Chapter 215

1969 REPLACEMENT PART

County Planning; Zoning Districts; Housing Codes

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COUNTY PLANNING

215.010 Definitions for ORS 215.020 to 215.190. As used in ORS 215.020 to 215.190, the terms defined in ORS 92.010 shall have the meanings given therein.
[Amended by 1955 c.756 §25; 1963 c.619 §1 (1)]

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 outside cities.

(4) The governing body may designate one or more officers of the county to be ex officio nonvoting members of the commission.
[Amended by 1963 c.619 §2]

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 Comprehensive plan. The commission shall adopt and may from time to time revise a comprehensive plan for the use of some or all of the land in the county. The plan may be adopted and revised part by part.
[Amended by 1955 c.439 §2; 1963 c.619 §3]

215.055 Standards for plan. The plan and all legislation and regulations authorized by ORS 215.010, 215.030, 215.050 to 215.060, 215.104 to 215.233 and 215.460 shall be designed to promote the public health, safety and general welfare and shall be based on the following considerations, among others: The various characteristics of the various areas in the county, the suitability of the areas for particular land uses and improvements, the land uses and improvements in the areas, trends in land improvement, density of development, property values, the needs of economic enterprises in the future development of the areas, needed access to particular sites in the areas, natural resources of the county and prospective needs for development thereof, and the public need for healthful, safe, aesthetic surroundings and conditions.
[1955 c.439 §3; 1963 c.619 §4]

215.060 Procedure for action on plan; notice; hearing. Action by the commission regarding the plan shall have no legal effect unless the commission first conducts one or more public hearings on the plan and unless 10 days' advance public notice of each of the hearings is published in a newspaper of general circulation in the county or, in case the plan as it is to be heard concerns only part of the county, is so published in the territory so concerned and unless a majority of the entire commission approves the action. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, radio and television.
[Amended by 1963 c.619 §5; 1967 c.589 §1]

215.070 [Repealed by 1963 c.619 §16]

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 ordinance. (1) If the commission in good faith intends within a reasonable time to adopt a comprehensive plan of land use and to recommend to the governing body of the county a zoning ordinance to carry out the plan, and has conducted preliminary studies or hearings in connection with the proposed ordinance, the commission may recommend to the governing body, and the governing body may adopt, an interim zoning ordinance prohibiting for not more than three years any construction, reconstruction, alteration, use or transfer that is reasonably expected to conflict with the proposed ordinance.

(2) In the event the county has no planning commission, if the governing body of the county in good faith intends to create such a commission and to see that studies and hearings conducive to formulation and adoption of a comprehensive plan of land use for part or all of the county are promptly undertaken and that a zoning ordinance suitable for carrying out the plan is adopted within a reasonable time after the studies and hearings are undertaken, the governing body may adopt an interim zoning ordinance prohibiting for not more than three years any construction, alteration, use, or transfer that is reasonably expected to conflict with the plan.

(3) An interim zoning ordinance shall not be enacted unless the procedural requirements of ORS 215.223 are complied with.
[1955 c.439 §4; 1963 c.619 §6; 1967 c.589 §2]

215.108 [1955 c.439 §5; 1961 c.607 §1; repealed by 1963 c.619 §16]

215.110 Preparation of ordinances by commission; submission to county governing body. (1) The commission may recommend to the governing body ordinances intended to carry out part or all of the comprehensive plan adopted by the commission. The ordinances may provide, among other things, for:

(a) Zoning,

(b) Official maps showing the location and dimensions of, and the degree of permitted access to, existing and proposed thoroughfares, easements and property needed for public purposes,

(c) Preservation of the integrity of the maps by controls over construction, by making official maps parts of county deed records, and by other action not violative of private property rights, and

(d) Conservation of the natural resources of the county

(2) The commission may also recommend to the county governing body ordinances renaming public thoroughfares, numbering property, and controlling subdivision and other partitioning of land and the location, construction, maintenance, repair and alteration of buildings and other structures.

(3) The governing body may enact, amend or repeal ordinances recommended by authority of this section, together with whatever amendments it believes the public interest requires. The governing body may also enact, amend or repeal with reference to any subject mentioned in subsection (1) of this section, an ordinance on which the governing body initiates action, provided that it first requests from the commission a report and recommendation regarding the ordinance and allows a reasonable time for submission of the report and recommendation. The governing body may also enact, amend or repeal with reference to any subject mentioned in subsection (2) of this section, an ordinance on which the governing body initiates action, regardless of whether the county has a planning commission; provided that, in the event the county has a planning commission, the governing body first requests from the commission a report and recommendation regarding the ordinance and allows a reasonable time for submission of the report and recommendation.

(4) The governing body may refer to the legal voters of the county for their approval or rejection an ordinance or amendments thereto for which subsection (3) of this section provides. If only a part of the county is affected, the ordinance or amendment may be referred to that part only.

(5) An ordinance enacted by authority of this section may prescribe fees and appeal procedures necessary or convenient for carrying out the purposes of the ordinance.
[Amended by 1963 c.619 §7]

215.120 [Amended by 1957 c.568 §2; repealed by 1963 c.619 §16]

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

215.126 [1955 c.683 §3; 1957 c.568 §1; 1959 c.387 §2; repealed by 1963 c.619 §16]

215.130 Application of ordinances. (1) 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.

(2) No ordinance adopted under ORS 215.010 to 215.190 shall apply to the area inside incorporated cities of the county, except as provided in ORS 227.310 and except as to cities not regularly operating as such through elected governmental officials.

(3) Ordinances adopted under ORS 215.010 to 215.190 may apply to state, school district and other publicly owned or occupied property, except property of the United States.

(4) Land within a farm use zone which is used exclusively for farm purposes shall be exempt from regulation under a zoning ordinance enacted by authority of ORS 215.010 to 215.190.

(5) 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, changed or resumed after a period of interruption or abandonment except in conformity with such provisions as the zoning regulations may provide.

[Amended by 1961 c.607 §2; 1963 c.577 §4; 1963 c.619 §9; 1969 c.460 §1]

215.140 [Repealed by 1963 c.619 §16]

215.150 [Amended by 1955 c.439 §8; repealed by 1963 c.619 §16]

215.160 [Repealed by 1963 c.619 §16]

215.170 Authority of incorporated cities in unincorporated area. The powers of an incorporated city to control subdivision and other partitioning of land and to rename thoroughfares in adjacent unincorporated areas shall continue unimpaired by ORS 215.010 to 215.190 until the county governing body that has jurisdiction over the area adopts regulations for controlling subdivision there. Any part of the area subject to the county regulations shall cease to be subject to the two powers of the city.

[Amended by 1963 c.619 §10]

215.180 Unlawful construction or use a nuisance. The location, erection, construction, maintenance, repair, alteration or use of a building or other structure, or the subdivision, other partitioning, or use of land, in violation of an ordinance or regulation authorized by ORS 215.010 to 215.190 shall be deemed a nuisance.

[1955 c.439 §6; 1963 c.619 §11]

215.185 Remedies for unlawful structures or land use. In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used, or any land is, or is proposed to be, used, in violation of an ordinance or regulation authorized by ORS 215.010 to 215.190, the governing body or district attorney of the county or a 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 other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, or remove the unlawful location, construction, maintenance, repair, alteration, 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, the person shall furnish undertaking as provided in ORS 32.010 to 32.060.

[1955 c.439 §7; 1963 c.619 §12]

215.190 Violation of regulations. No person shall locate, construct, maintain, repair, alter, or use a building or other structure or use or transfer land in violation of an ordinance or regulation authorized by ORS 215.010 to 215.190.

[1955 c.439 §9; 1963 c.619 §13]

215.200 [1957 (s.s.) c.11 §1; renumbered 215.285]

215.203 Adoption of zoning ordinances establishing farm use zones; "farm use" defined. (1) Zoning ordinances may be adopted under ORS 215.010 to 215.190 to zone designated areas of land within the county as farm use zones. Land within such zones shall be used exclusively for farm use except as otherwise provided in ORS 215.213. Farm use zones shall be established only when such zoning is consistent with the over-all plan of development of the county.

(2) (a) As used in this section, "farm use" means the current employment of land for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or

any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation and storage of the products raised on such land for man's use and animal use and disposal by marketing or otherwise. It does not include the use of land subject to the provisions of ORS chapter 321, or to the construction and use of dwellings and other buildings customarily provided in conjunction with the farm use.

(b) Except as limited by paragraph (c) of this subsection, farm use land shall not be regarded as being used for the purpose of obtaining a profit in money if the whole parcel has not produced a gross income from farm uses of $500 per year for three of the five calendar years immediately preceding the assessment day of the tax year for which farm use is claimed by the owner or allowed by the assessor, notwithstanding that such land is included within the boundaries of a farm use zone. In case of question, the burden of proving the gross income of a parcel of land for the years designated in this paragraph is placed upon the owner of the land.

(c) "Current employment" of land for farm use includes (i) land subject to the soil-bank provisions of the Federal Agricultural Act of 1956, as amended (P. L. 84-540, 70 Stat. 188); (ii) land lying fallow for one year as a normal and regular requirement of good agricultural husbandry; (iii) land planted in orchards or other perennials prior to maturity for bearing crops; and (iv) farm wood lots of less than 20 acres appurtenant to farm use land which fulfills the requirements of paragraph (b) of this subsection. The acres of land within the categories described in this paragraph shall not be subject to the requirements of paragraph (b) of this subsection.

[1963 c.577 §2 and 1963 c.619 §1 (2), (3), 1967 c.386 §1]

215.205 [1957 (s.s.) c.11 §2; renumbered 215.295]

215.210 [Amended by 1955 c.652 §6; renumbered 215.305]

215.213 Nonfarm uses permitted within farm use zones. The following nonfarm uses may be established in any area zoned under ORS 215.010 to 215.190 for farm use:

(1) Public or private schools.

(2) Churches.

(3) Golf courses.

(4) Parks, playgrounds or community centers owned and operated by a governmental agency or a nonprofit community organization.

(5) Utility facilities necessary for public service.

(6) The dwellings and other buildings customarily provided in conjunction with farm use, referred to in paragraph (a) of subsection (2) of ORS 215.203.

[1963 c.577 §3 and 1963 c.619 §1a, 1969 c.258 §1]

Note: Section 3, chapter 577, and section 1a, chapter 619, Oregon Laws 1963, have been compiled as ORS 215.213 because they were virtually identical. Section 3, chapter 577, used the term "properties" instead of "facilities" in subsection (5).

215.220 [Repealed by 1963 c.619 §16]

215.223 Procedure for adopting zoning ordinances; notice. (1) No zoning ordinance enacted by the county governing body may have legal effect unless prior to its enactment the governing body or the planning commission conducts one or more public hearings on the ordinance and unless 10 days' advance public notice of each hearing is published in a newspaper of general circulation in the county or, in case the ordinance applies to only a part of the county, is so published in that part of the county.

(2) The notice provisions of this section shall not restrict the giving of notice by other means, including mail, radio and television.

(3) In effecting a zone change the proceedings for which are commenced at the request of a property owner, the governing body shall in addition to other notice give individual notice of the request by mail to the record owners of property within 250 feet of the property for which a zone change has been requested. The failure of the property owner to receive the notice described shall not invalidate any zone change.

[1963 c.619 §8; 1967 c.589 §3]

215.230 [Repealed by 1963 c.619 §16]

215.233 Validity of ordinances and development patterns adopted before September 2, 1963. Nothing in ORS 215.010, 215.030, 215.050 to 215.060, 215.104 to 215.233 and 215.460 shall impair the validity of ordinances enacted prior to September 2, 1963. All development patterns made and adopted prior to that time shall be deemed to meet the requirements of ORS 215.010, 215.030, 215.050 to 215.060, 215.104 to 215.233 and 215.460 concerning comprehensive plans.

[1963 c.619 §14]

215.240 [Repealed by 1963 c.619 §16]

215.250 [Repealed by 1963 c.619 §16]

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 [1957 (s.s.) c.11 §5 (enacted in lieu of ORS 215.260); repealed by 1963 c.619 §16]

215.270 [Repealed by 1963 c.619 §16]

215.280 [Repealed by 1963 c.619 §16]

COUNTY ZONING DISTRICTS

215.285 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 215.305 to 215.450.

[Formerly 215.200]

215.290 [Repealed by 1963 c.619 §16]

215.295 New district succeeds to and replaces abolished district. Each zoning district created by ORS 215.285 shall in all respects succeed to and replace the territorially coterminous zoning district abolished by ORS 215.285. 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 215.305 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.

[Formerly 215.205]

215.300 [Repealed by 1963 c.619 §16]

215.305 Definitions for ORS 215.305 to 215.450. As used in ORS 215.305 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.

[Formerly 215.210]

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 indorsement 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-fortieth of one percent (.00025) of the true cash value of all taxable property within the zoning district, computed in accordance with ORS 308.207, 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; 1963 c.9 §4]

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 215.305 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 conformity 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 215.305 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 215.305 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 215.305 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 215.305 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 215.305 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 215.305 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 Duration of districts. County zoning districts organized under ORS 215.285 to 215.450 on September 2, 1963, shall continue to exist until dissolved in accordance with ORS 215.420 or with ORS 215.430 to 215.450.
[1963 c.619 §15]

LAND USE PLANS AND ZONING BY GOVERNOR

215.505 Governor authorized to prescribe and administer comprehensive land use plans and zoning regulations for unregulated lands. Notwithstanding any other provision of law, if, after December 31, 1971, there are any lands within the boundaries of a county, whether or not within the boundaries of a city, that are not subject to ORS 390.640 or to a comprehensive land use plan and zoning ordinances adopted pursuant to ORS chapter 215, or zoned pursuant to any other state law or city ordinance, the Governor shall prescribe, may amend, and shall thereafter administer comprehensive land use plans and zoning regulations for such lands. If any county shall have under consideration a comprehensive land use or zoning ordinance, and shall have shown satisfactory progress toward the final enactment of such plan or ordinance, the Governor may grant a reasonable extension of time after the date set in

this section for completion of said plan or ordinance.
[1969 c.324 §1]

215.510 Standards for plan and regulations; limitation; enjoining nonconforming use; hearing. (1) Any comprehensive land use plans prescribed or amended by the Governor pursuant to ORS 215.505 shall be in accordance with the standards provided in ORS 215.515 and the notice and hearing requirements provided in ORS 215.060.

(2) Any zoning regulations prescribed or amended by the Governor pursuant to ORS 215.505 shall be in accordance with the standards provided in ORS 215.055 and the notice and hearing requirements provided in ORS 215.223.

(3) A comprehensive land use plan or zoning regulation prescribed or amended by the Governor pursuant to ORS 215.505 may be for any purpose provided in this chapter, except that the Governor may not prescribe building regulations. The Governor may, however, cause to be instituted an appropriate proceeding to enjoin the construction of buildings or performance of any other acts which would constitute a land use that does not conform to the applicable land use plan or zoning regulation.

(4) Any hearings required by this section may be held by the Governor, or by a person designated by the Governor, and all such hearings shall be held in the county seat of the county in which said comprehensive land use plan or zoning regulation is to be prescribed.
[1969 c.324 §2]

215.515 Comprehensive physical planning objectives. Comprehensive physical planning should provide guidance for physical development within the state responsive to economic development, human resource development, natural resource development and regional and metropolitan area development. It should assist in attainment of the optimum living environment for the state's citizenry and assure sound housing, employment opportunities, educational fulfillment and sound health facilities. State plans should relate to intermediate and long-range growth objectives. The plans should set a pattern upon which state agencies and local government may base their programs and local area plans. Goals for comprehensive physical planning are:

(1) To preserve the quality of the air and water resources of the state.

(2) To conserve open space and protect natural and scenic resources.

(3) To provide for the recreational needs of citizens of the state and visitors.

(4) To conserve prime farm lands for the production of crops and provide for an orderly and efficient transition from rural to urban land use.

(5) To protect life and property in areas subject to floods, landslides and other natural disasters.

(6) To provide and encourage a safe, convenient and economic transportation system including all modes of transportation: Air, water, rail, highway and mass transit, and recognizing differences in the social costs in the various modes of transportation.

(7) To develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

(8) To diversify and improve the economy of the state.

(9) To ensure that the development of properties within the state is commensurate with the character and the physical limitations of the land.
[1969 c.324 §3]

215.520 Building regulation; notice required. (1) As used in this section, "building" means a structure having one or more walls or columns, with or without a roof; that is designed to protect persons, animals or property from the elements.

(2) Except when notice is required to be given pursuant to subsection (4) of this section, any person who intends to cause to be erected a building, the materials for construction of which have the value of $300 or more, on land subject to zoning regulations prescribed by the Governor shall give written notice to the Governor 10 days before the construction is to begin. Such notice shall include:

(a) The date construction of the building is to begin, and the location of such building;

(b) A sketch showing the building and its dimensions;

(c) A rough estimate of the value of the materials to be used in constructing the building; and

(d) A brief description of the intended use of the building.

(3) No person shall fail to give the notice required by subsection (2) of this section.

(4) If the land upon which a building is to be constructed is subject to zoning regulations prescribed by the Governor and is also

subject to building regulations imposed by the county or city, and such building regulations require a permit for the type of building to be constructed, the official from whom such permit is to be obtained shall give to the Governor the notice required by subsection (2) of this section.
[1969 c.324 §4]

215.525 Administration of land use plans and zoning regulations. The Governor may enter into contracts for such services as the Governor considers appropriate for carrying out his land use planning and zoning duties.
[1969 c.324 §6]

215.530 Plans and regulations suspended while county or city regulations in effect. If a county or city governing body or other zoning authority adopts a comprehensive land use plan and zoning ordinances in accordance with the standards provided in ORS 215.055 and 215.515 after the promulgation of a comprehensive land use plan and zoning regulations by the Governor, the plan and regulations promulgated by the Governor shall be ineffective during the time the plan and ordinances adopted by the city, county or other zoning authority are in effect.
[1969 c.324 §7]

215.535 Enforcement. In addition to the remedy prescribed in subsection (3) of ORS 215.510, the Governor may cause to be instituted any civil action or suit he considers appropriate to remedy violations of any comprehensive land use plan or zoning regulation prescribed by the Governor pursuant to ORS 215.505.
[1969 c.324 §5]

COUNTY HOUSING CODES

215.605 Counties authorized to adopt housing codes. For the protection of the public health, welfare and safety, the governing body of a county may adopt ordinances establishing housing codes for the county, or any portion thereof, except where housing code ordinances are in effect on August 22, 1969, or where such ordinances are enacted by an incorporated city subsequent to August 22, 1969. Such housing code ordinances may adopt by reference published codes, or any portion thereof, and a certified copy of such code or codes shall be filed with the county clerk of said county.
[1969 c.418 §1]

215.610 Procedure for adoption of housing ordinances; referral to voters. (1) An ordinance authorized by ORS 215.605 may be adopted only after a hearing conducted by the board, and shall take effect 30 days after the date of enactment unless a later effective date is specified in the ordinance. Notice of such a hearing shall be published for two successive publication days, not less than 10 days before the hearing, in a newspaper considered by the board to be of general circulation within the county. The board may also cause the notice to be published by radio and television stations located within the county, or heard or viewed in the county.

(2) The board may refer an ordinance adopted under ORS 215.605 to the voters of the county for their approval or rejection. An ordinance adopted under ORS 215.605 is a local law within the meaning of, and subject to, ORS 254.310, relating to initiative and referendum.
[1969 c.418 §2]

215.615 Application and contents of housing ordinances. The provisions of housing code ordinances authorized by ORS 215.605 to 215.615 shall apply to all buildings or portions thereof used, or designed or intended to be used for human habitation, and shall include, but not be limited to:

(1) Standards for space, occupancy, light, ventilation, sanitation, heating, exits and fire protection.

(2) Inspection of such buildings.

(3) Procedures whereby buildings or portions thereof which are determined to be substandard are declared to be public nuisances and are required to be abated by repair, rehabilitation, demolition or removal.

(4) An advisory and appeals board.
[1969 c.418 §3]

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 215.305 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.

(5) Violation of subsection (3) of ORS 215.520 is a misdemeanor.

[Subsections (1) and (2) enacted as 1955 c.439 §11; subsection (5) enacted as 1969 c.324 §8]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, 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 December 1, 1969.

Robert W. Lundy
Legislative Counsel

CHAPTERS 216 TO 220

[Reserved for expansion]