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PLANNING
COMMISSION

PRELIMINARY REPORT ON THE MULTNOMAH COUNTY PLANNING COMMISSION

This is a preliminary report on the organization, composition, and responsibilities of the Multnomah County Planning Commission. These findings are based upon a review of the 1964-65 budget request and the Oregon Revised Statutes. Multnomah County Ordinances have been scanned. No effort has been made to evaluate the competence of the Planning Commission or any part of the Planning Department. The scope of this preliminary report is limited to the present organization and statutory responsibilities.

A review of the Planning Commission and the Planning Department reveals an activity employing 30 people with a budget for the current fiscal year approximating a quarter million dollars. The Planning Commission is assisted by Robert S. Baldwin, Planning Director, an appointed official, who also heads the Planning Department. Chart I is the operational organization of the Planning Commission and the Planning Department as indicated in the 1964-65 budget request.

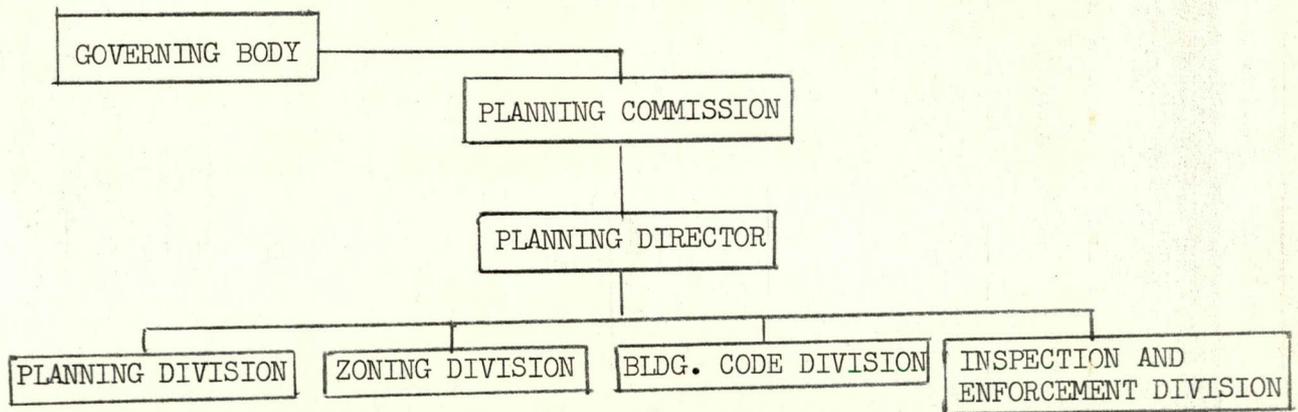


CHART I

The basic responsibilities of the Planning Commission are directed toward drafting and adopting a comprehensive plan for land use designed "To promote the Public Health, Safety, and General Welfare and shall be based upon the following considerations, among others: The various characteristics of the various areas in the county, the suitability of the areas for particular land uses and improvements, the land uses and improvements in the areas, trends in land improvement, density of development, property values, the needs of economic enterprises in the future development of the areas, needed access to particular sites in the areas, natural resources of the county and prospective needs for development thereof, and the public need for helpful, safe, aesthetic surroundings and conditions."

According to the statutes, the Planning Commission is an advisory body consisting of an odd number of members from five to nine at the pleasure of the governing body of the county. The members serve for terms of four years without compensation, and a majority must be residents of the territory outside the cities. The members have the authority to appoint necessary employees and fix their compensation with the approval of the governing body of the county, select a chairman from their membership, appoint a secretary who shall keep records, and adopt rules governing the transaction of its business.

The Planning Commission is charged with the adoption (and revision as necessary) of a comprehensive plan for land use in the county. They may recommend ordinances to the governing body to carry out part or all of the comprehensive plan adopted by the Commission. Accordingly, the functions of the Planning Commission, as indicated by the statutes, are as follows:

| PLANNING COMMISSION |
|---|
| <ol style="list-style-type: none">1. Makes, adopts, and revises a comprehensive plan for land use as a guide to orderly growth and development of the unincorporated areas of the county.2. Recommends ordinances to the governing body for the implementation of the comprehensive plan.3. Advises and cooperates with the other planning agencies within the state, and furnishes advice or reports to the city or county officer or department on any problem comprehended in county planning. |

CHART II

It should be noted that the statutes allude to the Planning Commission as a staff advisory agency. Using only the statutory responsibility, the functions of the Planning Department would appear as indicated in Chart III.

| STAFF |
|---|
| <ol style="list-style-type: none">1. Processes subdivisions2. Studies park and recreation needs.3. Studies school needs.4. Studies and prepares plans for roads and highways.5. Studies and prepares land use plans.6. Collects, reports, and analyzes data on population, development, growth, character, trends, values, economic needs.7. Prepares drafts of ordinances and revisions or amendments.8. Cooperates with other planning commissions and other agencies. |

CHART III

On the other hand, Chart III is not the function organization of the Planning Department. Through the adoption of ordinances, functional responsibilities have been placed upon this department which have changed it from a purely staff function advising and recommending, to a staff and line function charged with the enforcement of many of its recommendations and diluting its responsibilities by having the Director responsible to both the Planning Commission and the Board of County Commissioners. A true picture of the functional organization of the Planning Department appears as indicated on Chart IV. Statutory responsibilities are shown in regular type, and ordinance responsibilities are shown in capital letters.

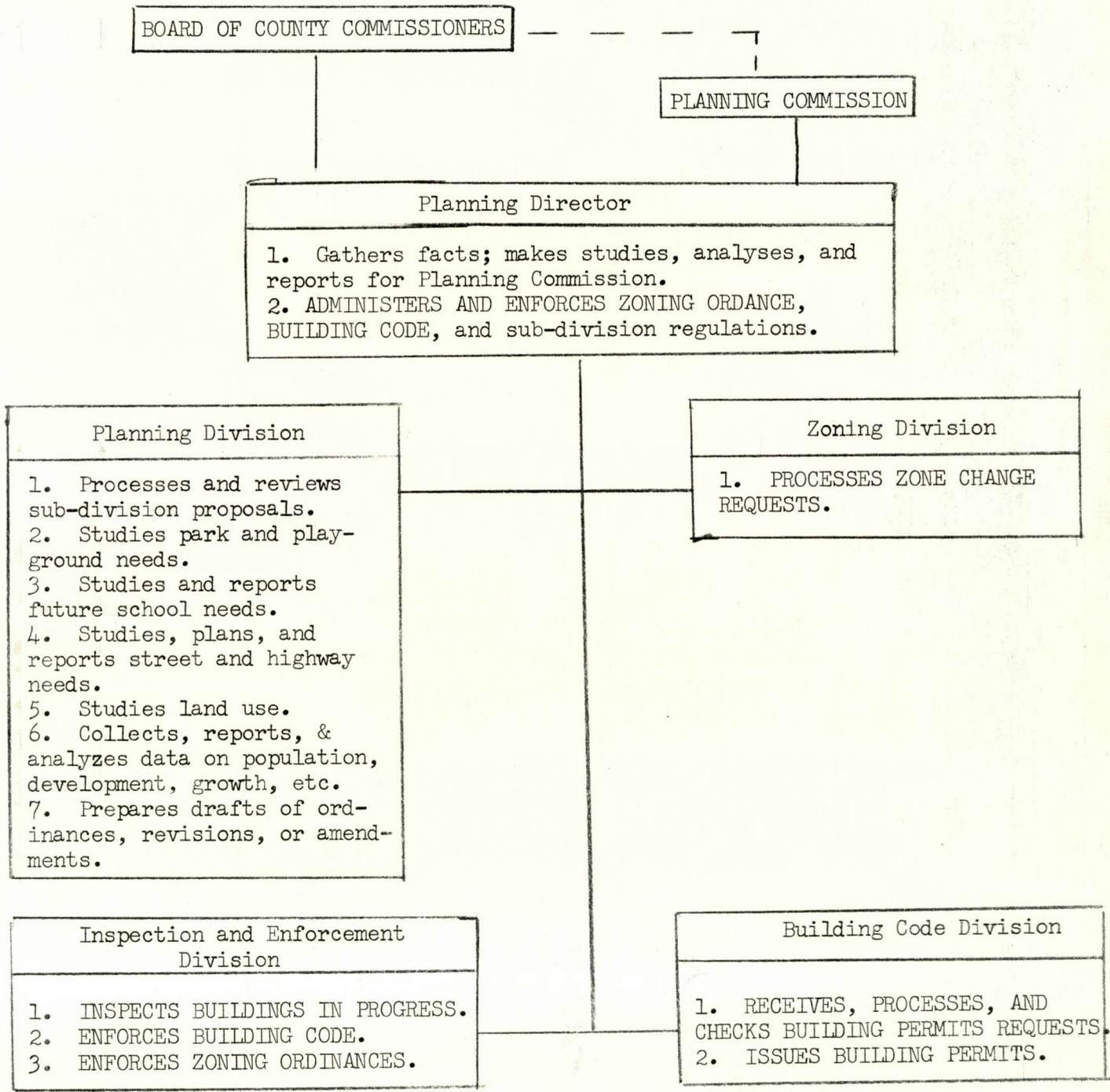


CHART IV

Since its inception, the Planning Commission has completed its comprehensive plan, and has recommended three ordinances to the Board of County Commissioners for adoption. All three, the Zoning Code, the Building Code, and the Plumbing Code have been adopted. As a part of the content of the ordinances themselves, however, the Planning Department has retained the responsibility for the enforcement of both the Zoning Code and the Building Code while the Department of Public Health has been given the responsibility for enforcement of the Plumbing Code.

Copies of the statutes pertaining to the Planning Commission are appended hereto. Copies of the Multnomah County Ordinances are on file in the office of the committee.

COUNTY PLANNING

215.010 Definitions for ORS 215.020 to 215.190. As used in ORS 215.020 to 215.190, the terms defined in ORS 92.010 shall have the meanings given therein.

[Amended by 1955 c.756 §25; 1963 c.619 §1 (1)]

215.020 Authority to establish county planning commission. The governing body of any county may create by ordinance a county planning commission, appoint its members and provide funds for its operation.

215.030 Membership of planning commission. (1) The county planning commission shall consist of five, seven or nine members appointed by the governing body for four-year terms, or until their respective successors are appointed and qualified; provided that in the first instance the terms of the initial members shall be staggered for one, two, three and four years. Any vacancy shall be filled by the governing body who may after hearing remove any member for misconduct or nonperformance of duty.

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

(3) Members of the commission shall be residents of the county and a majority shall reside outside cities.

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

[Amended by 1963 c.619 §2]

215.040 Officers and employes of commission; rules. The commission may:

(1) Appoint necessary employes and fix their compensation with the approval of the governing body of the county.

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

(3) Appoint a secretary who shall keep permanent and complete records of its proceedings.

(4) Adopt rules governing the transaction of its business.

215.050 Comprehensive plan. The commission shall adopt and may from time to time revise a comprehensive plan for the use of some or all of the land in the county. The plan may be adopted and revised part by part.

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

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

[1955 c.439 §3; 1963 c.619 §4]

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

[Amended by 1963 c.619 §5]

215.070 [Repealed by 1963 c.619 §16]

215.080 Power to enter upon land. The commission, and any of its members, officers and employes, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain the necessary monuments and markers thereon.

215.090 Information made available to commission. All public officials, departments and agencies, having information, maps and data deemed by the commission pertinent to county planning shall make such information available for the use of the county planning commission.

215.100 Cooperation with other agencies. The county planning commission shall advise and cooperate with other planning commissions within the state, and shall upon request, or on its own initiative, furnish advice or reports to any city, county, officer or department on any problem comprehended in county planning.

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

(2) In the event the county has no planning commission, if the governing body of the county in good faith intends to create such a commission and to see that studies and hearings conducive to formulation and adoption of a comprehensive plan of land use for part or all of the county are promptly undertaken and that a zoning ordinance suitable for carrying out the plan is adopted within a reasonable time after the studies and hearings are undertaken, the governing body may adopt an interim zoning ordinance

any construction, alteration, use, or transfer that is reasonably expected to conflict with the plan.

(3) An interim zoning ordinance may be enacted irrespective of the procedural requirements of ORS 215.110 and 215.223. [1955 c.439 §4; 1963 c.619 §6]

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

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

- (a) Zoning,
- (b) Official maps showing the location and dimensions of, and the degree of permitted access to, existing and proposed thoroughfares, easements and property needed for public purposes,
- (c) Preservation of the integrity of the maps by controls over construction, by making official maps parts of county deed records, and by other action not violative of private property rights, and
- (d) Conservation of the natural resources of the county

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

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

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

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

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

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

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

215.130 Application of ordinances. (1) Any ordinance adopted under ORS 215.010 to 215.190 shall be a local law within the meaning of, and subject to, ORS 254.310.

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

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

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

(5) The lawful use of any building, structure or land at the time of the enactment of any zoning regulation or amendment thereto, may be continued as such although not in conformity with the zoning regulation, but such nonconforming uses shall not be increased, changed or resumed after a period of interruption or abandonment except in conformity with such provisions as the zoning regulations may provide.

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

215.140 [Repealed by 1963 c.619 §16]

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

[Amended by 1963 c.619 §10]

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

[1955 c.439 §6; 1963 c.619 §11]

215.185 Remedies for unlawful structures or land use. In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used, or any land is, or is proposed to be, used, in violation of an ordinance or regulation authorized by ORS 215.010 to 215.190, the governing body or district attorney of the county or a person whose interest in real property in the county is or may be affected by the violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use. When a temporary restraining order is granted in a suit instituted by a person who is not exempt from furnishing bonds or undertakings under ORS 22.010, the person shall furnish undertaking as provided in ORS 32.010 to 32.060.

[1955 c.439 §7; 1963 c.619 §12]

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

[1955 c.439 §9; 1963 c.619 §13]

215.203 Adoption of zoning ordinances establishing farm use zones; "farm use" defined. (1) Zoning ordinances may be adopted under ORS 215.010 to 215.190 to zone designated areas of land within the county as farm use zones. Land within such zones shall be used exclusively for farm use except as otherwise provided in section 3 of this 1963 Act. Farm use zones shall be established only when such zoning is consistent with the over-all plan of development of the county.

(2) As used in this section, "farm use" means the use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairying or any other agricultural or horticultural use or any combination thereof and includes the preparation of the products raised thereon for man's use and disposal by marketing or otherwise. It includes the construction and use of dwellings and other buildings customarily provided in conjunction with the farm use.

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

Note: Section 2, chapter 577, and subsections (2) and (3) of section 1, chapter 619, Oregon Laws 1963, have been compiled as ORS 215.203 because they were identical. Both sections made reference to "section 3 of this 1963 Act." However, section 3, chapter 577, enacted ORS 215.213; while section 3, chapter 619, amended ORS 215.050. Consequently, the Legislative Counsel has not substituted a specific ORS section number for the reference to "section 3 of this 1963 Act."

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

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

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

(1) Public or private schools.

(2) Churches.

(3) Golf courses.

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

(5) Utility facilities necessary for public service.

COUNTY ZONING DISTRICTS

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 or is posted in three public places 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]

215.230 [Repealed by 1963 c.619 §16]

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

[1963 c.619 §14]

215.240 [Repealed by 1963 c.619 §16]

215.250 [Repealed by 1963 c.619 §16]

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

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

215.270 [Repealed by 1963 c.619 §16]

215.280 [Repealed by 1963 c.619 §16]

215.285 District created coterminous with each district existing on July 2, 1957; districts existing on July 2, 1957, abolished.

(1) There hereby is created a zoning district territorially coterminous with each zoning district existing on July 2, 1957, and formed by an election under ORS 215.260, if the district so formed was at that time a valid district but for the fact that the electorate in such election was restricted to property owners. In determining the boundaries of districts created by this subsection, full effect shall be given to annexations effected by zoning districts prior to November 22, 1957, under ORS 215.415.

(2) Zoning districts territorially coterminous with the zoning districts created by subsection (1) of this section hereby are abolished.

(3) Zoning districts created by subsection (1) of this section shall be governed by ORS 215.305 to 215.450.

[Formerly 215.200]

215.290 [Repealed by 1963 c.619 §16]

215.295 New district succeeds to and replaces abolished district. Each zoning district created by ORS 215.285 shall in all respects succeed to and replace the territorially coterminous zoning district abolished by ORS 215.285. Without limiting the foregoing:

(1) A successor zoning district is:

(a) The owner of the property of the succeeded zoning district, including funds on deposit with the county treasurer.

(b) Successor party to the contracts of the succeeded zoning district.

(c) Successor party to the court proceedings of the succeeded zoning district.

(2) The rules, regulations and plans of each succeeded zoning district are the rules, regulations and plans of the successor zoning district, until amended or repealed by appropriate action under ORS 215.305 to 215.450.

(3) The zoning commissioners of each succeeded zoning district are the zoning commissioners of the successor zoning district. Each zoning commissioner shall hold office for a term equal to the term of his office in the succeeded district.

[Formerly 215.205]

215.300 [Repealed by 1963 c.619 §16]

215.305 Definitions for ORS 215.305 to 215.450. As used in ORS 215.305 to 215.450, unless the context requires otherwise:

(1) "Court" means the county court or other legislative body of any county.

(2) "Freeholder" means a record owner of real property or the purchaser under a duly recorded contract of purchase of real

property, but does not include the vendor under a duly recorded contract of purchase of real property.
[Formerly 215.210]

215.310 District zoning planning commission. (1) Upon the formation of the zoning district, the court shall appoint not less than three nor more than five resident freeholders of the district, to be known as the district zoning planning commission.

(2) Appointment shall be for a term of four years, or until their respective successors are appointed and qualified. The terms of the initial members of the commission shall be staggered for one, two, three and four years. The court shall fill any vacancy in the membership of the commission for the unexpired term and may cause the removal of any member for non-performance of duty or misconduct.

(3) All members of the district zoning planning commission shall be residents of the unincorporated area in the district.

(4) Members shall serve without compensation and shall be designated as the zoning commissioners.

215.320 Transaction of business by commission. The district zoning planning commission shall adopt rules for transacting its business, elect a member to serve as presiding officer and keep a record of its resolutions, findings, determinations and transactions.

215.325 Incurring expenses; preparation of budget; tax levy; financial records. (1) Subject to the provisions of this section, the district zoning planning commission is authorized to incur expenses, and to contract for professional engineering and surveying advice and service, for clerical assistance and for clerical supplies and equipment, as may be necessary for the performance of its duties, and the members of the commission shall receive the sum of 10 cents per mile for necessary official travel within the county in which such zoning district is located.

(2) The commission shall, before making any expenditures or incurring any financial obligations, prepare and submit in duplicate to the county court, in the month of June of each year, an annual itemized budget which shall be approved by the county court by endorsement upon both of the duplicates, if the county court determines the amounts mentioned in the budget to be reasonable. One of the duplicates shall be returned to the district zoning planning commission.

(3) Thereafter, the county court shall, at the time of making the annual tax levy, levy a tax, not to exceed one-fortieth of one percent (.00025) of the true cash value of all taxable property within the zoning district, computed in accordance with ORS 308.207, for the purpose of paying and sufficient to pay the amount of the budget, and the proceeds of such tax shall be paid by the county treasurer to the bearers of orders upon the fund so created, which orders shall be signed by not less than three members of the district zoning planning commission.

(4) The commission shall keep accurate records of all its financial transactions, and such records shall be kept available for the inspection of any interested person.
[1953 c.662 §6; 1963 c.9 §4]

215.330 Zoning regulations. The district zoning planning commission may, by regulation, regulate, restrict and segregate the location of industries, the several classes of business, trades or callings, apartment or tenement houses, club houses, group residences, single detached dwellings, two-family dwellings, and buildings designed for specific uses. Regulations may be imposed designating the class of use that shall be subject to special regulations and designating the uses for which buildings may not be erected or altered, or designating the class of use which only shall be permitted. Such regulations shall be designed to promote the public health, safety and general welfare. The commission shall give reasonable consideration, among other things, to the character of the district, its peculiar suitability for particular uses, the conservation of property values and the direction or trend of building development, in accord with a well-considered plan. The commission may place reasonable regulations and limitations upon the height and bulk of buildings erected after July 5, 1947, and regulate and determine the area of yards, courts and other open spaces, having due regard to the use and occupancy in such case. The regulations as to the height and bulk of buildings and the area of yards, courts and other open spaces shall be uniform for each class of building throughout the district. The regulations in one or more locations may differ from those in other locations. Such regulations shall be designed to secure safety from fire and other dangers and to promote the public health and welfare and to secure provi-

sions for adequate light, air and reasonable access. The commissioners shall pay reasonable regard to the character of the buildings now located in the district so formed, the value of the land and the use to which it may be put, to the end that such regulation may promote public health, safety and welfare.

215.340 Division of district; factors considered in zoning. (1) The commission may divide the zoning district into such shapes and sizes as it deems most effective to accomplish the purposes of ORS 215.305 to 215.450.

(2) Zoning regulations shall be drafted by the commission based on a development pattern so as to promote the health, safety, morals, order, convenience, prosperity and general welfare of the public, encourage the use of lands in accordance with the character and development of the district, limit the improper use of land to avoid the overcrowding of population, lessen congestion on public roads and streets, and reduce hazards to life and property. The regulations shall be made with reasonable consideration, among other things, to the character of the land in the district, its peculiar suitability for particular purposes, the conservation of property values and natural resources and the general and appropriate trend and character of land, building and population development.

215.350 Adoption of zoning plan; submission to court. (1) Adoption of the development and zoning plan or pattern requires the affirmative vote of the majority of the entire commission.

(2) Upon the adoption of the plan of development and zoning, and after such public hearings as the commission may require, the commission shall certify and transmit the plan and zones to the court of the county in which the district is situated. The plan and zones shall be filed by the court with the county clerk of said county.
[Amended by 1953 c.662 §7]

215.360 Effect of zoning regulation on existing nonconforming use. (1) The lawful use of any building, structure or land at the time of the enactment of any zoning regulation or amendment thereto, may be continued as such although not in conformity with the zoning regulation, but such nonconforming uses shall not be increased or

changed nor resumed after a period of interruption or abandonment except in conformity with such provisions as the zoning regulations may provide.

(2) "Nonconforming use," as used in this section, shall include the initiation, maintenance or continuation of any use, construction, activity, improvement, building or structure not in conformity with the zoning regulations.

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

215.370 Adoption of zoning regulations. Adoption of zoning regulations requires the affirmative vote of a majority of the entire district zoning planning commission after public hearings as required by the commission.

215.380 Election if zoning regulations protested. (1) In the event that at least 25 percent of the resident freeholders of the area in the zoned district, as shown by the county records, shall, not later than 30 days after the plan of development has been duly filed, certify and transmit to the court for filing in the office of the county clerk a written petition protesting the adoption of the zoning regulations, the court shall call a special election of the qualified electors of the district for the purpose of determining whether or not the qualified electors of the district approve of such zoning regulations.

(2) Notice of the election protesting the adoption of zoning regulations shall be given by posting for four consecutive weeks prior to the election in three public places within the zoning district, and publishing for four successive weeks prior to the election in some newspaper published in the proposed zoning district, if there is one, and if not, then in some newspaper published in the county.

(3) The election shall be held in the manner provided by law for holding and conducting elections in irrigation districts of Oregon.

(4) The ballot shall contain the words "I approve of the zoning regulations in (name of the zoning district) zoning district," and also the wording "I vote against and disapprove of the zoning regulations in (name of the zoning district) zoning district," or words equivalent thereto.

(5) The order fixing the date of the election shall be entered in the journal of the court and shall be conclusive evidence of

the due and proper presentation of the petition of protest to the zoning regulations.

(C) The election for the approval or rejection of the proposed zoning regulations shall be held in the same manner set forth for the creation and setting up of the district and, upon the approval or rejection of the plan, the court shall make appropriate orders in its records.

[Amended by 1955 c.652 §4]

215.390 Changing zones. The commission may make such rules, regulations and orders as may be required to change the zones of property zoned for various purposes. Changes may be made upon public hearing on application for the change made by the property owners affected thereby. Upon the change of zone, a copy of the commission's order shall be filed with the court in the same manner as upon the filing of the plan of development and zones.

215.395 Amendments or additions to plans, regulations or zones. The district zoning planning commission may at any time amend, add to or supplement the rules, regulations, plans, patterns and zones adopted as provided in ORS 215.330 to 215.390, and such amendments, additions and supplementations shall be subject to the same provisions of ORS 215.330 to 215.390 as apply to the original adoption, certification to the county court and filing with the county clerk, of such rules, regulations, plans, patterns and zones, and shall be subject to the provisions of ORS 215.380 respecting election to protest the adoption of the same.

[1953 c.662 §3; 1955 c.652 §5]

215.398 Construction permits. The district zoning planning commission may authorize and provide for the issuance of permits as a prerequisite to the construction, alteration or enlargement of any building or structure which is subject to zoning regulations of the district adopted pursuant to ORS 215.340 to 215.395, and may establish and collect reasonable fees therefor.

[1955 c.652 §2]

215.400 Violation of regulations. No person, firm or corporation shall erect, construct, reconstruct, alter, maintain or use any building or structure or use or transfer any land in violation of any provision of any regulation, or any amendment thereto, enacted or adopted by the district zoning planning commission under the authority of ORS 215.305 to 215.450.

215.410 Injunction, abatement, removal of unlawful erection. In case any building or structure is, or is proposed to be, erected, constructed or used, or any land is, or is proposed to be, used, in violation of ORS 215.305 to 215.450 or of any regulations, or amendment thereto, adopted by the district zoning planning commission under authority thereof, the commission, the district attorney of the county, or any owner of real property within the district in which the building, structure or land is situated, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate proceeding to prevent, enjoin, abate or remove the unlawful erection, construction, reconstruction, alteration, maintenance or use.

215.415 Annexation of contiguous territory. (1) A majority of the legal voters residing in an unincorporated area in the same county, and contiguous with, a zoning district already then established, may by petition request the zoning planning commission of such established zoning district to include such unincorporated area within, and annex the same to, such zoning district. Such petition shall be in writing, shall set forth the boundaries of said unincorporated area so sought to be annexed, and shall be verified by the affidavit of one of the petitioners. The petition may be denied or approved by the zoning planning commission. If the zoning planning commission shall, by affirmative vote of the majority of the entire commission, consent to the annexation of such area to said zoning district, the zoning planning commission shall transmit the petition to the county court with a record of its consent.

(2) Upon receipt of the petition and record of consent, the county court shall appoint a time and place for the hearing of the petition, and notice of such hearing shall be published for at least two weeks, being once a week, preceding the hearing, in some newspaper of general circulation published in the county, and by posting printed notices of the same in at least three public places within such area continuously for at least two weeks before such hearing. The notices shall state the purpose, time and place of the hearing, and that all persons interested therein may appear and be heard. At such time the court may hear the petition and adjourn the hearing from time to time. The purpose of such hearing shall be to ascertain whether in

ORS 215.305 to 215.450 shall remain established until altered, discontinued or vacated in such manner as may be provided by law.
[Amended by 1955 c.439 §10]

fact the petition was signed by a majority of the legal voters then freeholders and residents within such area, whether such annexation would benefit the area, and whether the dimensions of the area, as described in the petition, are reasonable.

(3) If upon the hearing the county court determines the questions in the affirmative, then the county court shall by an order entered upon its journal, order an election to be held in the area to be annexed. The order shall fix the day of the election, which shall be held not less than 30 days from the date of the order, and shall state that at the election there will be submitted to the voters of the area sought to be annexed the proposition of whether or not such voters of such proposed area desire to be annexed to such established zoning district. The order shall be conclusive evidence of due presentation of a proper petition and of the fact that each of the petitioners was, at the time of signing and presentation of such petition, a legal voter within the limits of the proposed annexed area. The election shall be held in the manner provided by law for holding and conducting elections in the irrigation districts. The ballot shall contain the words "I vote in favor of annexation" and also the words "I vote against annexation" or words equivalent thereto.

(4) If the owners or owner of all contiguous territory proposed to be annexed consents in writing to such annexation and files the same with the county court at or before the day of calling such election, it is not necessary for the county court to call or hold an election in such territory or to post any notices therein.

(5) If a majority of the votes cast at the election is in favor of the annexation or if all the owners of such contiguous territory consent in writing whereby an election will not be necessary, the court shall make and cause to be entered in the journal of the court an order declaring such area to be annexed to such established zoning district, and such order shall be conclusive evidence that such annexation would benefit the area and that the dimensions of such area as described in the petition are reasonable.
[1955 c.662 §5]

215.420 Dissolution of commission when plan established; continuance of zones. When the governing body of the county is authorized to adopt zoning and land use ordinances embracing the entire zoning district as otherwise provided by law, the powers and duties of any district zoning planning commission created under ORS 215.305 to 215.450 shall cease to exist simultaneously with the adoption of such ordinances, and the commission shall thereupon be dissolved by resolution of the governing body of the county. However, zones established under

215.430 Petition for dissolution of district; deposit. (1) Whenever 25 percent or more of the resident freeholders within a zoning district formed under ORS 215.305 to 215.450 desire to dissolve the district, they may present to the county court within which the district is situated a petition in writing, signed by them, stating their desire that the district be dissolved.

(2) The petition must be verified by the affidavit of one of the petitioners.

(3) At the time of filing the petition, the petitioners shall deposit with the county clerk a sum of money sufficient to defray all costs of publication and of holding the election in the zoning district on the question of whether or not the district should be dissolved.
[1955 c.682 §2]

215.440 Election on dissolution. Upon presentation of a petition and deposit meeting the requirements of ORS 215.430, the county court shall order an election to be held in the zoning district on the question whether or not the district should be dissolved. The election shall be called and held and notice thereof given substantially in the manner provided in ORS 215.260 to 215.300 for election on the question of formation of a zoning district.
[1955 c.682 §3]

215.450 Dissolution; effect of dissolution. (1) If a majority of the votes cast by qualified electors in the district voting on the issue at the election held under ORS 215.440 are in favor of dissolution of the district, the

district is, except as provided in subsection (2) of this section, dissolved and all zoning regulations adopted under ORS 215.305 to 215.450 shall have no further force or effect.

(2) If at the time of the election to dissolve the district, there is outstanding indebtedness of the district, the vote to dissolve the district shall dissolve it for all purposes except the levy and collection of taxes for the payment of such indebtedness. Any funds or property of the zoning district remaining after payment of all indebtedness of the district shall be paid or transferred to the county to be used for general county purposes.
[1955 c.682 §4]

215.460 Duration of districts. County zoning districts organized under ORS 215.285 to 215.450 on September 2, 1963, shall continue to exist until dissolved in accordance with ORS 215.420 or with ORS 215.430 to 215.450.

APPROVAL OF PLAN; PLATS

92.010 Definitions. As used in ORS 92.020 to 92.150:

(1) "Plat" includes a final map, diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

(2) "Subdivide land" means to partition a parcel of land into four or more parcels of less than five acres each for the purpose of transfer of ownership or building development, whether immediate or future, when such parcel exists as a unit or contiguous units under a single ownership as shown on the tax roll for the year preceding the partitioning.

(3) "Subdivision" means either an act of subdividing land or a tract of land subdivided as defined in this section.
[Amended by 1955 c.756 §1]

92.014 Approval of planning commission or governing body of city or county required before creating street or way to partition land. No person shall create a street or way for the purpose of partitioning a parcel of land without the approval of the agency or body authorized to give approval of plans for subdivision under ORS 92.040 with respect to the area in which the parcel is situated.
[1955 c.756 §3]

92.016 Sales or transfers of lots when approval required under regulations adopted under ORS 92.046 prohibited until approval obtained. No person shall dispose of, transfer, sell or agree, offer or negotiate to sell any lot or parcel of land in any subdivision or division of land with respect to which approval is required by any ordinance or regulation adopted under ORS 92.046 and 92.048 until such approval is obtained.
[1955 c.756 §24]

92.020 [Repealed by 1955 c.756 §5 (ORS 92.025 enacted in lieu of ORS 92.020 and 92.030)]

92.025 Prohibition of sales or transfers of lots prior to recordation of plat. (1) No person shall dispose of, transfer, sell or agree, offer or negotiate to sell any lot or parcel of land in any subdivision until the plat thereof has been acknowledged and recorded with the recording officer of the county in which the lot is situated.

(2) No person shall dispose of, trans-

fer, sell or agree, offer or negotiate to sell any lot or parcel of land in any subdivision by reference to or exhibition or other use of a plat or plan of such subdivision before the plat for such subdivision has been so recorded.

[1955 c.756 §6 (enacted in lieu of ORS 92.020 and 92.030)]

92.030 [Repealed by 1955 c.756 §5 (ORS 92.025 enacted in lieu of ORS 92.020 and 92.030)]

92.040 Application to planning commission or governing body of city or county for approval of subdivision plan before recording. Before a plat of any subdivision of land may be made and recorded, the subdivider or his authorized agent or representative shall make an application in writing to the planning commission of the county or city having jurisdiction under ORS 92.042 or, if there is no such commission in such county or city, to the governing body of such county or city for approval of a plan of subdivision and at the same time shall submit a tentative map showing the general design of the proposed subdivision. Approval of the tentative map shall not constitute final acceptance of a subdivision plat for recording.
[Amended by 1955 c.756 §7]

92.042 Planning commission or governing body having jurisdiction to approve plans or plats. (1) Land within six miles outside of the corporate limits of a city is under the jurisdiction of the city for the purpose of giving approval of plans or plats of subdivisions under ORS 92.040 and 227.110. However, when the governing body of a county has appointed a county planning commission and has adopted regulations for subdivision control as authorized by ORS 215.150, land in such county within such six-mile limit shall be under the jurisdiction of the county for such purpose.

(2) Land over six miles from the corporate limits of a city is under the jurisdiction of the county for the purpose of giving approval of plans for subdivisions under ORS 92.040.

[1955 c.756 §4]

92.044 Adoption of standards governing approval of plats and of partitioning of land by creation of street or way. (1) The governing body of a county or a city may, by regulation or ordinance, adopt standards, in addition to those otherwise provided by law,

governing, in the area over which the county or the city has jurisdiction under ORS 92.042, the approval of plats of subdivisions and of partitioning of land by creation of a street or way where the additional standards are considered necessary to carry out development patterns or plans and to promote the public health, safety or general welfare. Such standards may include, taking into consideration the location and surrounding area of the proposed subdivisions, requirements for placement of utilities, for the width and location of streets or for minimum lot sizes and such other requirements as the governing body considers necessary for lessening congestion in the streets, for securing safety from fire, flood, pollution or other dangers, for providing adequate light and air, for preventing overcrowding of land or for facilitating adequate provision of transportation, water supply, sewerage, drainage, education, recreation or other needs.

(2) Such governing body may also prescribe procedures to be followed in submitting plans and plats of subdivisions for approval.

[1955 c.756 §9]

92.046 Adoption of regulations requiring approval of partitioning of land not otherwise subject to approval. The governing body of a county or a city may as provided in ORS 92.048, when reasonably necessary to accomplish the orderly development of the land within the jurisdiction of such county or city under ORS 92.042 and to promote the public health, safety and general welfare of the county or city, adopt regulations or ordinances requiring approval, by the agency or body of the county or city which is authorized to approve plans for subdivisions under ORS 92.040, of the partitioning of land not otherwise subject to approval under ORS 92.010 to 92.150 or ORS 227.100 and 227.110. Such regulations or ordinances may be applicable throughout the area over which the county or city has jurisdiction under ORS 92.042, or over any portion thereof. Such ordinances or regulations may specify the classifications of land partitioning which require approval under this section and may establish standards governing the approval of plats or plans for such partitioning. The standards may include all, or less than all, of the same requirements as are provided or authorized for subdivi-

visions under ORS 92.010 to 92.150 and may provide for different standards for different classifications of land partitioning so long as the standards are no more stringent than are imposed in connection with subdivisions. [1955 c.756 §22]

92.048 Procedure for adoption of regulations under ORS 92.046. The procedure for adoption of any ordinance or regulation under ORS 92.046 is as follows:

(1) The planning commission of the county or the city shall hold a public hearing on the proposed ordinance or regulation after publishing notice of the hearing once a week for two successive weeks prior to the hearing in a newspaper of general circulation published in the area in which land to be subject to such ordinance or regulation is situated or, if there is no such newspaper, a newspaper of general circulation published in the county. The notice shall contain the time, place and purpose of the hearing and a description of the land to be subject to the ordinance or regulation.

(2) After such hearing, the planning commission may recommend to the governing body of the county or city, as the case may be, the adoption of such ordinance or regulation.

(3) Prior to the adoption of such ordinance or regulation, the governing body of the county or the city shall hold a hearing thereon after giving notice of the hearing in the same manner provided in subsection (1) of this section.

(4) A copy of any regulation or ordinance adopted by the governing body of a county or a city under this section, together with a map of the area subject to the regulation or ordinance, shall be filed with the recording officer of the county in which the land subject to the ordinance or regulation is situated. Such ordinance or regulation shall not be effective until so filed.

(5) The ordinance or regulation may be amended from time to time by following the procedure prescribed in this section.

[1955 c.756 §23]

92.050 Requirements of survey and plat of subdivision. (1) No subdivider shall submit a plat of a subdivision for record, until all the requirements for the survey and the plat of the subdivision have been met.

(2) The survey for the plat of the subdivision shall be of such accuracy that the error of closure shall not exceed one foot in 4,000 feet.

(3) The survey and plat of the subdivision shall be made by a surveyor who is a registered engineer or a licensed land surveyor.

(4) The plat of a subdivision shall be of such scale that all survey and mathematical information, and all other details may be clearly and legibly shown thereon. Each lot shall be numbered and each block shall be lettered or numbered. The lengths of all boundaries of each lot shall be shown. Each street shall be named.

(5) The locations and descriptions of all monuments shall be carefully recorded upon all plats and the proper courses and distances of all boundary lines shall be shown. [Amended by 1955 c.756 §10]

92.060 Marking certain points of plats with monuments; specifications of monuments. (1) The initial point of all subdivision plats shall be marked with a monument, either of stone, concrete or galvanized iron pipe. If stone or concrete is used it shall not be less than 6 inches by 6 inches by 24 inches. If galvanized iron pipe is used it shall not be less than two inches in diameter and three feet long. The monument shall be set or driven six inches below the surface of the ground. The location of the monument shall be with reference to some known corner established by the United States survey.

(2) The intersections of all streets, avenues and public highways and all points on the exterior boundary where the boundary line changes direction, shall be marked with monuments either of stone, concrete, galvanized iron pipe, or iron or steel rods. If stone or concrete is used it shall not be less than 6 inches by 6 inches by 24 inches. If galvanized iron pipe is used it shall not be less than one inch in diameter and 30 inches long, and if iron or steel rods are used they shall not be less than five-eighths of an inch in least dimension and 30 inches long.

(3) All lot corners except lot corners of cemetery lots shall be marked with monuments of either galvanized iron pipe not less than one-half inch in diameter or iron or steel rods not less than one-half inch in least dimension and two feet long.

(4) Points shall be plainly and permanently marked upon monuments so that measurements may be taken to them to within one-tenth of a foot. [Amended by 1955 c.756 §11]

92.070 Surveyor's affidavit necessary to record plat; contents of affidavit. All plats or diagrams designating the location of land in any county in the State of Oregon, offered for record, shall have attached thereon an affidavit of the surveyor having surveyed the land represented on the plat, to the effect that he has correctly surveyed and marked with proper monuments the lands as represented, that he planted a proper monument as provided in ORS 92.060 indicating the initial point of such survey, and giving the dimensions and kind of such monument, and its location with reference to some known corner established by the United States survey, or giving two or more objects for identifying its location, and accurately describing the tract of land upon which the lots and blocks are laid out.

92.080 Preparation of plat. All plats subdividing any tracts of land in any county in this state, and dedications of streets, alleys, avenues or roads or public parks and squares and other writings made a part of such plats offered for record in any county in this state shall be made in black India ink, upon a good quality of white cold-pressed, double-mounted drawing paper 18 inches by 24 inches in size, with the muslin extending three inches at one end for binding purposes. The plat shall be of such a scale, and the lettering of the approvals thereof, and of the dedication and affidavit of the surveyor, shall be of such a size or type as will permit the whole thereof to be placed upon one single sheet of paper, but no part shall come nearer any edge of the sheet than one inch. All of the plat shall be on one side of the sheet, but the dedication or other written matter may be on the other side. [Amended by 1955 c.756 §12]

92.090 Requisites for approval of plat. (1) No plat of a subdivision shall be approved which bears a name using a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in the same county, except for the words "town," "city," "place," "court," "addition" or similar words, unless the land platted is contiguous to and platted by the

same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the subdivision bearing that name. All plats must continue the block numbers of the plat of the same name last filed.

(2) No plat shall be approved unless:

(a) The streets and alleys are laid out so as to conform to the plats of adjoining property already filed as to width, general direction and in all other respects unless the planning commission or governing body authorized to give approval of plans of subdivisions under ORS 92.040 determines it is in the public interest to modify the street pattern.

(b) Streets and alleys are dedicated to the public use without any reservation or restriction whatever.

(c) The name is proper, so as to comply with this section.

(d) All taxes and assessments have been paid.

[Amended by 1955 c.31 §1; 1955 c.756 §13]

92.100 Approval of plat by city engineer or surveyor or by county surveyor; approval by county assessor and county governing body. (1) Before any plat can be recorded, covering land within the corporate limits of any city, it must be approved by the city engineer or city surveyor, if any; otherwise by a county surveyor. However, the governing body of the city may designate any county surveyor to serve in lieu of the city engineer. Except as provided in subsection (3) of this section, if the land is outside the corporate limits of any city, the plat shall be approved by the county surveyor before it is recorded. All plats must also be approved by the county assessor and the governing body of the county in which the property is located before recording.

(2) Before approving the plat as required by this section, the city engineer, city surveyor or the county surveyor, as the case may be, shall sufficiently check it, and the computations for making it to determine that all distances, angles, bearings and other data shown within the plat are correctly calculated and to determine if the plat and computations comply with the provisions of ORS 92.050 and with the subdivision requirements in effect in the area. For performing such service the county surveyor

shall collect from the subdivider a fee not to exceed \$25.

(3) Any plat prepared by the county surveyor in his private capacity shall be approved in accordance with subsection (2) of this section by the surveyor of a county other than the county where the land is located. The county governing body shall refer such a plat to the county surveyor of another county by indorsement on the plat. The county governing body, in accordance with ORS 204.401, may provide allowances for travel and other expenses of the surveyor to whom the plat is referred.

[Amended by 1955 c.31 §2; 1955 c.756 §14; 1957 c.688 §1; 1963 c.285 §1]

92.110 Land in irrigation districts; approval of plat; appeal from refusal to approve. All subdivision plats located within the boundaries of an irrigation district, and all plans or plats for vacating, laying out, widening, extending, parking or locating streets or alleys in irrigation districts shall be submitted to the board of directors of the irrigation district and a report thereon shall be secured from the board in writing before approval by the governing body of the county. No such plan, plat or replat or deed shall be received or recorded in any public office, unless the approval of the board of directors of the irrigation district is indorsed thereon in writing. An appeal from the action of the board to the circuit court of the county in which the land is situated may be taken, perfected and prosecuted in the same manner as an appeal from the justice court. On appeal the matter shall be tried de novo.

[Amended by 1955 c.756 §15]

92.120 Filing and recording plats; copies. (1) The plat of a subdivision described in ORS 92.050 when made and approved as required, and offered for record in the records of the county where the described land is situated, shall, upon the payment of the fees provided by law, be filed by the county recording officer. The fact of filing and the date thereof shall be entered thereon, and it shall then be securely bound with other plats of like character in a book especially prepared for that purpose and designated as "Record of Town Plats."

(2) At the time of filing such plat, the person offering it for filing shall also file with the county recording officer and with

the county surveyor, if requested by him, an exact copy thereof, made with black India ink or photocopy upon a good quality of linen tracing cloth to the same scale and degree of legibility as the plat. The engineer or surveyor who made the plat shall make an affidavit to indicate that the tracing cloth copy is an exact copy of the plat. The copy filed with the county recording officer shall be certified by him to be an exact copy and then shall be filed in the archives of the county, and be preserved by filing without folding. The subdivider shall provide without cost one print each from such copy for the county assessor, the county surveyor and the city or county planning commission.
[Amended by 1955 c.756 §16]

92.130 Additional tracings transferred to county surveyor; replacing lost or destroyed records. Any additional tracings of plats as mentioned in ORS 92.120 other than the one copy filed with the county recording officer shall be transferred to the county surveyor, if requested by him, who then shall keep them well bound and safeguarded as required by law. If such plat or copy thereof is lost, destroyed, mutilated or missing from the county records, the county surveyor shall make a copy thereof, and file it in the proper office of record. Each such copy made by the county surveyor pursuant to this section shall bear a certificate of the surveyor that it was made in compliance with this section, and that it is a true copy of the original record.

[Amended by 1955 c.756 §17]

92.140 Indexing of plat records. The books entitled "Record of Town Plats" shall be provided in the front part with indices, in which shall be entered in alphabetical order, all plats recorded therein. The dedications to such plats shall also be indexed in the indices of Records of Deeds for the county. When the plats are so filed, bound and indexed they shall be the legal record of all plats.

[Amended by 1955 c.756 §18]

92.150 Construction of donations marked on plat. Every donation or grant to the public, including streets and alleys, or to any individual, religious society, corporation or body politic, marked or noted as such on the plat of the subdivision wherein the donation or grant was made, shall be considered a gen-

eral warranty to the donee or grantee for his use for the purposes intended by the donor or grantor.

[Amended by 1955 c.756 §19]

92.160 to 92.200 [Reserved for expansion]