

OREGON LEGISLATIVE ASSEMBLY—1973 REGULAR SESSION

Enrolled
Senate Bill 100

Sponsored by Senators MACPHERSON, HALLOCK

CHAPTER.....

AN ACT

Relating to land use; creating new provisions; amending ORS 215.055, 215.510, 215.515, 215.535 and 453.345; and appropriating money.

Be It Enacted by the People of the State of Oregon:

PART I INTRODUCTION

PREAMBLE

SECTION 1. 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.

POLICY STATEMENT

SECTION 2. 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 implement 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.

DEFINITIONS

SECTION 3. As used in this Act, unless the context requires otherwise:

(1) "Activity of state-wide significance" means a land conservation and development activity designated pursuant to section 25 of this Act.

(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, semipublic 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.

PART II ORGANIZATION, ROLES AND RESPONSIBILITIES

DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

SECTION 4. 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 employes.

SECTION 5. (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.

SECTION 6. Notwithstanding the term of office specified in section 5 of this Act, of the members first appointed to the commission:

- (1) Two shall serve for a term ending June 30, 1974.
- (2) Two shall serve for a term ending June 30, 1975.
- (3) Two shall serve for a term ending June 30, 1976.
- (4) One shall serve for a term ending June 30, 1977.

SECTION 7. (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.

SECTION 8. Members of the commission are entitled to compensation and expenses as provided in ORS 292.495.

SECTION 9. The commission shall:

(1) Direct the performance by the director and his staff of their functions under this Act.

(2) In accordance with the provisions of ORS chapter 183, promulgate rules that it considers necessary in carrying out this Act.

(3) 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.

(4) Appoint advisory committees to aid it in carrying out this Act and provide technical and other assistance, as it considers necessary, to each such committee.

SECTION 10. 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 this Act.

(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 this Act.

(4) Perform other functions required to carry out this Act.

SECTION 11. Pursuant to the provisions of this Act, the commission shall:

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

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

(3) Prepare inventories of land uses;

(4) Prepare state-wide planning guidelines;

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

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

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

(8) Prepare model zoning, subdivision and other ordinances and regulations to guide state agencies, cities, counties and special districts in imple-

menting state-wide planning goals, particularly those for the areas listed in subsection (2) of section 34 of this Act;

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

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

(11) Perform other duties required by law.

SECTION 12. 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 this Act, 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.

SECTION 13. (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.

SECTION 14. 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.

SECTION 15. (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 the provisions of this Act.

(2) All fees, moneys and other revenue received by the department or the committee shall be deposited in the Land Conservation and Development Account.

OREGON COASTAL CONSERVATION AND DEVELOPMENT COMMISSION

SECTION 16. (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.

CITIES AND COUNTIES

SECTION 17. Cities and counties shall exercise their planning and zoning responsibilities in accordance with this Act and the state-wide planning goals and guidelines approved under this Act.

SECTION 18. Pursuant to this Act, each city and county in this state shall:

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

(2) Enact zoning, subdivision and other ordinances or regulations to implement their comprehensive plans.

SECTION 19. (1) In addition to the responsibilities stated in sections 17 and 18 of this Act, 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 the provisions of this Act, 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.

SPECIAL DISTRICTS AND STATE AGENCIES

SECTION 20. 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 this Act.

SECTION 21. 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 this Act.

JOINT LEGISLATIVE COMMITTEE ON LAND USE

SECTION 22. 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.

SECTION 23. (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 the effective date of this Act.

(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.

SECTION 24. 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.

PART III ACTIVITIES OF STATE-WIDE SIGNIFICANCE DESIGNATION

SECTION 25. (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 this Act 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.

SECTION 26. (1) In addition to the activities of state-wide significance that are designated by the commission under section 25 of this Act, 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.

PERMITS FOR ACTIVITIES OF STATE-WIDE SIGNIFICANCE

SECTION 27. (1) On and after the date the commission has approved state-wide planning goals and guidelines for activities of state-wide significance designated under section 25 of this Act, 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.

SECTION 28. If the activity requiring a planning and siting permit under section 27 of this Act 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 this Act and any other requirements set by statute or by rule of the state agency.

SECTION 29. (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.

SECTION 30. (1) No project constituting an activity of state-wide significance shall be undertaken without a planning and siting permit issued under section 27 of this Act.

(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.

SECTION 31. If the county governing body or the commission determines the existence of an alleged violation under section 30 of this Act, it may:

(1) Investigate, hold hearings, enter orders and take action that it deems appropriate under this Act, 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 the provisions of this Act 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.

PART IV STATE-WIDE PLANNING GOALS AND GUIDELINES

SECTION 32. 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.

SECTION 33. 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.

SECTION 34. 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 section 25 of this Act;
- (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.

SECTION 35. 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 the effective date of this Act, 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.

SECTION 36. (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 section 35 of this Act 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.

SECTION 37. 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.

SECTION 38. The commission may periodically revise, update and expand the initial state-wide planning goals and guidelines adopted under section 37 of this Act. Such revisions, updatings or expansions shall be made in the manner provided in sections 36 and 37 of this Act.

SECTION 39. 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.

PART V COMPREHENSIVE PLANS

SECTION 40. Comprehensive plans and zoning, subdivision, and other ordinances and regulations adopted prior to the effective date of this Act shall remain in effect until revised under this Act. It is intended that existing planning efforts and activities shall continue and that such efforts be utilized in achieving the purposes of this Act.

SECTION 41. Prior to approval by the commission of its state-wide planning goals and guidelines under section 37 of this Act, 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.

SECTION 42. Each city or county shall prepare and the city council or the county governing body shall adopt the comprehensive plans required under this Act or by any other law in accordance with section 41 of this Act 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 section 37 of this Act. 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.

Section 43. ORS 215.055 is amended to read:

215.055. (1) *[The]* **Any comprehensive plan [and all legislation and regulations] and all zoning, subdivision or other ordinances and regulations** authorized by ORS 215.010 to 215.233 and adopted prior to the expiration of one year following the date of the approval of state-wide planning goals and guidelines under section 37 of this 1973 Act shall be designed to promote the public health, safety and general welfare and shall be based on the following considerations, among others: The various characteristics of the various areas in the county, the suitability of the areas for particular land uses and improvements, the land uses and improvements in the areas, trends in land improvement, density of development, property values, the needs of economic enterprises in the future development of the areas, needed access to particular sites in the areas, natural resources of the county and prospective needs for development thereof, and the public need for healthful, safe, aesthetic surroundings and conditions.

(2) **Any plan and all zoning, subdivision or other ordinances and regulations** authorized by ORS 215.010 to 215.233 and adopted after the expira-

tion of one year after the date of the approval of state-wide planning goals and guidelines under section 37 of this 1973 Act shall be designed to comply with such state-wide planning goals and any subsequent revisions or amendments thereof.

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

SECTION 44. 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 section 34 of this Act.

(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.

SECTION 45. (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 section 37 of this Act, 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 this Act 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 this Act and all subsequent revisions or amendments thereof.

SECTION 46. (1) There is transferred to and vested in the commission those duties, powers and functions vested in the Governor by ORS 215.505 to 215.535. After the effective date of this Act, the commission shall exercise such duties, powers and functions.

(2) For the purpose of harmonizing and clarifying Oregon Revised Statutes, the Legislative Counsel may substitute for words designating the Governor, where such words occur in ORS 215.505 to 215.535, words designating the Land Conservation and Development Commission.

Section 47. ORS 215.510 is amended to read:

215.510. (1) Any comprehensive [*land use plans*] plan for any city or county prescribed or amended by the [*Governor*] commission pursuant to ORS 215.505 or section 45 of this 1973 Act shall be in accordance with the standards provided in ORS 215.515 and the notice and hearing requirements provided in ORS 215.060.

(2) Any zoning, subdivision or other ordinances and regulations for any

city or county prescribed or amended by the [Governor] commission pursuant to ORS 215.505 or section 45 of this 1973 Act shall be in accordance with the standards provided in ORS 215.055 and the notice and hearing requirements provided in ORS 215.223.

(3) A comprehensive [land use] plan or zoning, subdivision or other ordinance or regulation for any city or county prescribed or amended by the [Governor] commission pursuant to ORS 215.505 or section 45 of this 1973 Act may be for any purpose provided in ORS 215.010 to 215.233 and subsections (1) and (2) of 215.990; except that the [Governor] commission may not prescribe building regulations. The [Governor] commission may, however, cause to be instituted an appropriate proceeding to enjoin the construction of buildings or performance of any other acts which would constitute a land use that does not conform to the applicable [land use] comprehensive plan or zoning, subdivision or other ordinance or regulation.

(4) Any hearings required by this section may be held by the [Governor] commission, or by a person designated by the [Governor] commission, and all such hearings shall be held in the county seat of the county or in the city in which said comprehensive [land use] plan or zoning, subdivision or other ordinance or regulation is to be prescribed.

Section 48. ORS 215.515 is amended to read:

215.515. (1) Comprehensive physical planning, adopted by the commission prior to the expiration of one year following the date of the approval of state-wide planning goals and guidelines under section 37 of this 1973 Act, should provide guidance for physical development within the state responsive to economic development, human resource development, natural resource development and regional and metropolitan area development. It should assist in attainment of the optimum living environment for the state's citizenry and assure sound housing, employment opportunities, educational fulfillment and sound health facilities. State plans should relate to intermediate and long-range growth objectives. The plans should set a pattern upon which state agencies and local government may base their programs and local area plans. Goals for comprehensive physical planning are:

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

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

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

[(4)] (d) To conserve prime farm lands for the production of crops [and] .

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

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

[(6)] (g) To provide and encourage a safe, convenient and economic transportation system including all modes of transportation: Air, water, rail, highway and mass transit, and recognizing differences in the social costs in the various modes of transportation.

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

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

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

(2) Comprehensive plans adopted by the commission after the expira-

tion of one year after the date of the approval of state-wide planning goals and guidelines under section 37 of this 1973 Act shall be designed to comply with such state-wide planning goals and any subsequent revisions or amendments thereof.

Section 49. ORS 215.535 is amended to read:

215.535. In addition to the remedy prescribed in subsection (3) of ORS 215.510, the [Governor] **commission** may cause to be instituted any civil action or suit [he] it considers appropriate to remedy violations of any comprehensive [land use] plan or zoning, **subdivision or other ordinance** or regulation prescribed by the [Governor] **commission** pursuant to ORS 215.505 or section 45 of this 1973 Act.

SECTION 50. (1) Whenever the commission prescribes a comprehensive plan or zoning, subdivision or other ordinances or regulations for lands described in subsection (1) of section 45 of this Act, 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.

PART VI APPEALS

SECTION 51. (1) In the manner provided in sections 52 to 54 of this Act, 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 section 37 of this Act 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 section 37 of this Act 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 this Act.

(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 section 37 of this Act 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.

SECTION 52. (1) All review proceedings conducted by the commission pursuant to section 51 of this Act 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 section 51 of this Act, 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.

SECTION 53. (1) In carrying out its duties under section 51 of this Act, 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.

SECTION 54. (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 section 53 of this Act is suspended for a reasonable interval not to exceed 60 days.

PART VII LEGISLATIVE REVIEW

SECTION 55. 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 the provisions of this Act.

SECTION 56. (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 the provisions of this Act.

(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.

PART VIII MISCELLANEOUS

Section 57. ORS 453.345 is amended to read:

453.345. (1) Applications for site certificates shall be made to the Nuclear and Thermal Energy Council on a form prescribed by the council and accompanied by the fee required by ORS 453.405. The application may be filed not sooner than 12 months after filing of the notice of intent.

(2) Proposed use of a site within an area designated by the council as suitable for location of thermal power plants or nuclear installations does not preclude the necessity of the applicant obtaining a site certificate for the specific site.

(3) Copies of the notice of intent and of the application shall be sent for comment and recommendation within specified deadlines established by the council to the Department of Environmental Quality, the State Water Resources Board, the Fish Commission of the State of Oregon, the State Game Commission, the State Board of Health, the State Engineer, the State Geologist, the State Forestry Department, the Public Utility Commissioner of Oregon, the State Department of Agriculture, the Department of Transportation, **the Department of Land Conservation and Development** and the Economic Development Division.

SECTION 58. The part designations and unit captions used in this Act are provided only for the convenience of locating provisions of this Act, and are not part of the statutory law of this state.



