

## Oregon Wetland Land Use Notification Statutes

Counties (under ORS 215.418) and cities (under ORS 227.350) provide notice to the Department of State Lands when they receive development applications in or partially within wetlands, waters or certain soils as mapped on the Statewide Wetlands Inventory. The full text of the statutes follows:

### **215.418 Approval of development on wetlands; notice; approval by county**

(1) After the Division [now Department] of State Lands has provided the county with a copy of the applicable portions of the State-wide Wetlands Inventory, the county shall provide notice to the division, the applicant and the owner of record, within five working days of the acceptance of any complete application for the following that are wholly or partially within areas identified as wetlands on the State-wide Wetlands Inventory:

- a. Subdivisions;
- b. Building permits for new structures;
- c. Other development permits and approvals that allow physical alteration of the land involving excavation and grading, including permits for removal or fill, or both, or development in floodplains and floodways;
- d. Conditional use permits and variances that involve physical alterations to the land or construction of new structures; and
- e. Planned unit development approvals.

(2) The provisions of subsection (1) of this section do not apply if a permit from the division has been issued for the proposed activity.

(3) Approval of any activity described in subsection (1) of this section shall include one of the following notice statements:

- a. Issuance of a permit under ORS 196.665 and 196.800 to 196.900 by the division required for the project before any physical alteration takes place within the wetlands;
- b. Notice from the division that no permit is required; or
- c. Notice from the division that no permit is required until specific proposals to remove, fill or alter the wetlands are submitted.

(4) If the division fails to respond to any notice provided under subsection (1) of this section within 30 days of notice, the county approval may be issued with written notice to the applicant and the owner of record that the proposed action may require state or federal permits.

(5) The county may issue local approval for parcels identified as or including wetlands on the State-wide Wetlands Inventory upon providing to the applicant and the owner of record of the affected parcel a written notice of the possible presence of wetlands and the potential need for state and federal permits and providing the division with a copy of the notification of comprehensive plan map or zoning map amendments for specific properties.

(6) Notice of activities authorized within an approved wetland conservation plan shall be provided to the division within five days following local approval.

(7) Failure by the county to provide notice as required in this section will not invalidate county approval. [1989 c.837 s.29; 1991 c.763 s.24]

*Note: 215.418 was added to and made a part of ORS chapter 215 but was not added to any smaller series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation. 215.420 [Amended by 1955 c.439 s.10; repealed by 1971 c.13 s.1]*

### **227.350 Notice of proposed wetlands development; exception; approval by city**

(1) After the Division [now Department] of State Lands has provided the city with a copy of the applicable portions of the State-wide Wetlands Inventory, the city shall provide notice to the division, the applicant and the owner of record, within five working days of the acceptance of any complete application for the following activities that are wholly or partially within areas identified as wetlands on the State-wide Wetlands Inventory:

- a. Subdivisions;
- b. Building permits for new structures;
- c. Other development permits and approvals that allow physical alteration of the land involving excavation and grading, including permits for removal or fill, or both, or development in floodplains and floodways;
- d. Conditional use permits and variances that involve physical alterations to the land or construction of new structures; and
- e. Planned unit development approvals.

(2) The provisions of subsection (1) of this section do not apply if a permit from the division has been issued for the proposed activity.

(3) Approval of any activity described in subsection (1) of this section shall include one of the following notice statements:

- a. Issuance of a permit under ORS 196.600 to 196.905 by the division required for the project before any physical alteration takes place within the wetlands;
- b. Notice from the division that no permit is required; or
- c. Notice from the division that no permit is required until specific proposals to remove, fill or alter the wetlands are submitted.

(4) If the division fails to respond to any notice provided under subsection (1) of this section within 30 days of notice, the city approval may be issued with written notice to the applicant and the owner of record that the proposed action may require state or federal permits.

(5) The city may issue local approval for parcels identified as or including wetlands on the State-wide Wetlands Inventory upon providing to the applicant and the owner of record of the affected parcel a written notice of the possible presence of wetlands and the potential need for state and federal permits and providing the division with a copy of the notification of comprehensive plan map or zoning map amendments for specific properties.

(6) Notice of activities authorized within an approved wetland conservation plan shall be provided to the division within five days following local approval.

(7) Failure by the city to provide notice as required in this section will not invalidate city approval. [1989 c.837 s.31; 1991 c.763 s.26]

### **196.676 Response to notices from local governments.**

The Department of State Lands shall respond to the notice received from local governments pursuant to ORS 215.418 (1) and 227.350 (1) within 30 days of receipt of the notice. The response shall state whether a permit is or in the future will be required or whether a permit has been issued by the department for the activity which is subject to notice. [1989 c.837 §7]