

Chapter 197

1973 REPLACEMENT PART

Comprehensive Planning Coordination; Planning Districts

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CROSS REFERENCES

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| <p>Land Conservation and Development Commission, report to Fifty-eighth Legislative Assembly, 1973 c.589 §6</p> | <p>City planning functions, Ch. 215</p> <p>County planning functions, Ch. 227</p> <p>Willamette River Greenway, 390.310 to 390.368</p> |
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**COMPREHENSIVE PLANNING
COORDINATION**

(General Provisions)

197.005 Legislative findings. The Legislative Assembly finds that:

(1) Uncoordinated use of lands within this state threaten the orderly development, the environment of this state and the health, safety, order, convenience, prosperity and welfare of the people of this state.

(2) To promote coordinated administration of land uses consistent with comprehensive plans adopted throughout the state, it is necessary to establish a process for the review of state agency, city, county and special district land conservation and development plans for compliance with state-wide planning goals and guidelines.

(3) Except as otherwise provided in subsection (4) of this section, cities and counties should remain as the agencies to consider, promote and manage the local aspects of land conservation and development for the best interests of the people within their jurisdictions.

(4) The promotion of coordinated state-wide land conservation and development requires the creation of a state-wide planning agency to prescribe planning goals and objectives to be applied by state agencies, cities, counties and special districts throughout the state.

(5) The impact of proposed development projects, constituting activities of state-wide significance upon the public health, safety and welfare, requires a system of permits reviewed by a state-wide agency to carry out state-wide planning goals and guidelines prescribed for application for activities of state-wide significance throughout this state. [1973 c.80 §1]

197.010 Policy. The Legislative Assembly declares that, in order to assure the highest possible level of liveability in Oregon, it is necessary to provide for properly prepared and coordinated comprehensive plans for cities and counties, regional areas and the state as a whole. These comprehensive plans:

(1) Must be adopted by the appropriate governing body at the local and state levels;

(2) Are expressions of public policy in the form of policy statements, generalized maps and standards and guidelines;

(3) Shall be the basis for more specific rules, regulations and ordinances which im-

plement the policies expressed through the comprehensive plans;

(4) Shall be prepared to assure that all public actions are consistent and coordinated with the policies expressed through the comprehensive plans; and

(5) Shall be regularly reviewed and, if necessary, revised to keep them consistent with the changing needs and desires of the public they are designed to serve.

[1973 c.80 §2]

197.015 Definitions for ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345. As used in ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345, unless the context requires otherwise:

(1) "Activity of state-wide significance" means a land conservation and development activity designated pursuant to ORS 197.400.

(2) "Commission" means the Land Conservation and Development Commission.

(3) "Committee" means the Joint Legislative Committee on Land Use.

(4) "Comprehensive plan" means a generalized, coordinated land use map and policy statement of the governing body of a state agency, city, county or special district that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational systems, recreational facilities, and natural resources and air and water quality management programs. "Comprehensive" means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. "General nature" means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is "coordinated" when the needs of all levels of governments, semi-public and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. "Land" includes water, both surface and subsurface, and the air.

(5) "Department" means the Department of Land Conservation and Development.

(6) "Director" means the Director of the Department of Land Conservation and Development.

(7) "Special district" means any unit of local government, other than a city or

county, authorized and regulated by statute and includes, but is not limited to: Water control districts, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

(8) "Voluntary association of local governments" means a regional planning agency in this state officially designated by the Governor pursuant to the federal Office of Management and Budget Circular A-95 as a regional clearinghouse.

[1973 c.80 §3]

(Land Conservation and Development Commission)

197.030 Land Conservation and Development Commission; members, appointment, confirmation, term, vacancies. (1) There is established a Land Conservation and Development Commission consisting of seven members appointed by the Governor, subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.

(2) In making appointments under subsection (1) of this section, the Governor shall select from residents of this state one member from each congressional district and the remaining members from the state at large. At least one and no more than two members shall be from Multnomah County.

(3) The term of office of each member of the commission is four years, but a member may be removed by the Governor for cause. Before the expiration of the term of a member, the Governor shall appoint a successor. No person shall serve more than two full terms as a member of the commission.

(4) If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

[1973 c.80 §5]

197.035 Commission officers, selection; quorum; compensation and expenses. (1) The commission shall select one of its members as chairman and another member as vice chairman, for such terms and with duties and powers necessary for the performance of the functions of such offices as the commission determines. The vice chairman of the commission shall act as the chairman of the commission in the absence of the chairman.

(2) A majority of the members of the commission constitutes a quorum for the transaction of business.

(3) Members of the commission are entitled to compensation and expenses as provided in ORS 292.495.

[1973 c.80 §§7, 8]

197.040 Duties of commission; generally. (1) The commission shall:

(a) Direct the performance by the director and his staff of their functions under ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345.

(b) In accordance with the provisions of ORS chapter 183, promulgate rules that it considers necessary in carrying out ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345.

(c) Cooperate with the appropriate agencies of the United States, this state and its political subdivisions, any other state, any interstate agency, any person or groups of persons with respect to land conservation and development.

(d) Appoint advisory committees to aid it in carrying out ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345 and provide technical and other assistance, as it considers necessary, to each such committee.

(2) Pursuant to ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345, the commission shall:

(a) Establish state-wide planning goals consistent with regional, county and city concerns;

(b) Issue permits for activities of state-wide significance;

(c) Prepare inventories of land uses;

(d) Prepare state-wide planning guidelines;

(e) Review comprehensive plans for conformance with state-wide planning goals;

(f) Coordinate planning efforts of state agencies to assure conformance with state-wide planning goals and compatibility with city and county comprehensive plans;

(g) Insure widespread citizen involvement and input in all phases of the process;

(h) Prepare model zoning, subdivision and other ordinances and regulations to guide state agencies, cities, counties and special districts in implementing state-wide planning goals, particularly those for the areas listed in subsection (2) of ORS 197.230;

(i) Review and recommend to the Legislative Assembly the designation of areas of critical state concern;

(j) Report periodically to the Legislative Assembly and to the committee; and

(k) Perform other duties required by law. [1973 c.80 §§9, 11]

197.045 Powers of commission. The commission may:

(1) Apply for and receive moneys from the Federal Government and from this state or any of its agencies or departments.

(2) Contract with any public agency for the performance of services or the exchange of employees or services by one to the other necessary in carrying out ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345.

(3) Contract for the services of and consultation with professional persons or organizations, not otherwise available through federal, state and local governmental agencies, in carrying out its duties under ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345.

(4) Perform other functions required to carry out ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345. [1973 c.80 §10]

197.050 Interstate agreements and compacts; commission powers. If an interstate land conservation and development planning agency is created by an interstate agreement or compact entered into by this state, the commission shall perform the functions of this state with respect to the agreement or compact. If the functions of the interstate planning agency duplicate any of the functions of the commission under ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345, the commission may:

(1) Negotiate with the interstate agency in defining the areas of responsibility of the commission and the interstate planning agency; and

(2) Cooperate with the interstate planning agency in the performance of its functions. [1973 c.80 §12]

197.055 Delegation of commission functions to Oregon Coastal Conservation and Development Commission, review, approval; staff and financial assistance. (1) The Land Conservation and Development Commission, by agreement with the Oregon Coastal Conservation and Development Commission created by ORS 191.120, may delegate to the Oregon Coastal Conservation and Development Commission any of the functions of the

Land Conservation and Development Commission. However, the Land Conservation and Development Commission must review and grant approval prior to any action taken by the Oregon Coastal Conservation and Development Commission with respect to a delegated function.

(2) The Land Conservation and Development Commission may provide staff and financial assistance to the Oregon Coastal Conservation and Development Commission in carrying out duties under this section. [1973 c.80 §16]

197.060 Biennial report; draft submission to committee; contents. (1) Prior to the end of each even-numbered year, the department shall prepare a written report for submission to the Legislative Assembly of the State of Oregon describing activities and accomplishments of the department, commission, state agencies, cities, counties and special districts in carrying out ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345.

(2) A draft of the report required by subsection (1) of this section shall be submitted to the committee for its review and comment at least 60 days prior to submission of the report to the Legislative Assembly. Comments of the committee shall be incorporated into the final report.

(3) Goals and guidelines adopted by the commission shall be included in the report to the Legislative Assembly submitted under subsection (1) of this section. [1973 c.80 §56]

(Land Conservation and Development Department)

197.075 Department of Land Conservation and Development. The Department of Land Conservation and Development is established. The department shall consist of the Land Conservation and Development Commission, the director and their subordinate officers and employees. [1973 c.80 §4]

197.080 Department monthly report required. The department shall report monthly to the committee in order to keep the committee informed on progress made by the department, commission, counties and other agencies in carrying out ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345. [1973 c.80 §55]

(Director)

197.085 Director; appointment; compensation and expenses. (1) The commission shall appoint a person to serve as the Director of the Department of Land Conservation and Development. The director shall hold his office at the pleasure of the commission and his salary shall be fixed by the commission unless otherwise provided by law.

(2) In addition to his salary, the director shall be reimbursed, subject to any applicable law regulating travel and other expenses of state officers and employes, for actual and necessary expenses incurred by him in the performance of his official duties.
[1973 c.80 §13]

197.090 Duties of director. Subject to policies adopted by the commission, the director shall:

(1) Be the administrative head of the department.

(2) Coordinate the activities of the department in its land conservation and development functions with such functions of federal agencies, other state agencies, cities, counties and special districts.

(3) Appoint, reappoint, assign and reassign all subordinate officers and employes of the department, prescribe their duties and fix their compensation, subject to the State Merit System Law.

(4) Represent this state before any agency of this state, any other state or the United States with respect to land conservation and development within this state.
[1973 c.80 §14]

(Land Conservation and Development Account)

197.095 Land Conservation and Development Account; continuous appropriation; fees and other revenues to be deposited. (1) There is established in the General Fund in the State Treasury the Land Conservation and Development Account. Moneys in the account are continuously appropriated for the purpose of carrying out ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345.

(2) All fees, moneys and other revenue received by the department or the committee shall be deposited in the Land Conservation and Development Account.
[1973 c.80 §15]

(Joint Legislative Committee on Land Use)

197.125 Joint Legislative Committee on Land Use; executive secretary. The Joint Legislative Committee on Land Use is established as a joint committee of the Legislative Assembly. The committee shall select an executive secretary who shall serve at the pleasure of the committee and under its direction.
[1973 c.80 §22]

197.130 Members; appointment; term; vacancies; expenses; majority vote required in actions. (1) The Joint Legislative Committee on Land Use shall consist of four members of the House of Representatives appointed by the Speaker and three members of the Senate appointed by the President. No more than three House members of the committee shall be of the same political party. No more than two Senate members of the committee shall be of the same political party.

(2) The chairman of the House and Senate Environment and Land Use Committees of the Fifty-seventh Legislative Assembly of the State of Oregon shall be two of the members appointed under subsection (1) of this section for the period beginning with October 5, 1973.

(3) The committee has a continuing existence and may meet, act and conduct its business during sessions of the Legislative Assembly or any recess thereof, and in the interim period between sessions.

(4) The term of a member shall expire upon the convening of the Legislative Assembly in regular session next following the commencement of the member's term. When a vacancy occurs in the membership of the committee in the interim between sessions, until such vacancy is filled, the membership of the committee shall be deemed not to include the vacant position for the purpose of determining whether a quorum is present and a quorum is the majority of the remaining members.

(5) Members of the committee shall be reimbursed for actual and necessary expenses incurred or paid in the performance of their duties as members of the committee, such reimbursement to be made from funds appropriated for such purposes, after submission of approved voucher claims.

(6) The committee shall select a chairman. The chairman may, in addition to his

other authorized duties, approve voucher claims.

(7) Action of the committee shall be taken only upon the affirmative vote of the majority of the members of the committee. [1973 c.80 §23]

197.135 Duties of committee, generally. The committee shall:

(1) Advise the department on all matters under the jurisdiction of the department;

(2) Review and make recommendations to the Legislative Assembly on proposals for additions to or modifications of designations of activities of state-wide significance, and for designations of areas of critical state concern;

(3) Review and make recommendations to the Legislative Assembly on state-wide planning goals and guidelines approved by the commission;

(4) Study and make recommendations to the Legislative Assembly on the implementation of a program for compensation by the public to owners of lands within this state for the value of any loss of use of such lands resulting directly from the imposition of any zoning, subdivision or other ordinance or regulation regulating or restricting the use of such lands. Such recommendations shall include, but not be limited to, proposed methods for the valuation of such loss of use and proposed limits, if any, to be imposed upon the amount of compensation to be paid by the public for any such loss of use; and

(5) Make recommendations to the Legislative Assembly on any other matter relating to land use planning in Oregon. [1973 c.80 §24]

(Citizen Advisory Committees)

197.160 State Citizen Involvement Advisory Committee; county citizen advisory committees. To assure widespread citizen involvement in all phases of the planning process:

(1) The commission shall appoint a State Citizen Involvement Advisory Committee, broadly representative of geographic areas of the state and of interests relating to land uses and land use decisions, to develop a program for the commission that promotes and enhances public participation in the development of state-wide planning goals and guidelines.

(2) Within 90 days after October 5, 1973, each county governing body shall submit to

the commission a program for citizen involvement in preparing, adopting and revising comprehensive plans within the county. Such program shall at least contain provision for a citizen advisory committee or committees broadly representative of geographic areas and of interests relating to land uses and land use decisions.

(3) The state advisory committee appointed under subsection (1) of this section shall review the proposed programs submitted by each county and recommend to the commission whether or not the proposed program adequately provides for public involvement in the planning process. [1973 c.80 §35]

(Comprehensive Planning Responsibilities)

197.175 Cities and counties planning responsibilities; compliance with state-wide goals and guidelines. (1) Cities and counties shall exercise their planning and zoning responsibilities in accordance with ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345 and the state-wide planning goals and guidelines approved under ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345.

(2) Pursuant to ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345, each city and county in this state shall:

(a) Prepare and adopt comprehensive plans consistent with state-wide planning goals and guidelines approved by the commission; and

(b) Enact zoning, subdivision and other ordinances or regulations to implement their comprehensive plans. [1973 c.80 §§17, 18]

197.180 State agency planning responsibilities. State agencies shall carry out their planning duties, powers and responsibilities and take actions that are authorized by law with respect to programs affecting land use in accordance with state-wide planning goals and guidelines approved pursuant to ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345. [1973 c.80 §21]

197.185 Special district planning responsibilities. Special districts shall exercise their planning duties, powers and responsibilities and take actions that are authorized by law with respect to programs affecting land use in accordance with state-wide planning goals

and guidelines approved pursuant to ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345.
[1973 c.80 §20]

197.190 Regional coordination of planning activities; alternatives. (1) In addition to the responsibilities stated in ORS 197.175, each county through its governing body, shall be responsible for coordinating all planning activities affecting land uses within the county, including those of the county, cities, special districts and state agencies, to assure an integrated comprehensive plan for the entire area of the county. For purposes of this subsection, the responsibility of the county described in this subsection shall not apply to cities having a population of 300,000 or more, and such cities shall exercise, within the incorporated limits thereof, the authority vested in counties by this subsection.

(2) For the purposes of carrying out ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345, counties may voluntarily join together with adjacent counties as authorized in ORS chapter 190.

(3) Whenever counties and cities representing 51 percent of the population in their area petition the commission for an election in their area to form a regional planning agency to exercise the authority of the counties under subsection (1) of this section in the area, the commission shall review the petition. If it finds that the area described in the petition forms a reasonable planning unit, it shall call an election in the area to form a regional planning agency. The election shall be conducted in the manner provided in ORS chapter 259. The county clerk shall be considered the election officer and the commission shall be considered the district election authority. The agency shall be considered established if the majority of votes favor the establishment.

(4) If a voluntary association of local governments adopts a resolution ratified by each participating county and a majority of the participating cities therein which authorizes the association to perform the review, advisory and coordination functions assigned to the counties under subsection (1) of this section, the association may perform such duties.

[1973 c.80 §19]

(State-wide Goals and Guidelines)

197.225 Preparation; adoption. Not later than January 1, 1975, the department shall prepare and the commission shall adopt state-wide planning goals and guidelines for use by state agencies, cities, counties and special districts in preparing, adopting, revising and implementing existing and future comprehensive plans.
[1973 c.80 §33]

197.230 Considerations; priorities. In preparing and adopting state-wide planning goals and guidelines, the department and the commission shall:

(1) Consider the existing comprehensive plans of state agencies, cities, counties and special districts in order to preserve functional and local aspects of land conservation and development.

(2) Give priority consideration to the following areas and activities:

- (a) Those activities listed in ORS 197.400;
- (b) Lands adjacent to freeway interchanges;
- (c) Estuarine areas;
- (d) Tide, marsh and wetland areas;
- (e) Lakes and lakeshore areas;
- (f) Wilderness, recreational and outstanding scenic areas;
- (g) Beaches, dunes, coastal headlands and related areas;
- (h) Wild and scenic rivers and related lands;
- (i) Flood plains and areas of geologic hazard;
- (j) Unique wildlife habitats; and
- (k) Agricultural land.

[1973 c.80 §34]

197.235 Public hearings; notice; citizen involvement implementation; submission of proposals to commission. (1) In preparing the state-wide planning goals and guidelines, the department shall:

(a) Hold at least 10 public hearings throughout the state, causing notice of the time, place and purpose of each such hearing to be published in a newspaper of general circulation within the area where the hearing is to be conducted not later than 30 days prior to the date of the hearing.

(b) Implement any other provision for public involvement developed by the state advisory committee under subsection (1) of ORS 197.160 and approved by the commission.

(2) Upon completion of the preparation of the proposed state-wide planning goals and guidelines, the department shall submit them to the commission for approval.
[1973 c.80 §38]

197.240 Commission action; public hearing; notice; revision; adoption. Upon receipt of the proposed state-wide planning goals and guidelines prepared and submitted to it by the department, the commission shall:

(1) Hold at least one public hearing on the proposed state-wide planning goals and guidelines. The commission shall cause notice of the time, place and purpose of the hearings and the place where copies of the proposed goals and guidelines are available before the hearings with the cost thereof to be published in a newspaper of general circulation in the state not later than 30 days prior to the date of the hearing. The department shall supply a copy of its proposed state-wide planning goals and guidelines to the Governor, the committee, affected state agencies and special districts and to each city and county without charge. The department shall provide copies of such proposed goals and guidelines to other public agencies or persons upon request and payment of the cost of preparing the copies of the materials requested.

(2) Consider the recommendations and comments received from the public hearings conducted under subsection (1) of this section, make any revisions in the proposed state-wide planning goals and guidelines that it considers necessary and approve the proposed goals and guidelines as they may be revised by the commission.
[1973 c.80 §37]

197.245 Commission revision. The commission may periodically revise, update and expand the initial state-wide planning goals and guidelines adopted under ORS 197.240. Such revisions, updates or expansions shall be made in the manner provided in ORS 197.235 and 197.240.
[1973 c.80 §38]

197.250 Compliance with state-wide planning goals required. All comprehensive plans and any zoning, subdivision and other ordinances and regulations adopted by a state agency, city, county or special district to carry out such plans shall be in conformity with the state-wide planning goals within one year from the date such goals are approved by the commission.
[1973 c.80 §32]

197.255 County review of comprehensive plans required; compliance advice. Following the approval by the commission of state-wide planning goals and guidelines, each county governing body shall review all comprehensive plans for land conservation and development within the county, both those adopted and those being prepared. The county governing body shall advise the state agency, city, county or special district preparing the comprehensive plans whether or not the comprehensive plans are in conformity with the state-wide planning goals.
[1973 c.80 §39]

197.260 County reports on comprehensive planning compliance required annually. Upon the expiration of one year after the date of the approval of state-wide planning goals and guidelines and annually thereafter, each county governing body shall report to the commission on the status of comprehensive plans within each county. Each such report shall include:

(1) Copies of comprehensive plans reviewed by the county governing body and copies of zoning and subdivision ordinances and regulations applied to those areas within the county listed in subsection (2) of ORS 197.230.

(2) For those areas or jurisdictions within the county without comprehensive plans, a statement and review of the progress made toward compliance with the state-wide planning goals.
[1973 c.80 §44]

(Interim Comprehensive Planning)

197.275 Existing plans and regulations remain in effect until revised. Comprehensive plans and zoning, subdivision, and other ordinances and regulations adopted prior to October 5, 1973, shall remain in effect until revised under ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345. It is intended that existing planning efforts and activities shall continue and that such efforts be utilized in achieving the purposes of ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345.
[1973 c.80 §40]

197.280 Interim comprehensive planning goals. Prior to approval by the commission of its state-wide planning goals and guidelines under ORS 197.240, the goals listed in ORS 215.515 shall be applied by state agencies, cities, counties and special districts in

the preparation, revision, adoption or implementation of any comprehensive plan.
[1973 c.80 §41]

197.285 City and county interim comprehensive plans to comply with interim goals; state-wide planning goals and guidelines after approval. Each city or county shall prepare and the city council or the county governing body shall adopt the comprehensive plans required under ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345 or by any other law in accordance with ORS 197.280 for those plans adopted prior to the expiration of one year following the date the commission approves its state-wide planning goals and guidelines under ORS 197.240. Plans adopted by cities and counties after the expiration of one year following the date of approval of such goals and guidelines by the commission shall be designed to comply with such goals and any subsequent amendments thereto.
[1973 c.80 §42]

(Review of Comprehensive Plan Provisions, Ordinances and Regulations)

197.300 Commission authorized to review plan provisions and ordinances and regulations; petition; standing; filing deadline.

(1) In the manner provided in ORS 197.305 to 197.315, the commission shall review upon:

(a) Petition by a county governing body, a comprehensive plan provision or any zoning, subdivision or other ordinance or regulation adopted by a state agency, city, county or special district that the governing body considers to be in conflict with state-wide planning goals approved under ORS 197.240 or interim goals specified in ORS 215.515.

(b) Petition by a city or county governing body, a land conservation and development action taken by a state agency, city, county or special district that the governing body considers to be in conflict with state-wide planning goals approved under ORS 197.240 or interim goals specified in ORS 215.515.

(c) Petition by a state agency, city, county or special district, any county governing body action that the state agency, city, county or special district considers to be improperly taken or outside the scope of the governing body's authority under ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345.

(d) Petition by any person or group of persons whose interests are substantially affected, a comprehensive plan provision or any

zoning, subdivision or other ordinance or regulation alleged to be in violation of state-wide planning goals approved under ORS 197.240 or interim goals specified in ORS 215.515.

(2) A petition filed with the commission pursuant to subsection (1) of this section must be filed not later than 60 days (excluding Saturdays and holidays) after the date of the final adoption or approval of the action or comprehensive plan upon which the petition is based.
[1973 c.80 §51]

197.305 Review proceedings based on administrative record; conduct; intervenors.

(1) All review proceedings conducted by the commission pursuant to ORS 197.300 shall be based on the administrative record, if any, prepared with respect to the proceedings for the adoption or approval of the comprehensive plan provision or action that is the subject of the review proceeding.

(2) The commission shall adopt such rules, procedures and regulations for the conduct of review proceedings held pursuant to ORS 197.300, in accordance with the provisions of ORS 183.310 to 183.500 for hearings and notice in contested cases.

(3) A city, county, state agency, special district or any person or group of persons whose interests are substantially affected may intervene in and be made a party to any review proceeding conducted by the commission with the approval of the commission, upon the request of the hearings officer appointed to conduct such proceeding or upon the approval by the hearings officer of a request by such agency, person or group of persons for intervention in the review proceeding.
[1973 c.80 §52]

197.310 Hearings officers to conduct proceeding and make recommendation; commission review; orders; judicial review, enforcement.

(1) In carrying out its duties under ORS 197.300, the chairman of the commission shall assign each petition to be reviewed by the commission to a hearings officer who shall conduct the review proceeding.

(2) A hearings officer shall conduct a review proceeding in accordance with the rules, procedures and regulations adopted by the commission. Upon the conclusion of a hearing, the hearings officer shall promptly determine the matter, prepare a recommendation for commission action upon the matter

and submit a copy of his recommendation to the commission and to each party to the proceeding.

(3) The commission shall review the recommendation of the hearings officer and the record of the proceeding and issue its order with respect to the review proceeding within 60 days following the date of the filing of the petition upon which such review proceeding is based. The commission may adopt, reject or amend the recommendation of the hearings officer in any matter.

(4) No order of the commission issued under subsection (3) of this section is valid unless all members of the commission have received the recommendation of the hearings officer in the matter and at least four members of the commission concur in its action in the matter.

(5) Any party to a review proceeding before the commission who is adversely affected or aggrieved by the order issued by the commission in the matter may appeal the order of the commission in the manner provided in ORS 183.480 for appeals from final orders in contested cases.

(6) The commission may enforce orders issued under subsection (3) of this section in appropriate judicial proceedings brought by the commission therefor.
[1973 c.80 §53]

197.315 Referral to hearings officer for additional information or evidence; suspension of time period for commission action upon referral. (1) If, upon its review of the recommendation of a hearings officer and the record of the review proceeding prepared following a review proceeding before the commission, the commission is unable to reach a decision in the matter without further information or evidence not contained in the record of the proceeding, it may refer the matter back to the hearings officer and request that the additional information or evidence be acquired by him or that he correct any errors or deficiencies found by the commission to exist in his recommendation or record of the proceeding.

(2) In case of a referral of a matter back to the hearings officer pursuant to subsection (1) of this section, the 60-day period referred to in subsection (3) of ORS 197.310 is suspended for a reasonable interval not to exceed 60 days.
[1973 c.80 §54]

(Comprehensive Planning by Commission)

197.325 Commission required to prescribe plans and regulations for noncomplying lands; time extensions for plan completion; plans prescribed to comply with state-wide planning goals. (1) Notwithstanding any other provision of law, after the expiration of one year after the date of the approval of the initial state-wide planning goals and guidelines under ORS 197.240, upon 90 days' notice to the affected governing body or bodies, and upon public hearings held within 30 days thereafter, the commission shall prescribe and may amend and administer comprehensive plans and zoning, subdivision or other ordinances and regulations necessary to develop and implement a comprehensive plan within the boundaries of a county, whether or not within the boundaries of a city, that do not comply with the state-wide planning goals approved under ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345 and any subsequent revisions or amendments thereof.

(2) If the city or county has under consideration a comprehensive plan or zoning, subdivision or other ordinances or regulations for lands described in subsection (1) of this section, and shows satisfactory progress toward the adoption of such comprehensive plan or such ordinances or regulations, the commission may grant a reasonable extension of time after the date set in this section for completion of such plan or such ordinances or regulations.

(3) Any comprehensive plan or zoning, subdivision or other ordinance or regulation adopted by the commission under subsection (1) of this section shall comply with the state-wide planning goals approved under ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345 and all subsequent revisions or amendments thereof.
[1973 c.80 §45]

197.330 Cities and counties liable for costs of commission planning; statement of costs; collection; failure to pay, withholding state cigarette and liquor revenue share; appeal of cost determination. (1) Whenever the commission prescribes a comprehensive plan or zoning, subdivision or other ordinances or regulations for lands described in subsection (1) of ORS 197.325, the costs incurred by the commission and the department in the preparation and administration of such plan or ordinances or regulations shall be borne by the city or county for which the commission

has proposed such plan or ordinances or regulations. Upon presentation by the commission to the governing body of the city or county of a certified, itemized statement of costs, the governing body shall order payment to the commission out of any available funds. With respect to a city or county, if no payment is made by the governing body within 30 days thereafter, the commission shall submit to the Secretary of State its certified, itemized statement of such costs and the commission shall be reimbursed upon the order of the Secretary of State to the State Treasurer, from the city's or county's share of the state's cigarette and liquor revenues.

(2) Within 10 days of receipt of the certified, itemized statement of costs under subsection (1) of this section, any city or county aggrieved by the statement may appeal to the Court of Appeals. The appeal shall be taken as from a contested case under ORS 183.480. Notice of the appeal shall operate as a stay in the commissioner's right to reimbursement under subsection (1) of this section until the decision is made on the appeal. [1973 c.80 §50]

(Activities of State-wide Significance)

197.400 Activities of state-wide significance; designation; effect upon state agency responsibilities. (1) The following activities may be designated by the commission as activities of state-wide significance if the commission determines that by their nature or magnitude they should be so considered:

(a) The planning and siting of public transportation facilities.

(b) The planning and siting of public sewerage systems, water supply systems and solid waste disposal sites and facilities.

(c) The planning and siting of public schools.

(2) Nothing in ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345 supersedes any duty, power or responsibility vested by statute in any state agency relating to its activities described in subsection (1) of this section; except that, a state agency may neither implement any such activity nor adopt any plan relating to such an activity without the prior review and comment of the commission.

[1973 c.80 §25]

197.405 Additional activities, designation; commission recommendation; committee review; submission to Legislative Assembly. (1) In addition to the activities of state-wide significance that are designated by the commission under ORS 197.400, the commission may recommend to the committee the designation of additional activities of state-wide significance. Each such recommendation shall specify the reasons for the proposed designation of the activity of state-wide significance, the dangers that would result from such activity being uncontrolled and the suggested state-wide planning goals and guidelines to be applied for the proposed activity.

(2) The commission may recommend to the committee the designation of areas of critical state concern. Each such recommendation shall specify the criteria developed and reasons for the proposed designation, the damages that would result from uncontrolled development within the area, the reasons for the implementation of state regulations for the proposed area and the suggested state regulations to be applied within the proposed area.

(3) The commission may act under subsections (1) and (2) of this section on its own motion or upon the recommendation of a state agency, city, county or special district. If the commission receives a recommendation from a state agency, city, county or special district and finds the proposed activity or area to be unsuitable for designation, it shall notify the state agency, city, county or special district of its decision and its reasons therefor.

(4) Immediately following its decision to favorably recommend to the Legislative Assembly the designation of an additional activity of state-wide significance or the designation of an area of critical state concern, the commission shall submit the proposed designation accompanied by the supporting materials described in subsections (1) and (2) of this section to the committee for its review. [1973 c.80 §26]

197.410 Planning and siting permit required; enjoining violations. (1) No project constituting an activity of state-wide significance shall be undertaken without a planning and siting permit issued under ORS 197.415.

(2) Any person or agency acting in violation of subsection (1) of this section may be enjoined in civil proceedings brought in the name of the county or the State of Oregon.

[1973 c.80 §30]

COMPREHENSIVE PLANNING COORDINATION; PLANNING DISTRICTS § 197.430

197.415 Planning and siting permits required; application; city, county, state agency review and recommendation; issuance; conditions; restrictions. (1) On and after the date the commission has approved state-wide planning goals and guidelines for activities of state-wide significance designated under ORS 197.400, no proposed project constituting such an activity may be initiated by any person or public agency without a planning and siting permit issued by the commission therefor.

(2) Any person or public agency desiring to initiate a project constituting an activity of state-wide significance shall apply to the department for a planning and siting permit for such project. The application shall contain the plans for the project and the manner in which such project has been designed to meet the goals and guidelines for activities of state-wide significance and the comprehensive plans for the county within which the project is proposed, and any other information required by the commission as prescribed by rule of the commission.

(3) The department shall transmit copies of the application to affected county and state agencies for their review and recommendation.

(4) The county governing body and the state agencies shall review an application transmitted to it under subsection (3) of this section and shall, within 30 days after the date of the receipt of the application, submit their recommendations on the application to the commission.

(5) If the commission finds after review of the application and the comments submitted by the county governing body and state agencies that the proposed project complies with the state-wide goals and guidelines for activities of state-wide significance and the comprehensive plans within the county, it shall approve the application and issue a planning and siting permit for the proposed project to the person or public agency applying therefor. Action shall be taken by the commission within 30 days of the receipt of the recommendation of the county and state agencies.

(6) The commission may prescribe and include in the planning and siting permit such conditions or restrictions that it considers necessary to assure that the proposed project complies with the state-wide goals and guidelines for activities of state-wide significance

and the comprehensive plans within the county.

[1973 c.80 §27]

197.420 Joint application and permit where two or more permits required for activity. If the activity requiring a planning and siting permit under ORS 197.415 also requires any other permit from any state agency, the commission, with the cooperation and concurrence of the other agency, may provide a joint application form and permit to satisfy both the requirements of ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345 and any other requirements set by statute or by rule of the state agency.

[1973 c.80 §28]

197.425 Binding letter of interpretation by commission; committee consultation required; request form. (1) If any person or public agency is in doubt whether a proposed development project constitutes an activity of state-wide significance, the person or public agency may request a determination from the commission on the question. Within 60 days after the date of the receipt by it of such a request, the commission, with the advice of the committee and of the county governing body for the county in which such activity is proposed, shall issue a binding letter of interpretation with respect to the proposed project.

(2) Requests for determinations under this section shall be made to the commission in writing and in such form and contain such information as may be prescribed by the commission.

[1973 c.80 §29]

197.430 Enforcement powers. If the county governing body or the commission determines the existence of an alleged violation under ORS 197.410, it may:

(1) Investigate, hold hearings, enter orders and take action that it deems appropriate under ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345, as soon as possible.

(2) For the purpose of investigating conditions relating to the violation, through its members or its duly authorized representatives, enter at reasonable times upon any private or public property.

(3) Conduct public hearings.

(4) Publish its findings and recommendations as they are formulated relative to the violation.

(5) Give notice of any order relating to a particular violation of its state-wide goals, a particular violation of the terms or conditions of a planning and siting permit or a particular violation of ORS 197.005 to 197.430, 215.055, 215.510, 215.515, 215.535 and 453.345 by mailing notice to the person or public body conducting or proposing to conduct the project affected in the manner provided by ORS chapter 183.
[1973 c.80 §31]

PLANNING DISTRICTS

(General Provisions)

197.705 Policy. (1) The Legislative Assembly finds that it is necessary and a matter of state-wide concern to provide for properly coordinated regional planning in metropolitan areas and to provide a method of organizing and managing representative regional planning districts in such areas.

(2) The Legislative Assembly finds that it is a matter of state-wide concern to establish a representative regional planning agency to prepare and administer a regional plan for the lands described in subsection (1) of this section.
[1973 c.482 §1]

197.710 Definitions for ORS 197.705 to 197.795. As used in ORS 197.705 to 197.795, unless the context requires otherwise:

(1) "Associate member" means an associate member of the district as provided by a rule adopted pursuant to ORS 197.740.

(2) "District" means a regional planning district formed under ORS 197.705 to 197.795.

(3) "Goals and objectives" means the regional land use goals and objectives adopted pursuant to subsection (1) of ORS 197.755.

(4) "Governing body" means, in the case of a county, the county court or board of county commissioners of the county or, in the case of the city, the city council or other legislative body of the city.

(5) "Member" means a member of the district as specified under ORS 197.735.

(6) "Metropolitan area" means a geographical area which is within the boundaries of Clackamas, Multnomah and Washington Counties.

(7) "Plan" means a generalized, coordinated plan for the orderly management and development of the lands within the region that interrelates all functional and natural systems and activities relating to all the

use of the land, air and water within such region, including but not limited to sewer and water systems, transportation systems, recreational facilities, air and water quality management programs, residential, commercial and industrial developments and the provision of public services.

(8) "Planning" means preparing a plan, modifying and amending the plan as necessary, and administering the plan as provided by ORS 197.705 to 197.795 and the rules of the district.

(9) "Region" or "regional" means all the geographic area included within the boundaries of a district.

(10) "Special district" means any unit of local government, other than a city or county, that is authorized and regulated by law, including but not limited to water control districts, irrigation districts, port districts, air pollution control districts, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.
[1973 c.482 §3]

197.715 ORS chapter 198 not applicable; construction. (1) ORS chapter 198 does not apply to any district formed under ORS 197.705 to 197.795.

(2) ORS 197.705 to 197.795 shall be liberally construed to accomplish its purposes as specified in ORS 197.705.
[1973 c.482 §2]

(Formation; Organization)

197.725 Formation; resolution; notice; hearing; submission to Governor; action by Governor; effect. (1) As provided by ORS 197.705 to 197.795, a district may be formed in a metropolitan area for the purpose of providing coordinated regional planning. The jurisdiction of the district shall include all territory within the metropolitan area.

(2) The governing body of any county, or of the most populous city within a county, in a metropolitan area may by resolution propose formation of a district if the city or county has a planning authority and finds that regional planning needs cannot be met by its local planning authority.

(3) The resolution of the governing body shall:

(a) Be considered at a public hearing after notice as required by charter or ordinance for consideration of other resolutions;

(b) Include findings of need for formation of a district in the metropolitan area and specify the metropolitan area; and

(c) Be addressed to the Governor and submitted to him for filing.

(4) Within 30 days after the resolution is received by the Governor, he shall review it and determine if it meets the requirements of subsections (2) and (3) of this section. If it is sufficient, he shall file the resolution and the district shall be considered established as of the 30th day after the resolution is so filed. If the Governor finds that the resolution does not meet the requirements of subsections (2) and (3) of this section, he shall return it to the initiating governing body with a statement of his reasons therefor.
[1973 c.482 §4]

197.730 Cities and counties as members; management association; formation meeting; initial board of directors, appointment. (1) Members of the district shall be each county located within the district and each city located within such counties.

(2) The business affairs of the district shall be managed by an association consisting of the members of the district and such associate members as may be appointed. The association shall be known as _____
Region Association of Governments.

(3) The governing body filing the resolution with the Governor shall notify each of the other members of the formation of the district and call the first meeting of the district not later than 45 days after the date the district is formed.

(4) The first meeting of the association shall be attended by the initial board of directors who shall be appointed as follows:

(a) One member appointed by the governing body of each member county.

(b) One member appointed by the governing body of each member city having more than 300,000 population on July 20, 1973.

(c) One member, representing all of the cities each having a population of less than 300,000 on July 20, 1973, and situated within each member county in the district, selected by joint action of a majority of the mayors of such cities.

(5) Each member of the initial board of directors specified in subsection (4) of this section must be appointed prior to the expiration of 30 days after July 20, 1973. If any such member has not been appointed by the date of the first meeting, the Governor within 10 days after such meeting shall appoint an initial director to fill the vacancy.
[1973 c.482 §6]

197.735 Rules for organization and conduct of business; organization; effect; amendment, revision of rules by general assembly; board of directors; rule-making; quorum. (1) Not later than the expiration of 120 days after the first meeting, the initial board of directors for the district, in accordance with ORS 183.355, shall provide by rule for the organization of the association and the conduct of the business of the district. Such rules shall provide for the representation of all members in a general assembly of the district and shall provide for the establishment and duties and powers of a board of directors for the district to manage the business affairs of the district as provided by law. The rules shall take into account the relative population of the members and provide a procedure whereby the interests of smaller members will be adequately represented.

(2) Immediately following the adoption of such rules by the initial board of directors for the district, the association for the district shall be organized in accordance with such rules. Upon the organization of the association of the district and the establishment of a board of directors for the district, the initial board of directors of the district shall be dissolved and the terms of each member of such board shall cease.

(3) Any rule of the district relating to the organization of the association or the representative status of association members may be amended or revised, from time to time, only by a majority vote of the members of the general assembly of the district. Each such vote shall be recorded in the records of the district.

(4) Except as otherwise provided by subsection (3) of this section, the board of directors of the district, from time to time, may adopt such other rules and revise or amend existing rules as they consider necessary for the district in carrying out its functions as provided by law. Unless otherwise provided by rule, a majority of the members of the board of directors constitutes a quorum for the transaction of business.
[1973 c.482 §7]

197.740 Associate members. The association may provide by rule for one or more categories of associate membership in the district to enable special districts, political subdivisions of this state, agencies of this state or the Federal Government and any other interested and affected public bodies to

participate in the conduct of the activities of the district. Any such rule may provide for the representation of associate members on the board of directors and may require a financial contribution to the district as a condition of associate membership in the district. [1973 c.482 §8]

(Duties and Powers)

197.750 District status; general powers; tax levies prohibited. (1) A district shall constitute a municipal corporation of this state, and a public body, corporate and politic, exercising public power. It shall be considered a unit of local government for the purposes of ORS 190.003 to 190.110, and a public employer for the purposes of ORS 236.610 to 236.650. It shall be entitled to tax refunds as allowed under ORS 319.350 and 319.831 to cities. It shall have full power to carry out the objects of its formation and to that end may:

- (a) Sue and be sued in its own name.
- (b) Adopt an official seal.
- (c) Establish a budget and assess its members and associate members for the support of its lawful activities as provided in ORS 197.785.
- (d) Contract with any of its members or any other state or local governmental agency for the performance of services or the exchange of employees or services in carrying out its functions as provided by law.
- (e) Enter into contracts or other agreements with any agency of the Federal Government, of this state or of any local or regional governmental agency in this state having jurisdiction over contiguous or nearby lands; and, subject to the prior approval of the Legislative Assembly, enter into any compact with another state having jurisdiction over contiguous or nearby lands.
- (f) Perform any other functions that the board of directors for the district considers necessary in carrying out ORS 197.705 to 197.795.

(2) The district may not levy taxes for the purpose of financing its functions pursuant to law, but shall finance its operations as provided in ORS 197.705 to 197.795. [1973 c.482 §5]

197.755 Duties and powers, generally. The district shall:

- (1) Adopt by rule regional land use planning goals and objectives;
- (2) Prepare, maintain and modify as necessary a plan for the region in accordance with the goals and objectives;

(3) Designate areas and activities having significant impact upon the orderly and responsible development of the region and establish rules and regulations for the development, use and control of such areas and activities;

(4) Review the comprehensive land use plans in effect on July 20, 1973, in or subsequently adopted by the members and associate members of the district and recommend or require, as it considers necessary, changes in any such plan to assure that the plan conforms to the goals and objectives;

(5) Coordinate the land use planning activities of its members and associate members;

(6) In the discretion of the board of directors, review the zoning, subdivision and other similar ordinances and regulations of its members and associate members and all actions taken pursuant thereto to assure conformity with the goals and objectives; and

(7) Coordinate its activities and the related activities of its members and associate members with the land use planning and development activities of the Federal Government, other local governmental bodies situated within this state or within any other state and any agency of this state or another state.

[1973 c.482 §9]

197.760 Change required in member or associate member plan; review. If a district requires a change in a plan of a member or associate member of the district under subsection (4) of ORS 197.755, the member or associate member may seek review of such required change as provided under paragraph (c) of subsection (1) of ORS 197.300. [1973 c.482 §9a]

197.765 District to assume city and county member coordination of planning functions under ORS 197.190. For the purposes of ORS 197.190, a district formed under ORS 197.705 to 197.795 shall exercise within the region the review, advisory and coordinative functions assigned under subsection (1) of ORS 197.190 to each county and city that is a member of the district. [1973 c.482 §2a]

(Conduct of Business; Fiscal Matters)

197.775 Employment of staff and assistants; compensation. The board of directors may employ such clerical and other staff, agents and independent contractors and provide for the compensation of such staff,

agents and contractors as it considers necessary in carrying out the functions of the district as provided by law.

[1973 c.482 §11]

197.780 Meetings open to public; exceptions; recording decisions; records open for public inspection. All meetings of the general assembly and the board of directors for the district, except meetings on matters involving the management of employes of the district and other labor matters, shall be open to the public. All decisions of or actions by the general assembly or the board of directors of the district shall be recorded in the records of the district. The records of the district shall be open for public inspection, during business hours, in the main office of the district.

[1973 c.482 §12]

197.785 Fiscal year; budget; contribution by members, assessment, effect; payment of assessments. (1) The fiscal year of the district shall commence on July 1 of each year and end on June 30 of the following year.

(2) Prior to the beginning of each fiscal year, the district shall prepare and adopt, and may revise from time to time, a budget itemizing expenditures planned for such ensuing fiscal year and estimating the amount and sources of income available to pay such proposed expenditures. ORS 294.305 to 294.555 shall not apply to the preparation, adoption or revision of the budgets of the district.

(3) The general assembly for the district, in its sole discretion, may determine that it is necessary for the members of the district to contribute funds to support the activities of the district during any fiscal year. If the

general assembly determines that it is necessary to require contribution from the members of the district for any fiscal year, it shall determine the total amount to be contributed by the members of the district and shall assess each member of the district such portion of the total amount to be contributed as the population of the member city or member county bears to the total population of the region. For the purposes of this subsection the population of a member county does not include the population of any city situated within the boundaries of the member county. The population of each member city and each member county shall be determined in the manner prescribed by the general assembly of the district.

(4) The decision of the general assembly to assess the members of the district and the amount of the assessment upon each member of the district shall be binding upon the members of the district. Members shall pay such assessments on or before October 1 of the fiscal year for which the assessment has been made.

[1973 c.482 §13]

197.790 First fiscal year; commencement. Notwithstanding subsection (1) of ORS 197.785, the first fiscal year for the district shall commence on a date fixed therefor by the initial board of directors of the district.

[1973 c.482 §14]

197.795 Application, receipt and expenditure of other moneys. The district may apply for, accept, receive and expend appropriations, grants, loans, gifts, bequests and devises in carrying out its functions as provided by law.

[1973 c.482 §10]

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

