.010 to 215.190 shall be deemed to be a nuisance. [1955 c.439 §6]

215.185 Injunction, abatement or removal of unlawful structure. In case any building or structure is, or is proposed to be, erected, constructed, reconstructed, altered, maintained or used, or any land is, or is proposed to be, used in violation of ORS 215.010 to 215.190 or of any ordinance or regulation, or amendment thereto, adopted by the governing body of a county under ORS 215.010 to 215.190, the governing body of the county, the district attorney of the county or any person whose interest in real property in the county is or may be affected by the violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate proceeding to prevent, temporarily or permanently enjoin, abate or remove the unlawful erection, construction, reconstruction, alteration, maintenance or use. When a temporary restraining order is granted in a suit instituted by a person who is not exempt from furnishing bonds or undertakings under ORS 22.010, such person shall furnish undertaking as provided in ORS 32.010 to 32.060. [1955 c.439 §7]

215.190 Violation of regulations. No person shall erect, construct, reconstruct, alter, maintain or use any building or structure or shall use or transfer any land in violation of ORS 215.010 to 215.190 or of any ordinance or regulation, or any amendment thereto, adopted by the governing body of the county under ORS 215.010 to 215.190. No person shall sell subdivided land by metes and bounds, or otherwise, in violation of regulations adopted by the county governing body under ORS 215.150. [1955 c.439 §9]

COUNTY ZONING DISTRICTS

215.200 District created coterminous with each district existing on July 2, 1957; districts existing on July 2, 1957, abolished. (1) There hereby is created a zoning district territorially coterminous with each zoning district existing on July 2, 1957, and formed by an election under ORS 215.260, if the district so formed was at that time a valid district but for the fact that the electorate in such election was restricted to property owners. In determining the boundaries of districts created by this subsection, full effect shall be given to annexations effected by zoning districts prior to November 22, 1957, under ORS 215.415.

(2) Zoning districts territorially coterminous with the zoning districts created by subsection (1) of this section hereby are abolished.

(3) Zoning districts created by subsection (1) of this section shall be governed by ORS 215.210 to 215.450. [1957 (s.s.) c.11 §1]

215.205 New district succeeds to and replaces abolished district. Each zoning district created by ORS 215.200 shall in all respects succeed to and replace the territorially coterminous zoning district abolished by ORS 215.200. Without limiting the foregoing:

(1) A successor zoning district is:

(a) The owner of the property of the succeeded zoning district, including funds on deposit with the county treasurer.

(b) Successor party to the contracts of the succeeded zoning district.

(c) Successor party to the court proceedings of the succeeded zoning district.

(2) The rules, regulations and plans of each succeeded zoning district are the rules, regulations and plans of the successor zoning district, until amended or repealed by appropriate action under ORS 215.210 to 215.450.

(3) The zoning commissioners of each succeeded zoning district are the zoning commissioners of the successor zoning district. Each zoning commissioner shall hold office for a term equal to the term of his office in the succeeded district. [1957 (s.s.) c.11 §2]

215.210 Definitions for ORS 215.220 to 215.450. As used in ORS 215.220 to 215.450, unless the context requires otherwise:

(1) "Court" means the county court or other legislative body of any county.

(2) "Freeholder" means a record owner of real property or the purchaser under a duly recorded contract of purchase of real property, but does not include the vendor under a duly recorded contract of purchase of real property. [Amended by 1955 c.652 §6]

215.220 Authority to create zoning districts. For the public interest, health, comfort, convenience, preservation of the public business safety, morals, order and the public welfare, the court may by resolution create zoning districts within the county and outside of any incorporated city within the districts, and within which district it shall be unlawful to erect, construct, alter or maintain certain buildings or to carry on certain trades or callings, and within which the height and bulk of future buildings shall be limited.

215.230 Petition to form zoning district; petitioners. (1) Whenever 10 or more persons in any county desire to form a zoning district within the county, they may present to the court and file with the county clerk a petition in writing, signed by them, stating the name of the proposed district, setting forth the boundaries thereof, and praying that the land included in its boundaries shall be organized as a zoning district within the county.

(2) Each of the petitioners must be a resident and freeholder within the proposed district.

(3) All expenses incident to the formation of said district shall be paid by the petitioners.

(4) The petition must be verified by the affidavit of one of the petitioners.

215.240 Notice of petition. Notice of the filing of the petition shall be published once a week for at least two weeks preceding the hearing thereof in some newspaper of general circulation published in the county. The notice shall state the time when the petition will be presented to the court, and that all persons interested therein may appear and be heard.

215.250 Hearing on petition. (1) At the time set forth in the notice, the court may hear the petition and adjourn the hearing from time to time.

(2) The court shall not modify the boundaries of the proposed district as set forth in the petition so as to exclude from the proposed district any land that, in its opinion, would be benefited by the formation of the zoning district. Nor shall any lands which will not in the judgment of the court be benefited by the district be included within such district.

(3) If the court concludes that any lands have improperly been omitted from the proposed district, and the owners thereof have not appeared at the hearing, the court shall by order continue the further hearing of the petition and direct that notices shall be given to all non-appearing land owners, requiring them to appear before the court, and show cause, if any they have, why their land should not be included in the proposed zoning district. Notice shall be given them by publication in the same manner as the original petition, for the same period, or by personal service thereof to each non-appearing land owner. If notice is given by personal service, it must be given at least 10 days prior to the date fixed for further hearing. The court may grant further continuance by order entered upon its journal to the end that a further hearing may be had.

215.260 [Amended by 1955 c.652 §3; repealed by 1957 (s.s.) c.11 §4 (ORS 215.261 enacted in lieu of ORS 215.260)]

215.261 Court order describing boundaries and ordering election. (1) Upon the final hearing of the matter, the court, if it approves the petition as originally presented, or in modified form, shall make an order describing the exterior boundaries of the zoning district as determined by the court and order an election to be held in the proposed district.

(2) The order must fix the day of election, which must be held not less than 30 days from the date of the order, and must state that at the election there will be submitted to the qualified electors of the district the proposition of whether or not the qualified electors desire to form the district.

(3) The order fixing the date of election shall be entered in the journal of the court and shall be conclusive evidence of the due presentation of a proper petition and of the fact that each of the petitioners was, at the time of the signing and presentation of the petition, a resident and freeholder, within the limits of the proposed zoning district. [1957 (s.s.) c.11 §5 (enacted in lieu of ORS 215.260)]

215.270 Posting and publication of election order. A copy of the order described in ORS 215.261 shall be posted for four successive weeks prior to the election in three public places within the proposed zoning district and shall be published at least once a week for four successive weeks prior to the election in some newspaper published in the proposed zoning district if there is one, and if not, in some newspaper published in the county. Notice must be published for the periods and times stated in each county in which is situated any of the lands within the zoning district.

215.280 Manner of holding election; ballots. (1) The election shall be held in the manner provided by law for holding and conducting elections in irrigation districts of Oregon.

(2) The ballot shall contain the words "I vote in favor of the creation of (name of the zoning district) zoning district," and also the words "I vote against the creation of the (name of the zoning district) zoning district," or words equivalent thereto.

215.290 Polling places; election board; persons entitled to vote. The court shall select one or more polling places within the proposed district and shall appoint a board of election, to be composed of three qualified persons for each voting place. Such persons shall be resident of the district and serve without pay. The court shall make all suitable arrangements for the holding of the election. Each qualified elector within the proposed district for the period requisite to enable him to vote at a general election, shall be entitled to vote at the election.

215.300 Election returns and action taken thereon. The returns of the election shall be made by the board of election to the court of the county in which the proposed zoning district is situated, and the result declared by the court. If a majority of the votes cast at the election is in favor of a zoning district the court shall make and cause to be entered in its journal an order establishing the zoning district of the name and with the boundaries stated in the order calling the election. The order shall be conclusive evidence of the fact and of the regularity of all prior proceedings of every kind or nature provided for by law, and of the existence and validity of the zoning district. If a majority of the votes cast is against the formation of the zoning district, the court shall, by order entered in its journal, so declare.

215.310 District zoning planning commission. (1) Upon the formation of the zoning district, the court shall appoint not less than three nor more than five resident freeholders of the district, to be known as the district zoning planning commission.

(2) Appointment shall be for a term of four years, or until their respective successors are appointed and qualified. The terms of the initial members of the commission shall be staggered for one, two, three and four years. The court shall fill any vacancy in the membership of the commission for the unexpired term and may cause the removal of any member for nonperformance of duty or misconduct.

(3) All members of the district zoning planning commission shall be residents of the unincorporated area in the district.

(4) Members shall serve without compensation and shall be designated as the zoning commissioners.

215.320 Transaction of business by commission. The district zoning planning commission shall adopt rules for transacting its business, elect a member to serve as presiding officer and keep a record of its resolutions, findings, determinations and transactions.

215.325 Incurring expenses; preparation of budget; tax levy; financial records. (1) Subject to the provisions of this section, the district zoning planning commission is authorized to incur expenses, and to contract for professional engineering and surveying advice and service, for clerical assistance and for clerical supplies and equipment, as may be necessary for the performance of its duties, and the members of the commission shall receive the sum of 10 cents per mile for necessary official travel within the county in which such zoning district is located.

(2) The commission shall, before making any expenditures or incurring any financial obligations, prepare and submit in duplicate to the county court, in the month of June of each year, an annual itemized budget which shall be approved by the county court by endorsement upon both of the duplicates, if the county court determines the amounts mentioned in the budget to be reasonable. One of the duplicates shall be returned to the district zoning planning commission.

(3) Thereafter, the county court shall, at the time of making the annual tax levy, levy a tax, not to exceed one mill per dollar of assessed valuation, upon all taxable real property in such zoning district for the purpose of paying and sufficient to pay the amount of the budget, and the proceeds of such tax shall be paid by the county treasurer to the bearers of orders upon the fund so created, which orders shall be signed by not less than three members of the district zoning planning commission.

(4) The commission shall keep accurate records of all its financial transactions, and such records shall be kept available for the inspection of any interested person. [1953 c.662 §6]

215.330 Zoning regulations. The district zoning planning commission may, by regulation, regulate, restrict and segregate the location of industries, the several classes of business, trades or callings, apartment or tenement houses, club houses, group residences, single detached dwellings, two-family dwellings, and buildings designed for specific uses. Regulations may be imposed designating the class of use that shall be subject to special regulations and designating the uses for which buildings may not be erected or altered, or designating the class of use which only shall be permitted. Such regulations shall be designed to promote the public health, safety and general welfare. The commission shall give reasonable consideration, among other things, to the character of the district, its peculiar suitability for particular uses, the conservation of property values and the direction or trend of building development, in accord with a well-considered plan. The commission may place reasonable regulations and limitations upon the height and bulk of buildings erected after July 5, 1947, and regulate and determine the area of yards, courts and other open spaces, having due regard to the use and occupancy in such case. The regulations as to the height and bulk of buildings and the area of yards, courts and other open spaces shall be uniform for each class of building throughout the district. The regulations in one or more locations may differ from those in other locations. Such regulations shall be designed to secure safety from fire and other dangers and to promote the public health and welfare and to secure provisions for adequate light, air and reasonable access. The commissioners shall pay reasonable regard to the character of the buildings now located in the district so formed, the value of the land and the use to which it may be put, to the end that such regulation may promote public health, safety and welfare.

215.340 Division of district; factors considered in zoning. (1) The commission may divide the zoning district into such shapes and sizes as it deems most effective to accomplish the purposes of ORS 215.210 to 215.450.

(2) Zoning regulations shall be drafted by the commission based on a development pattern so as to promote the health, safety, morals, order, convenience, prosperity and general welfare of the public, encourage the use of lands in accordance with the character and development of the district, limit the improper use of land to avoid the overcrowding of population, lessen congestion on public roads and streets, and reduce hazards to life and property. The regulations shall be made with reasonable consideration, among other things, to the character of the land in the district, its peculiar suitability for particular purposes, the conservation of property values and natural resources and the general and appropriate trend and character of land, building and population development.

215.350 Adoption of zoning plan; submission to court. (1) Adoption of the development and zoning plan or pattern requires the affirmative vote of the majority of the entire commission.

(2) Upon the adoption of the plan of development and zoning, and after such public hearings as the commission may require, the commission shall certify and transmit the plan and zones to the court of the county in which the district is situated. The plan and zones shall be filed by the court with the county clerk of said county. [Amended by 1953 c.662 §7]

215.360 Effect of zoning regulation on existing nonconforming use. (1) The lawful use of any building, structure or land at the time of the enactment of any zoning regulation or amendment thereto, may be continued as such although not in conformity with the zoning regulation, but such nonconforming uses shall not be increased or changed nor resumed after a period of interruption or abandonment except in conform-

ity with such provisions as the zoning regulations may provide.

(2) "Nonconforming use," as used in this section, shall include the initiation, maintenance or continuation of any use, construction, activity, improvement, building or structure not in conformity with the zoning regulations. [Amended by 1953 c.662 §7; subsection (2) enacted as 1953 c.662 §1]

215.370 Adoption of zoning regulations. Adoption of zoning regulations requires the affirmative vote of a majority of the entire district zoning planning commission after public hearings as required by the commission.

215.380 Election if zoning regulations protested. (1) In the event that at least 25 percent of the resident freeholders of the area in the zoned district, as shown by the county records, shall, not later than 30 days after the plan of development has been duly filed, certify and transmit to the court for filing in the office of the county clerk a written petition protesting the adoption of the zoning regulations, the court shall call a special election of the qualified electors of the district for the purpose of determining whether or not the qualified electors of the district approve of such zoning regulations.

(2) Notice of the election protesting the adoption of zoning regulations shall be given by posting for four consecutive weeks prior to the election in three public places within the zoning district, and publishing for four successive weeks prior to the election in some newspaper published in the proposed zoning district, if there is one, and if not, then in some newspaper published in the county.

(3) The election shall be held in the manner provided by law for holding and conducting elections in irrigation districts of Oregon.

(4) The ballot shall contain the words "I approve of the zoning regulations in (name of the zoning district) zoning district," and also the wording "I vote against and disapprove of the zoning regulations in (name of the zoning district) zoning district," or words equivalent thereto.

(5) The order fixing the date of the election shall be entered in the journal of the court and shall be conclusive evidence of the due and proper presentation of the petition of protest to the zoning regulations.

(6) The election for the approval or rejection of the proposed zoning regulations shall be held in the same manner set forth for the creation and setting up of the district and, upon the approval or rejection of the plan, the court shall make appropriate orders in its records. [Amended by 1955 c.652 §4]

215.390 Changing zones. The commission may make such rules, regulations and orders as may be required to change the zones of property zoned for various purposes. Changes may be made upon public hearing on application for the change made by the property owners affected thereby. Upon the change of zone, a copy of the commission's order shall be filed with the court in the same manner as upon the filing of the plan of development and zones.

215.395 Amendments or additions to plans, regulations or zones. The district zoning planning commission may at any time amend, add to or supplement the rules, regulations, plans, patterns and zones adopted as provided in ORS 215.330 to 215.390, and such amendments, additions and supplementations shall be subject to the same provisions of ORS 215.330 to 215.390 as apply to the original adoption, certification to the county court and filing with the county clerk, of such rules, regulations, plans, patterns and zones, and shall be subject to the provisions of ORS 215.380 respecting election to protest the adoption of the same. [1953 c.662 §3; 1955 c.652 §5]

215.398 Construction permits. The district zoning planning commission may authorize and provide for the issuance of permits as a prerequisite to the construction, alteration or enlargement of any building or structure which is subject to zoning regulations of the district adopted pursuant to ORS 215.340 to 215.395, and may establish and collect reasonable fees therefor. [1955 c.652 §2]

215.400 Violation of regulations. No person, firm or corporation shall erect, construct, reconstruct, alter, maintain or use any building or structure or use or transfer any land in violation of any provision of any regulation, or any amendment thereto, enacted or adopted by the district zoning planning commission under the authority of ORS 215.210 to 215.450.

215.410 Injunction, abatement, removal of unlawful erection. In case any building or

structure is, or is proposed to be, erected, constructed or used, or any land is, or is proposed to be, used, in violation of ORS 215.210 to 215.450 or of any regulations, or amendment thereto, adopted by the district zoning planning commission under authority thereof, the commission, the district attorney of the county, or any owner of real property within the district in which the building, structure or land is situated, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate proceeding to prevent, enjoin, abate or remove the unlawful erection, construction, reconstruction, alteration, maintenance or use.

215.415 Annexation of contiguous territory. (1) A majority of the legal voters residing in an unincorporated area in the same county, and contiguous with, a zoning district already then established, may by petition request the zoning planning commission of such established zoning district to include such unincorporated area within, and annex the same to, such zoning district. Such petition shall be in writing, shall set forth the boundaries of said unincorporated area so sought to be annexed, and shall be verified by the affidavit of one of the petitioners. The petition may be denied or approved by the zoning planning commission. If the zoning planning commission shall, by affirmative vote of the majority of the entire commission, consent to the annexation of such area to said zoning district, the zoning planning commission shall transmit the petition to the county court with a record of its consent.

(2) Upon receipt of the petition and record of consent, the county court shall appoint a time and place for the hearing of the petition, and notice of such hearing shall be published for at least two weeks, being once a week, preceding the hearing, in some newspaper of general circulation published in the county, and by posting printed notices of the same in at least three public places within such area continuously for at least two weeks before such hearing. The notices shall state the purpose, time and place of the hearing, and that all persons interested therein may appear and be heard. At such time the court may hear the petition and adjourn the hearing from time to time. The purpose of such hearing shall be to ascertain whether in fact the petition was signed by a majority of the legal voters then freeholders and residents within such area, whether such annexation would benefit the area, and whether the dimensions of the area, as described in the petition, are reasonable.

(3) If upon the hearing the county court determines the questions in the affirmative, then the county court shall by an order entered upon its journal, order an election to be held in the area to be annexed. The order shall fix the day of the election, which shall be held not less than 30 days from the date of the order, and shall state that at the election there will be submitted to the voters of the area sought to be annexed the proposition of whether or not such voters of such proposed area desire to be annexed to such established zoning district. The order shall be conclusive evidence of due presentation of a proper petition and of the fact that each of the petitioners was, at the time of signing and presentation of such petition, a legal voter within the limits of the proposed annexed area. The election shall be held in the manner provided by law for holding and conducting elections in the irrigation districts. The ballot shall contain the words "I vote in favor of annexation" and also the words "I vote against annexation" or words equivalent thereto.

(4) If the owners or owner of all contiguous territory proposed to be annexed consents in writing to such annexation and files the same with the county court at or before the day of calling such election, it is not necessary for the county court to call or hold an election in such territory or to post any notices therein.

(5) If a majority of the votes cast at the election is in favor of the annexation or if all the owners of such contiguous territory consent in writing whereby an election will not be necessary, the court shall make and cause to be entered in the journal of the court an order declaring such area to be annexed to such established zoning district, and such order shall be conclusive evidence that such annexation would benefit the area and that the dimensions of such area as described in the petition are reasonable. [1953 c.662 §5]

215.420 Dissolution of commission when plan established; continuance of zones. When the governing body of the county is authorized to adopt zoning and land use ordinances embracing the entire zoning district as otherwise provided by law, the powers and duties of any district zoning planning commission created under ORS 215.210 to 215.450 shall cease to exist simultaneously with the adoption of such ordinances, and

the commission shall thereupon be dissolved by resolution of the governing body of the county. However, zones established under ORS 215.210 to 215.450 shall remain established until altered, discontinued or vacated in such manner as may be provided by law. [Amended by 1955 c.439 §10]

215.430 Petition for dissolution of district; deposit. (1) Whenever 25 percent or more of the resident freeholders within a zoning district formed under ORS 215.210 to 215.450 desire to dissolve the district, they may present to the county court within which the district is situated a petition in writing, signed by them, stating their desire that the district be dissolved.

(2) The petition must be verified by the affidavit of one of the petitioners.

(3) At the time of filing the petition, the petitioners shall deposit with the county clerk a sum of money sufficient to defray all costs of publication and of holding the election in the zoning district on the question of whether or not the district should be dissolved. [1955 c.682 §2]

215.440 Election on dissolution. Upon presentation of a petition and deposit meeting the requirements of ORS 215.430, the county court shall order an election to be held in the zoning district on the question whether or not the district should be dissolved. The election shall be called and held and notice thereof given substantially in the manner provided in ORS 215.260 to 215.300 for election on the question of formation of a zoning district. [1955 c.682 §3]

215.450 Dissolution; effect of dissolution. (1) If a majority of the votes cast by qualified electors in the district voting on the issue at the election held under ORS 215.440 are in favor of dissolution of the district, the district is, except as provided in subsection (2) of this section, dissolved and all zoning regulations adopted under ORS 215.210 to 215.450 shall have no further force or effect.

(2) If at the time of the election to dissolve the district, there is outstanding indebtedness of the district, the vote to dissolve the district shall dissolve it for all purposes except the levy and collection of taxes for the payment of such indebtedness. Any funds or property of the zoning district remaining after payment of all indebtedness of the district shall be paid or transferred to the county to be used for general county purposes. [1955 c.682 §4]

215.460 to 215.980 [Reserved for expansion]

PENALTIES

215.990 Penalties. (1) Violation of any provision of ORS 215.010 to 215.190, or of any ordinance or regulation adopted pursuant to ORS 215.010 to 215.190, is punishable, upon conviction, by:

(a) A fine of not more than $100 for each day of violation where the offense is a continuing offense but such fine may not exceed $1,000.

(b) A fine of not more than $500 where the offense is not a continuing offense.

(2) Justices' courts, district courts and circuit courts have concurrent jurisdiction over prosecutions under subsection (1) of this section.

(3) Violation of any provision of ORS 215.210 to 215.450 is punishable, upon conviction, by a fine of not less than $100 nor more than $500.

(4) Each and every day which an erection, construction, reconstruction, alteration, maintenance or use illegal under ORS 215.400 continues is a separate offense. [Subsections (1) and (2) enacted as 1955 c.439 §11]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on November 1, 1959.

Sam R. Haley
Legislative Counsel

CHAPTERS 216 TO 220
[Reserved for expansion]