

Chapter 215

1977 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 commissions
- 215.030 Membership of planning commission
- 215.035 Planning commission member conflict of interest activities
- 215.042 County to appoint planning director; term and duties of director
- 215.050 Comprehensive planning, zoning and subdivision ordinances
- 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
- 215.110 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
- 215.185 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; definitions for ordinances
- 215.213 Nonfarm uses permitted within farm use zones
- 215.215 Reestablishment of nonfarm use
- 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 cemeteries
- 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 Adoption of hearing procedure
- 215.416 Application for permits; hearing requirements; criteria for granting permit
- 215.422 Review of action of a hearings officer

NOTICE TO PROPERTY OWNERS

- 215.508 Legislative acts by ordinance; mailed notice to individual property owners required by county for land use actions
- 215.508 Individual notice not required if funds not available
- 215.513 Notice form; forwarding of notice to property purchaser

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

CROSS REFERENCES

Advertising signs, regulation, Ch. 377
 Airport zoning, Ch. 492
 Airport Zoning Act, 492.510 to 492.710
 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, 456.150
 Land Conservation and Development Commission, compliance acknowledgment for county comprehensive plan and zoning, effect, 197.251, 197.275
 Parks and recreational areas, general power of county court to provide for, 203.120
 Pedestrian malls, 376.705 to 376.825
 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
 Property held under lease or lease-purchase by institution, organization or public body other than state, 307.112
 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, appeals, 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, 451.353
- 215.010 to 215.190**
- Writ of review of land development project approval, 34.055
- 215.046**
- Columbia River Gorge Commission, land use advisory body, 390.430
- 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
- 215.208**
- Agricultural land, assessment and taxation, 308.345 to 308.395
 Condemnation by Fish and Wildlife Commission of land used for farm use prohibited, 496.154
 Qualifications for farmland not in area zoned for farm use, 308.372
- 215.402 to 215.422**
- Writ of review of land development project approval, 34.055

COUNTY PLANNING

215.010 Definitions for ORS 215.020 to 215.190 and 215.402 to 215.422. As used 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 commissions. (1) The governing body of any county may create and provide for the organization and operations of one or more county planning commissions.

(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; 1975 c.767 §15]

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.

(2) A commission member may be removed by the governing body, after hearing, for misconduct or nonperformance of duty.

(3) Any vacancy on the commission shall be filled by the governing body for the unexpired term.

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

(5) Members of a 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 occupation, business, trade or profession.

(6) The governing body may designate one or more officers of the county to be nonvoting members of the commission.

(7) Except for subsection (5) of this section, the governing body may provide by

ordinance for alternative rules to those specified in this section.

[Amended by 1963 c.619 §2; 1973 c.552 §2; 1977 c.766 §1]

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 [Amended by 1973 c.552 §3; repealed by 1977 c.766 §16]

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 [1973 c.552 §11; repealed by 1977 c.766 §16]

215.050 Comprehensive planning, zoning and subdivision ordinances. (1) The county governing body shall adopt and may from time to time revise a comprehensive plan and zoning, subdivision and other ordinances applicable to all of the land in the county. The plan and related ordinances may be adopted and revised part by part or by geographic area.

(2) Zoning, subdivision or other ordinances

or regulations and any revisions or amendments thereof shall be designed to implement the adopted county comprehensive plan.

(3) Comprehensive plans adopted by the county governing body after the expiration of one year after the date of the approval of any state-wide planning goals under ORS 197.240 shall be in conformity with the state-wide planning goals and any subsequent revisions or amendments thereof.

[Amended by 1955 c.439 §2; 1963 c.619 §3; 1973 c.552 §4; 1977 c.766 §2].

215.055 [1955 c.439 §3; 1963 c.619 §4; 1971 c.13 §2; 1971 c.739 §1; 1973 c.80 §43; 1975 c.153 §1; repealed by 1977 c.766 §16]

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. Public officials, departments and agencies, having information, maps or other data deemed by the planning commission pertinent to county planning shall make such information available for the use of the commission.

[Amended by 1977 c.766 §3]

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 [1955 c.439 §4; 1963 c.619 §6; 1967 c.589 §2; 1973 c.552 §7; repealed by 1977 c.766 §16]

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) A planning commission may recommend to the governing body ordinances intended to implement part or all of the comprehensive plan. 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,

(d) Conservation of the natural resources of the county,

(e) Controlling subdivision and partitioning of land,

(f) Renaming public thoroughfares,

(g) Protecting and assuring access to incident solar energy, and

(h) Numbering property.

(2) The governing body may enact, amend or repeal ordinances to assist in carrying out a comprehensive plan. If an ordinance is recommended by a planning commission, the governing body may make any amendments to the recommendation required in the public interest. If an ordinance is initiated by the governing body, it shall, prior to enactment, request a report and recommendation regarding the ordinance from the planning commission, if one exists, and allow a reasonable time for submission of the report and recommendation.

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

(4) 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.

(5) No retroactive ordinance shall be enacted under the provisions of this section.

[Amended by 1963 c.619 §7; 1973 c.696 §22; 1975 c.153 §2; 1977 c.766 §4]

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 legislative ordinance relating to land use planning or zoning shall be a local law within the meaning of, and subject to, ORS 254.310.

(2) An ordinance designed to carry out a county comprehensive plan and a county comprehensive plan shall apply to:

(a) The area within the county also within the boundaries of a city as a result of extending the boundaries of the city or creating a new city unless, or until the city has by ordinance or other provision provided otherwise; and

(b) The area within the county also within the boundaries of a city if the governing body of such city adopts an ordinance declaring the area within its boundaries subject to the county's land use planning and regulatory ordinances, officers and procedures and the county governing body consents to the conferral of jurisdiction.

(2) An area within the jurisdiction of city land use planning and regulatory provisions that is withdrawn from the city or an area within a city that disincorporates shall remain subject to such plans and regulations which shall be administered by the county until the county provides otherwise.

(3) County ordinances designed to implement a county comprehensive plan shall apply to publicly owned property.

(4) The lawful use of any building, structure or land at the time of the enactment or amendment of any zoning ordinance or regulation may be continued. Alteration of any such use may be permitted when necessary to reasonably continue the use without increase and alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use.

(5) Restoration or replacement of any use described in subsection (4) of this section may be permitted when the restoration is made necessary by fire, other casualty or natural disaster. Restoration or replacement shall be

commenced within one year from the occurrence of the fire, casualty or natural disaster.

(6) Any use described in subsection (4) of this section may not be resumed after a period of interruption or abandonment unless the resumed use conforms with the requirements of zoning ordinances or regulations applicable at the time of the proposed resumption.

(7) Any proposal for the alteration of a use under subsection (4) of this section, for the restoration or replacement of a use under subsection (5) of this section or for the resumption of a use under subsection (6) of this section shall be considered a contested case under subsection (1) of ORS 215.402 subject to such procedures as the governing body may prescribe under ORS 215.412.

[Amended by 1961 c.607 §2; 1963 c.577 §4; 1963 c.619 §9; 1969 c.460 §1; 1973 c.503 §2; 1977 c.766 §5]

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 [1955 c.439 §6; 1963 c.619 §11; repealed by 1977 c.766 §16]

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 designed to implement a comprehensive plan, the governing body 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; 1977 c.766 §6]

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; definitions for ordinances. (1) Zoning ordinances may be adopted to zone designated areas of land within the county as exclusive 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 comprehensive plan.

(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, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section, 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); (B) land lying fallow for one year as a normal and regular requirement of good agricultural husbandry; (C) land planted in orchards or other perennials prior to maturity; and (D) any land constituting a woodlot of less

than 20 acres contiguous to and owned by the owner of land specially assessed at true cash value for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use.

(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.

(3) "Cultured Christmas trees" means trees:

(a) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;

(b) Of a species for which the Department of Revenue requires a "Report of Christmas Trees Harvested" for purposes of ad valorem taxation;

(c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and

(d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, irrigation.

[1963 c.577 §2; 1963 c.619 §1(2), (3); 1967 c.386 §1; 1973 c.503 §3; 1975 c.210 §1; 1977 c.766 §7; 1977 c.893 §17a]

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 for exclusive 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.

(f) Operations for the exploration of geothermal resources as defined by ORS 522.005.

(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designate, in any area zoned for exclusive farm use:

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

(b) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005 or exploration, mining and processing of 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.

(g) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by his invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.

(h) Home occupations carried on by the resident as an accessory use within their dwelling or other buildings customarily provided in conjunction with farm use, referred to in paragraph (a) of subsection (2) of ORS 215.203.

(i) A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in subsection (2) of ORS 215.203. Such a facility may be approved for a one-year period which is renewable. These

facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

(j) The boarding of horses for profit.

(3) Single-family residential dwellings, not provided in conjunction with farm use, may be established, subject to approval of the governing body or its designate in any area zoned for exclusive farm use upon a finding 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 or its designate considers necessary.

[1963 c.577 §3; 1963 c.619 §1a; 1969 c.258 §1; 1973 c.503 §4; 1975 c. 551 §1; 1975 c.552 §32; 1977 c.766 §8; 1977 c.788 §2]

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

215.215 Reestablishment of nonfarm use. (1) Notwithstanding subsection (4) of ORS 215.130, if a nonfarm use exists in an exclusive farm use zone and is unintentionally destroyed by fire, other casualty or natural disaster, the county may allow by its zoning regulations such use to be reestablished to its previous nature and extent, but the reestablishment shall meet all other building, plumbing, sanitation and other codes, ordinances and permit requirements.

(2) Consistent with ORS 215.243, the county governing body may zone for the

appropriate nonfarm use one or more lots or parcels in the interior of an exclusive farm use zone if the lots or parcels were physically developed for the nonfarm use prior to the establishment of the exclusive farm use zone. [1977 c.664 §41]

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, 215.060 and 215.110 to 215.213, 215.223 and this section 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, 215.060 and 215.110 to 215.213, 215.223 and this section 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 §1]

215.250 [Repealed by 1973 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 cemeteries. (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 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; 1977 c.766 §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 469.300 to 469.570. [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 1955 c.652 §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 discretionary approval of a proposed development of land under ORS 215.010 to 215.090 and 215.402 to 215.422 or county legislation or regulation adopted pursuant thereto.

[1973 c.552 §12; 1977 c.654 §1]

215.406 Planning and zoning hearings officers; duties and powers; authority of governing body or planning commission to conduct hearings. (1) A county governing body may authorize appointment of one or more planning and zoning hearings officers, to serve at the pleasure of the appointing authority. The hearings officer shall conduct hearings on applications for such classes of permits and contested cases as the county governing body designates.

(2) In the absence of a hearings officer a planning commission or the governing body may serve as hearings officer with all the powers and duties of a hearings officer.

[1973 c.552 §13; 1977 c.766 §10]

215.410 [Repealed by 1971 c.13 §1]

215.412 Adoption of hearing procedure. The governing body of a county, by ordinance or order shall adopt one or more procedures for the conduct of hearings.

[1973 c.552 §14; 1977 c.766 §11]

215.415 [1953 c.662 §5; repealed by 1971 c.13 §1]

215.416 Application for permits; hearing requirements; criteria for granting permit. (1) When required or authorized by the ordinances, rules and regulations of a county, an owner of land may apply in writing to such persons as the governing body designates, for a permit, in the manner prescribed by the governing body.

(2) The hearings officer shall hold at least one public hearing on the application and within 90 days after receiving it deny or approve it. However, with the agreement of the county and the applicant, the proceeding on the application may be extended for a reasonable period of time, as determined by the hearings officer, but not to exceed six months from the date of the first public hearing on the application.

(3) The application shall not be approved if the proposed use of land is found to be in conflict with the comprehensive plan of the county and other applicable ordinance provisions. The approval may include such conditions as are authorized by statute or county legislation.

(4) Hearings under this section shall be held only after notice to the applicant and also notice to other persons as otherwise provided by law.

(5) Approval or denial of a permit application shall be based on standards and criteria which shall be set forth in the zoning ordinance or other appropriate ordinance or

regulation of the county and which shall relate approval or denial of a permit application to the zoning ordinance and comprehensive plan for the area in which the proposed use of land would occur and to the zoning ordinance and comprehensive plan for the county as a whole.

(6) Approval or denial of a permit shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

[1973 c.652 §§15, 16; 1977 c.654 §2; 1977 c.766 §12]

215.420 [Amended by 1955 c.439 §10; repealed by 1971 c.13 §1]

215.422 Review of action of a hearings officer. (1) A party aggrieved by the action of a hearings officer may appeal the action to the planning commission or county governing body, or both, however the governing body prescribes. The appellate authority on its own motion may review the action. The procedure and type of hearing for such an appeal or review shall be prescribed by the governing body. An appeal or review proceeding shall be based upon, but not limited to, the record of the hearings officer's action.

(2) A party aggrieved by the final determination may have the determination reviewed under ORS 34.010 to 34.100.

[1973 c.522 §§17, 18; 1977 c.766 §13]

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]

NOTICE TO PROPERTY OWNERS

215.503 Legislative act by ordinance; mailed notice to individual property owners required by county for land use actions. (1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(2) Except as otherwise provided by county charter:

(a) All legislative acts relating to comprehensive plans, land use planning or zoning

adopted by the governing body of a county shall be by ordinance.

(b) In addition to the notice required by ORS 215.060, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof or to adopt a new comprehensive plan, the governing body of a county shall cause a written individual notice of land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

(c) In addition to the notice required by subsection (1) of ORS 215.223, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, the governing body of a county shall cause a written individual notice of land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

(3) An additional individual notice of land use change required by paragraph (b) or (c) of subsection (2) of this section shall be approved by the governing body of the county and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall be mailed by first class mail to the affected owner at the address shown on the last available complete tax assessment roll.

[1977 c.664 §37]

215.505 [1969 c.324 §1; repealed by 1977 c.664 §42]

215.508 Individual notice not required if funds not available. Except as otherwise provided by county charter, if funds are not available from the Department of Land Conservation and Development to reimburse a county for expenses incurred in giving additional individual notices of land use change as provided in ORS 215.503, the governing body of the county is not required to give those additional notices.

[1977 c.664 §38]

215.510 [1969 c.324 §2; 1973 c.80 §47; repealed by 1977 c.664 §42]

215.513 Notice form; forwarding of notice to property purchaser. (1) A mortgagee, lienholder, vendor or seller of real property who receives a mailed notice required by this chapter shall promptly forward the notice to the purchaser of the property. Each mailed notice required by this chapter shall contain the following statement: "NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES

THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER."

(2) Mailed notices to owners of real property required by this chapter shall be deemed given to those owners named in an affidavit of mailing executed by the person designated by the governing body of a county to mail the notices. The failure of a person named in the affidavit to receive the notice shall not invalidate an ordinance. The failure of the governing body of a county to cause a notice to be mailed to an owner of a lot or parcel of property created or that has changed ownership since the last complete tax assessment roll was prepared shall not invalidate an ordinance.

[1977 c.664 §39]

215.515 [1969 c.324 §3; 1973 c.80 §48; repealed by 1977 c.766 §16]

215.520 [1969 c.324 §4; repealed by 1977 c.664 §42]

215.525 [1969 c.324 §6; repealed by 1977 c.664 §42]

215.530 [1969 c.324 §7; repealed by 1977 c.664 §42]

215.535 [1969 c.324 §5; 1973 c.80 §49; repealed by 1977 c.664 §42]

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]

215.990 [Subsections (1) and (2) enacted as 1955 c.439 §11; subsection (5) enacted as 1969 c.324 §8; 1971 c.13 §4; repealed by 1977 c.766 §16]

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,
October 1, 1977.

Thomas G. Clifford
Legislative Counsel

CHAPTERS 216 TO 220

[Reserved for expansion]