

Chapter 215

1973 REPLACEMENT PART

County Planning; Zoning; Housing Codes

COUNTY PLANNING

- 215.010 Definitions for ORS 215.020 to 215.190 and 215.402 to 215.422
 - 215.020 Authority to establish county planning commission
 - 215.030 Membership of planning commission
 - 215.035 Planning commission member conflict of interest activities
 - 215.040 Officers of commission; rules
 - 215.042 County to appoint planning director; term and duties of director
 - 215.046 Advisory land use planning committees
 - 215.050 Comprehensive planning, zoning and subdivision ordinances
 - 215.055 Standards for plan
 - 215.060 Procedure for action on plan; notice; hearing
 - 215.080 Power to enter upon land
 - 215.090 Information made available to commission
 - 215.100 Cooperation with other agencies
 - 215.104 Interim zoning ordinance
 - 215.110 Preparation of ordinances by commission; submission to county governing body; retroactive ordinances prohibited
 - 215.130 Application of ordinances
 - 215.170 Authority of incorporated cities in unincorporated area
 - 215.180 Unlawful construction or use a nuisance
 - 215.185 Remedies for unlawful structures or land use
 - 215.190 Violation of regulations
- #### AGRICULTURAL LAND USE
- 215.203 Adoption of zoning ordinances establishing farm use zones; "farm use" defined
 - 215.213 Nonfarm uses permitted within farm use zones
 - 215.223 Procedure for adopting zoning ordinances; notice
 - 215.233 Validity of ordinances and development patterns adopted before September 2, 1963
 - 215.243 Agricultural land use policy
 - 215.253 Prohibition against restrictive local ordinances affecting farm use zones; exemption for exercise of governmental power to protect public health, safety and welfare

- 215.263 Review of land divisions in exclusive farm use zones; criteria for approval; exemption for court-ordered property dispositions
- 215.273 Applicability to Nuclear and Thermal Energy Council power plant siting determinations

PLANNING AND ZONING HEARINGS AND REVIEW

- 215.402 Definitions for ORS 215.402 to 215.422
- 215.406 Planning and zoning hearings officers; duties and powers; authority of governing body or planning commission to conduct hearings
- 215.412 Rules for hearing procedure
- 215.416 Application for permits; hearing requirements; criteria for granting permit; re-submission of denied applications
- 215.422 Review of action on permit application

LAND USE PLANS AND ZONING BY LAND CONSERVATION AND DEVELOPMENT COMMISSION

- 215.505 Commission authorized to prescribe and administer comprehensive land use plans and zoning regulations for unregulated lands
- 215.510 Standards for plans and regulations; limitation; enjoining nonconforming use; hearing
- 215.515 Comprehensive physical planning objectives
- 215.520 Building regulation; notice required
- 215.525 Administration of land use plans and zoning regulations
- 215.530 Plans and regulations suspended while county or city regulations in effect
- 215.535 Enforcement

COUNTY HOUSING CODES

- 215.605 Counties authorized to adopt housing codes
- 215.610 Procedure for adoption of housing ordinances; referral to voters
- 215.615 Application and contents of housing ordinances

PENALTIES

- 215.990 Penalties

CROSS REFERENCES

Advertising signs, regulation, Ch. 377
 Airport zoning, Ch. 492
 Assessment of open space lands for ad valorem taxation, 308.740
 Assistance in planning, 184.160, 184.180, 351.260
 Building code for burial structures, 447.610 to 447.730
 Buildings, public and government, requirements for use by handicapped:
 Construction, 447.243
 Identification of entrances, 447.245
 Renovation, 447.235
 City planning and zoning, Ch. 227
 City zoning ordinances, application of, 227.286
 Coastal zone, preparation of comprehensive land use plan for, 191.110 to 191.180
 Cooperation of state agencies with county housing authority, 456.315
 County forests and parks, 275.320 to 275.370
 County plumbing work standards, 447.080
 County road rights of way, permission to build on, 374.305
 Exemption from fire laws and regulations granted by State Fire Marshal, 476.030
 Farm land, zoned and unzoned, special assessment rules, 308.345 to 308.395
 Forest land, conversion to nonforest use not prevented by Oregon Forest Practices Act, 527.730
 Housing conditions, power of county housing authority to investigate and make recommendations, 456.125
 Housing projects as subject to local laws and regulations, 456.160
 Parks and recreational areas, general power of county court to provide for, 203.120 (11)
 Pedestrian malls, 376.705 to 376.828
 Pioneer memorial parks (cemeteries) in Clackamas County, 214.610
 Planning coordination and planning districts, Ch. 197

Plans to bear stamp of registered architect, 671.025
 Reclamation of mining lands, effect upon local zoning laws or ordinances, 517.780
 Recreation facilities, cooperation with State Recreation Director, 390.140
 Regulations continue to apply after area taken into city, 227.310
 Review of subdivisions required, 92.215
 Service facilities, master plans and districts for, Ch. 451
 Structures of public assembly, approving certain plans for, 460.230
 Subdivisions and partitions:
 Jurisdiction, duties, procedure, authority, review, 92.010 to 92.160, 92.205 to 92.285
 Urban renewal and redevelopment of deteriorated and blighted areas, Ch. 457
 Willamette River Greenway, 390.310 to 390.368
 Wreckers, motor vehicle, regulation, limit on location and size, 481.353
 215.050
 Land use regulations in soil conservation districts, 568.630
 215.110
 Ordinances, certain retroactive prohibited, 92.285
 Procedure for adopting ordinances, 215.223
 215.170
 Approval of subdivision plats in unincorporated area, 227.110
 Effect of ordinance when area affected by ordinance becomes part of city, 227.310
 215.203
 Agricultural land, assessment and taxation, 308.345 to 308.395
 Condemnation by wildlife commission of land used for farm use prohibited, 496.154

COUNTY PLANNING

215.010 Definitions for ORS 215.020 to 215.190 and 215.402 to 215.422. As used in ORS 215.020 to 215.190 and 215.402 to 215.422, 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. (1) The governing body of any county may create by ordinance a county planning commission, appoint its members and provide funds for its operation.

(2) This section shall be liberally construed and shall include the authority to create more than one planning commission, or subcommittee of a commission, for a county or the use of a joint planning commission or other intergovernmental agency for planning as authorized by ORS 190.003 to 190.110. [Amended by 1973 c.552 §1]

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. A member appointed to a planning commission may be removed by the governing body, after hearing, for misconduct or nonperformance of duty. Any vacancy shall be filled by the governing body for the unexpired term of the predecessor in the office.

(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 various geographic areas of the county. No more than two voting members shall be engaged principally in the buying, selling or developing of real estate for profit, as individuals, or be members of any partnership or officers or employes of any corporation that is engaged principally in the buying, selling or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of business, trade or profession.

(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; 1973 c.552 §2] 339

215.035 Planning commission member conflict of interest activities. A member of a planning commission shall not participate in any commission proceeding or action in which any of the following has a direct or substantial financial interest: The member or his spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which he is then serving or has served within the previous two years, or any business with which he is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the commission where the action is being taken. [1973 c.552 §10]

215.040 Officers of commission; rules. The commission may:

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

(2) Select such other officers as the commission considers necessary or appropriate.

(3) Adopt rules governing the transaction of its business. [Amended by 1973 c.552 §3]

215.042 County to appoint planning director; term and duties of director. (1) The governing body of each county shall designate an individual to serve as planning director for the county responsible for administration of planning. The governing body shall provide employes as necessary to assist the director in carrying out his responsibilities. The director shall be the chief administrative officer in charge of the planning department of the county, if one is created.

(2) The director shall provide assistance, as requested, to the planning commission and shall coordinate the functions of the commission with other departments, agencies and officers of the county that are engaged in functions related to planning for the use of lands within the county.

(3) The director shall serve at the pleasure of the governing body of the county. [1973 c.552 §9]

215.046 Advisory land use planning committees. (1) For the purpose of obtaining citizen participation in, and to assist in coordinating, land use planning for all lands situated within the county, the governing body of each county may establish advisory committees on land use planning for each area in the county composed of a city located principally within the county and such land

surrounding the city and located outside the boundaries of the city as the governing body determines to be a reasonable land use planning unit. Each such committee shall be composed of residents of the area to be represented.

(2) The governing body of a county and the planning commission for such county shall consult with each advisory committee established under subsection (1) of this section in the preparation, adoption, revision and implementation of a comprehensive plan for the county. The county shall furnish each such committee with technical and other assistance.

[1973 c.552 §11]

215.050 Comprehensive planning, zoning and subdivision ordinances. The county governing body shall adopt and may from time to time revise a comprehensive plan and zoning, subdivision and other ordinances for the use of some or all of the land in the county. The plan and related ordinances may be adopted and revised part by part.

[Amended by 1955 c.439 §2; 1963 c.619 §3; 1973 c.552 §4]

Note: Section 5, chapter 552, Oregon Laws 1973, provides:

Sec. 5. The amendment to ORS 215.050 by section 4 of this Act does not invalidate any comprehensive plan adopted by a county planning commission prior to the effective date of this Act [October 5, 1973]. However, only the governing body of a county may revise or amend any such plan after the effective date of this Act.

215.055 Standards for plan. (1) Any comprehensive plan and all zoning, subdivision or other ordinances and regulations authorized by ORS 215.010 to 215.233 and 215.402 to 215.422 and adopted prior to the expiration of one year following the date of the approval of state-wide planning goals and guidelines under ORS 197.240 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.

215.055 Standards for plan. (1) Any comprehensive plan and all zoning, subdivision or other ordinances and regulations authorized by ORS 215.010 to 215.233 and 215.402 to 215.422 and adopted prior to the expiration of one year following the date of the approval of state-wide planning goals and guidelines under ORS 197.240 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.

(2) Any plan and all zoning, subdivision or other ordinances and regulations authorized by ORS 215.010 to 215.233 and 215.402 to 215.422 and adopted after the expiration of one year after the date of the approval of state-wide planning goals and guidelines under ORS 197.240 shall be designed to comply with such state-wide planning goals and any subsequent revisions or amendments thereof.

(3) In order to conserve natural resources of the state, any land use plan or zoning, subdivision or other ordinance adopted by a county shall take into consideration lands that are, can or should be utilized for sources or processing of mineral aggregates.

[1955 c.439 §3; 1963 c.619 §4; 1971 c.13 §2; 1971 c.739 §1; 1973 c.80 §43]

215.060 Procedure for action on plan; notice; hearing. Action by the governing body of a county regarding the plan shall have no legal effect unless the governing body 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 members of the governing body 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; 1973 c.552 §6]

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 governing body of a county in good faith intends within a reasonable time to adopt a comprehensive plan of land use and to enact a zoning ordinance to carry out the plan, and has conducted preliminary studies or hearings in connection with the proposed ordinance, 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) 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; 1973 c.552 §7]

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; retroactive ordinances prohibited. (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.

(6) No retroactive ordinance shall be enacted under the provisions of this section. [Amended by 1963 c.619 §7; 1973 c.696 §22]

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 and 215.402 to 215.422 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 and 215.402 to 215.422 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 and 215.402 to 215.422 may apply to state, school district and other publicly owned or occupied property, except property of the United States.

(4) 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; 1973 c.503 §2]

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 and 215.402 to 215.422 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 and 215.402 to 215.422 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 and 215.402 to 215.422, 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 un-

lawful 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 and 215.402 to 215.422.

[1955 c.439 §9; 1963 c.619 §13]

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

AGRICULTURAL LAND USE

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 and 215.402 to 215.422 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 overall plan of development of the county.

(2) (a) As used in this section, "farm use" means the current employment of land including that portion of such lands under buildings supporting accepted farming practices 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 customarily provided in conjunction with the farm use.

(b) "Current employment" of land for farm use includes (A) land subject to the soil bank provisions of the Federal Agricultural Act of 1956, as amended (P.L. 84-540, 70 Stat. 188) and (B) land lying fallow for one

year as a normal and regular requirement of good agricultural husbandry; and (C) land planted in orchards or other perennials prior to maturity.

(c) "As used in this subsection, "accepted farming practice" means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

[1963 c.577 §2; 1963 c.619 §1(2),(3); 1967 c.386 §1; 1973 c.503 §3]

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. (1) The following nonfarm uses may be established in any area zoned under ORS 215.010 to 215.190 and 215.402 to 215.422 for farm use:

(a) Public or private schools.

(b) Churches.

(c) The propagation or harvesting of a forest product.

(d) Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale.

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

(2) The following nonfarm uses may be established, subject to the approval of the governing body of the county, in any area zoned under ORS 215.010 to 215.190 and 215.402 to 215.422 for farm use:

(a) Commercial activities that are in conjunction with farm use.

(b) Operations conducted for the exploration, mining and processing of geothermal resources as defined by subsection (4) of ORS 522.010, aggregate and other mineral resources or other subsurface resources.

(c) Private parks, playgrounds, hunting and fishing preserves and campgrounds.

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

(e) Golf courses.

(f) Commercial utility facilities for the purpose of generating power for public use, by sale.

(3) Single-family residential dwellings, not provided in conjunction with farm use, may be established, subject to the approval of

the governing body of the county, in any area zoned under ORS 215.010 to 215.190 and 215.402 to 215.422 for farm use upon a finding by the governing body that each such proposed dwelling:

(a) Is compatible with farm uses described in subsection (2) of ORS 215.203 and is consistent with the intent and purposes set forth in ORS 215.243; and

(b) Does not interfere seriously with accepted farming practices, as defined in paragraph (c) of subsection (2) of ORS 215.203, on adjacent lands devoted to farm use; and

(c) Does not materially alter the stability of the overall land use pattern of the area; and

(d) Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract; and

(e) Complies with such other conditions as the governing body of the county considers necessary.

[1963 c.577 §3; 1963 c.619 §1a; 1969 c.258 §1; 1973 c.503 §4]

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.

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, and 215.104 to 215.233 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 and 215.104 to 215.233 concerning comprehensive plans. [1963 c.619 §14; 1971 c.13 §3]

215.240 [Repealed by 1963 c.619 §16]

215.243 Agricultural land use policy. The Legislative Assembly finds and declares that:

(1) Open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all of the people of this state, whether living in rural, urban or metropolitan areas of the state.

(2) The preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources and the preservation of such land in large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation.

(3) Expansion of urban development into rural areas is a matter of public concern because of the unnecessary increases in costs of community services, conflicts between farm and urban activities, and the loss of open space and natural beauty around urban centers occurring as the result of such expansion.

(4) Exclusive farm use zoning as provided by law substantially limits alternatives to the use of rural land and, with the importance of rural lands to the public, justifies incentives and privileges offered to encourage owners of rural lands to hold such lands in exclusive farm use zones.

[1973 c.503 §5]
215.250 [Repealed by 1972 c.619 §16]

215.253 Prohibition against restrictive local ordinances affecting farm use zones; exemption for exercise of governmental power to protect public health, safety and welfare.

(1) No state agency, city, county or political

subdivision of this state, may exercise any of its powers to enact local laws or ordinances or impose restrictions or regulations affecting any farm use land situated within an exclusive farm use zone established under ORS 215.203 in a manner that would unreasonably restrict or regulate farm structures or that would unreasonably restrict or regulate accepted farming practices because of noise, dust, odor or other materials carried in the air or other conditions arising therefrom if such conditions do not extend beyond the boundaries of the exclusive farm use zone within which they are created in such manner as to interfere with the use of adjacent lands. "Accepted farming practice" as used in this subsection shall have the meaning set out in ORS 215.203.

(2) Nothing in this section is intended to limit or restrict the lawful exercise by any state agency, city, county or political subdivision of its power to protect the health, safety and welfare of the citizens of this state. [1973 c.503 §8]

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

215.261 [1957 (s.s.) c.11 §5 (enacted in lieu of 215.260); repealed by 1963 c.619 §16]

215.263 Review of land divisions in exclusive farm use zones; criteria for approval; exemption for court-ordered property dispositions. (1) Any proposed division of land included within an exclusive farm use zone resulting in the creation of one or more parcels of land of 10 or more acres in size may be reviewed and approved or disapproved by the governing body of the county in which such land is situated. The governing body of a county by ordinance or regulation may require such prior review and approval for such divisions of land within exclusive farm use zones established within the county.

(2) Any proposed division of land included within an exclusive farm use zone resulting in the creation of one or more parcels of land of less than 10 acres in size shall be reviewed and approved or disapproved by the governing body of the county within which such land is situated.

(3) If the governing body of a county initiates a review as provided in subsection (1) or (2) of this section, it shall not approve any proposed division of land unless it finds that the proposed division of land is in conformity with the legislative intent set forth in ORS 215.243.

(4) This section shall not apply to land divided by lien foreclosure or court ordered partitioning, including but not limited to partitioning by testate or intestate succession, or to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established. [1973 c.503 §9]

215.270 [Repealed by 1963 c.619 §16]

215.273 Applicability to nuclear and thermal energy council power plant siting determinations. Nothing in ORS 118.155, 215.130, 215.203, 215.213, 215.243 to 215.273, 308.395 to 308.401 and 316.081 is intended to affect the authority of the Nuclear and Thermal Energy Council in determining suitable sites for the issuance of site certificates for thermal power plants, as authorized under ORS 453.305 to 453.575. [1973 c.503 §16]

215.280 [Repealed by 1963 c.619 §16]

215.285 [Formerly 215.200; repealed by 1971 c.13 §1]

215.290 [Repealed by 1963 c.619 §16]

215.295 [Formerly 215.205; repealed by 1971 c.13 §1]

215.300 [Repealed by 1963 c.619 §16]

215.305 [Formerly 215.210; repealed by 1971 c.13 §1]

215.310 [Repealed by 1971 c.13 §1]

215.320 [Repealed by 1971 c.13 §1]

215.325 [1953 c.662 §6; 1963 c.9 §4; repealed by 1971 c.13 §1]

215.330 [Repealed by 1971 c.13 §1]

215.340 [Repealed by 1971 c.13 §1]

215.350 [Amended by 1953 c.662 §7; repealed by 1971 c.13 §1]

215.360 [Amended by 1953 c.662 §7; subsection (2) enacted as 1953 c.662 §1; repealed by 1971 c.13 §1]

215.370 [Repealed by 1971 c.13 §1]

215.380 [Amended by 1953 c.662 §4; repealed by 1971 c.13 §1]

215.390 [Repealed by 1971 c.13 §1]

215.395 [1953 c.662 §3; 1955 c.652 §5; repealed by 1971 c.13 §1]

215.398 [1955 c.652 §2; repealed by 1971 c.13 §1]

215.400 [Repealed by 1971 c.13 §1]

PLANNING AND ZONING HEARINGS AND REVIEW

215.402 Definitions for ORS 215.402 to 215.422. As used in ORS 215.402 to 215.422 unless the context requires otherwise:

(1) "Contested case" means a proceeding in which the legal rights, duties or privileges of specific parties under general rules or policies provided under ORS 215.010 to 215.233 and 215.402 to 215.422, or any ordinance, rule or regulation adopted pursuant thereto, are required to be determined only after a hearing at which specific parties are entitled to appear and be heard.

(2) "Hearing" means a quasi-judicial hearing, authorized or required by the ordinances and regulations of a county adopted pursuant to ORS 215.010 to 215.233 and 215.402 to 215.422:

(a) To determine in accordance with such ordinances and regulations if a permit shall be granted or denied; or

(b) To determine a contested case.

(3) "Hearings officer" means a planning and zoning hearings officer appointed or designated by the governing body of a county under ORS 215.406.

(4) "Permit" means authority or approval of a proposed use of land for which approval is a matter of discretion and is required pursuant to ORS 215.010 to 215.190 and 215.402 to 215.422, or any ordinance, rule or regulation adopted pursuant thereto, and the term includes, but is not limited to, conditional use, special exception, variance, special design zone and other similar permits. [1973 c.552 §12]

215.406 Planning and zoning hearings officers; duties and powers; authority of governing body or planning commission to conduct hearings. (1) The governing body of each county may appoint or designate one or more qualified persons as planning and zoning hearings officers, to serve at the pleasure of and at a salary fixed by the governing body. The hearings officer shall have power to conduct hearings on applications for permits or of contested cases under rules and regulations adopted by the governing body of the county pursuant to ORS 215.010 to 215.233 and 215.402 to 215.422.

(2) In the absence of a hearings officer or his inability to serve, the planning commission or the governing body may serve as hearings officer with all the powers and duties of a hearings officer as prescribed by ORS 215.010 to 215.090 and 215.402 to 215.422 and the ordinance of the county adopted pursuant thereto.

215.410 [Repealed by 1971 c.13 §1]

215.412 Rules for hearing procedure. The governing body of a county, by ordinance or rule, shall adopt a procedure for the conduct of hearings. The procedure shall be applicable to all requests for permits and of the determination of contested cases. [1973 c.552 §14]

215.415 [1963 c.682 §5; repealed by 1971 c.13 §1]

215.416 Application for permits; hearing requirements; criteria for granting permit; resubmission of denied applications.

(1) When required or authorized by the ordinances, rules and regulations of a county adopted pursuant to ORS 215.010 to 215.090 and 215.402 to 215.422, an owner of land may apply in writing to such person as the governing body may designate for a permit, upon such forms and in such manner as may be prescribed by the governing body of the county.

(2) The hearings officer shall hold at least one public hearing on an application and, within 60 days after receipt of the application, shall take action denying or approving application and issuance of the permit or determining the contested case.

(3) The application shall not be approved unless the proposed use of land would be in compliance with the comprehensive plan of the county. The approval may include such conditions as are authorized by ORS 215.010 to 215.190 and 215.402 to 215.422 and any ordinances, rules or regulations adopted pursuant thereto and necessary to carry out the comprehensive plan for the county.

(4) If an application for a permit is denied, the application shall not be submitted again until at least six months after the date of the final action denying the application.

(5) Hearings conducted pursuant to subsections (1) to (4) of this section shall be held only after notice to the applicant and also notice to other persons as provided by ORS 215.223.

215.420 [Amended by 1975 c.439 §10; repealed by 1971 c.13 §1]

215.422 Review of action on permit application. (1) A party aggrieved by the action of a hearings officer taken under subsections (1) to (4) of ORS 215.416, may appeal such approval or denial to the governing body of the county. The governing body may, on its own motion, review any action taken under subsections (1) to (4) of ORS 215.416. [1973 c.552 §15, 18]

(2) In accordance with rules adopted by the governing body of the county therefor, the governing body shall hold a hearing on the action of the hearings officer appealed from, as set forth in the transcript of the hearing, the written findings of the hearings officer and the action taken by the hearings officer with respect to the proposed use of land.

(3) The governing body may amend, rescind or affirm the action of the hearings officer.

(4) Any person described by subsection (1) of this section who is aggrieved by the action of the governing body under subsection (3) of this section may seek a review thereof as provided by ORS 34.010 to 34.100. [1973 c.522 §§17, 18]

215.430 [1955 c.682 §2; repealed by 1971 c.13 §1]

215.440 [1955 c.682 §3; repealed by 1971 c.13 §1]

215.450 [1955 c.682 §4; repealed by 1971 c.13 §1]

215.460 [1963 c.619 §15; repealed by 1971 c.13 §1]

LAND USE PLANS AND ZONING BY LAND CONSERVATION AND DEVELOPMENT COMMISSION

215.505 Commission 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 215.010 to 215.233, 215.402 to 215.422 and subsections (1) and (2) of 215.990, or zoned pursuant to any other state law or city ordinance, the Land Conservation and Development Commission 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 commission 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; 1971 c.13 §1]

215.510 Standards for plans and regulations; limitation; enjoining nonconforming use; hearing. (1) Any comprehensive plan for any city or county prescribed or amended by the commission pursuant to ORS 197.325 or 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, subdivision or other ordinances and regulations for any city or county prescribed or amended by the commission pursuant to ORS 197.325 or 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 plan or zoning, subdivision or other ordinance or regulation for any city or county prescribed or amended by the commission pursuant to ORS 197.325 or 215.505 may be for any purpose provided in ORS 215.010 to 215.233, 215.402 to 215.422 and subsections (1) and (2) of 215.990, except that the commission may not prescribe building regulations. The commission 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 comprehensive plan or zoning, subdivision or other ordinance or regulation.

(4) Any hearings required by this section may be held by the commission, or by a person designated by the commission, and all such hearings shall be held in the county seat of the county or in the city in which said comprehensive plan or zoning, subdivision or other ordinance or regulation is to be prescribed. [1969 c.324 §2; 1973 c.80 §47]

215.515 Comprehensive physical planning objectives. (1) Comprehensive physical planning, adopted by the commission prior to the expiration of one year following the date of the approval of state-wide planning goals and guidelines under ORS 197.240, 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 fulfillments 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:

(a) To preserve the quality of the air, water and land resources of the state.

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

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

(d) To conserve prime farm lands for the production of crops.

(e) To provide for an orderly and efficient transition from rural to urban land use.

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

(g) 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.

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

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

(j) To ensure that the development of properties within the state is commensurate with the character and the physical limitations of the land.

(2) Comprehensive plans adopted by the commission after the expiration of one year after the date of the approval of state-wide planning goals and guidelines under ORS 197.240 shall be designed to comply with such state-wide planning goals and any subsequent revisions or amendments thereof. [1969 c.324 §3; 1973 c.80 §48]

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 Land Conservation and Development Commission shall give written notice to the commission 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 commission 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 commission the notice required by subsection (2) of this section.

[1969 c.324 §4]

215.525 Administration of land use plans and zoning regulations. The Land Conservation and Development Commission may enter into contracts for such services as the commission considers appropriate for carrying out its 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 Land Conservation and Development Commission, the plan and regulations promulgated by the commission 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 commission may cause to be instituted any civil action or suit it considers appropriate to remedy violations of any comprehensive plan or zoning, subdivision or

other ordinance or regulation prescribed by the commission pursuant to ORS 197.325 or 215.505.

[1969 c.324 §5; 1973 c.80 §49]

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 215.402 to 215.422, or of any ordinance or regulation adopted pursuant to ORS 215.010 to 215.190 or 215.402 to 215.422, is punish-

able, 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 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; 1971 c.13 §4]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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, 1973.

Thomas G. Clifford
Legislative Counsel

CHAPTERS 216 TO 220

[Reserved for expansion]