

## Goal 2 Land Use Planning

### □ Section 1, Land Use Policies and Regulations

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#### **BACKGROUND**

##### **Statewide Planning Goal 2: Land Use Planning**

*“To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual basis for such decisions and actions.”*

Statewide Planning Goal 2 requires city, county, state and federal agency and special district plans\* and actions related to land use to be consistent with the comprehensive plans\* of cities and counties, and with regional plans adopted under ORS Chapter 268 (Metropolitan Service Districts).

Further, the goal requires land use plans to include identification of issues and problems, inventories, and other factual information for each applicable statewide planning goal. Evaluation of alternative courses of action and ultimate policy choices shall take into account consideration of social, economic, energy and environmental needs.

Specific implementation measures\* shall be developed consistent with and adequate to carry out the Plan. Further, comprehensive plans and implementation measures shall be coordinated\* with the plans of other affected governmental units.\*

All adopted land use plans and implementing measures shall be periodically reviewed and revised to address changing public policies and circumstances.

Lake Oswego’s quality of life and unique character depends, to a great extent, upon the character of development and the City’s ability to provide needed and desired services. The Comprehensive Plan and implementing regulations are important tools to accomplish these objectives.

This element of the Plan establishes the planning process and regulatory basis for land use actions by the City. Land Use Planning goals, policies, and recommended action measures emphasize that all land use actions, regulations and codes shall be consistent with and implement the Comprehensive Plan. To this end, the following six broad policy issues are addressed by this element of the Comprehensive Plan:

1. All development shall conform to applicable land use regulations and City codes;
2. All development shall be adequately served by the full range of public facilities and services;
3. Development shall occur at densities appropriate to the scale and character of Lake Oswego’s neighborhoods and shall provide for preservation of open spaces and natural resources;
4. City-wide, natural resources shall be protected and open space shall be provided concurrent with development;

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5. Specific criteria shall be observed when considering amendments to the Comprehensive Plan; and,
6. The Plan shall be periodically reviewed and updated.

The legislative and regulatory context of land use planning in Lake Oswego has changed substantially since the first Comprehensive Plan was adopted in 1978. The City has amended or adopted new land use regulations and codes necessary to implement much of the initial Plan. There have also been many state legislative mandates in the last 16 years. The City has amended its zoning and development regulations extensively to comply with these new laws.

One of the most significant legislative changes which directly affects the Comprehensive Plan was ORS 197.628: Periodic Review, and its implementing Administrative Rules, OAR 660, Divisions 19 and 25. The Periodic Review Rule requires jurisdictions to review and update their plans on a periodic basis to address changing conditions and new laws. Concurrent with Periodic Review, cities and counties are required to show that adequate opportunities are provided for industrial and commercial development consistent with community need (OAR 660, Division 9). Lake Oswego adopted a Public Facility Plan (PFP) in 1997 [PA 1-97]. The applicable portions of the PFP and its subsequent updates are incorporated by reference into the Comprehensive Plan. The PFP shows how key public facilities can be provided to meet anticipated need per OAR 660, Division 11.

Lake Oswego's Periodic Review was accepted as complete and in conformance with relevant rules in December, 1993 by the Department of Land Conservation and Development (DLCD). The City also complies with the Metropolitan Housing Rule (OAR 660, Division 7). The Housing Rule requires Lake Oswego and other Portland Metropolitan Area cities to provide the opportunity for overall housing densities at a minimum of 10 units per acre and at a 50/50 multi-family/single family housing mix. In the future, Metro Regional Framework Plans and Functional Plans may require Lake Oswego and other communities to provide for greater housing densities in appropriate areas, such as the downtown commercial district and along identified major transit corridors, as a means to ensure a compact urban form in the Portland Metropolitan Area. Policies for industrial and commercial development, housing, and public facilities are also addressed within Comprehensive Plan chapters pertaining to Goal 9: Economic Development, Goal 11: Public Facilities and Services, Goal 12: Transportation, and Goal 10: Housing.

The character of Lake Oswego has changed since the Plan was first adopted. The community is now experiencing much less development than occurred in the past. This is because most of the developable land in the City has been built upon. Future development will likely consist of small land partitionings, infill, and redevelopment. There is some potential for larger scale development to occur within the unincorporated portion of the City's Urban Services Boundary. However, these areas must first annex to the City before required public facilities and services can be extended.

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#### Summary of Major Issues

The following are some of the issues, changed circumstances and conditions which were considered in the update of this element of the Comprehensive Plan.

- Lake Oswego has either amended or adopted land use regulations and codes necessary to implement relevant portions of the 1978 Comprehensive Plan. The City also complies with state land use laws and administrative rules.
- Lake Oswego completed Comprehensive Plan Periodic Review and Update in December, 1993 as required by state statutes and administrative rules.
- As of 1994, Lake Oswego was mostly developed. Future development within the current City limits will likely consist of small land partitionings, infill and redevelopment.

### **GOALS, POLICIES AND RECOMMENDED ACTION MEASURES**

#### **GOAL**

Lake Oswego shall ensure that:

- a. The City's land use planning processes and policy framework serve as a basis for all decisions and actions related to the use of land; and,
- b. The City's land use regulations, actions, and related plans are consistent with, and implement the Comprehensive Plan.

#### **POLICIES**

1. Require development to be adequately served by the full range of public facilities and services including: water, sanitary sewer, transportation facilities, fire and police protection, parks, open space, and recreation facilities, surface water management and storm drainage facilities, and schools. Services shall be available or committed prior to approval of development.

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2. Ensure that required public facilities and services are constructed concurrently with development. System Development Charges (SDCs)\* and other fees shall be imposed to adequately compensate the City for impacts on other public facilities and services.
3. Require development to conform to all applicable City land use regulations and codes.
4. Require land use regulations to:
  - a. Ensure the provision of park and open space lands, and protection of natural resources;
  - b. Promote compatibility between development and existing and desired neighborhood character;
  - c. Provide for the implementation of adopted neighborhood plans;
  - d. Provide for necessary public facilities and services;
  - e. Protect life and property from natural hazards;
  - f. Ensure architectural and site design quality; and,
  - g. Reduce dependency on the automobile on a per-capita basis.
5. Maintain residential neighborhoods at existing zone and plan density designations, except where:
  - a. Changes to higher residential density designations are necessary to be consistent with development on the subject property at the time of this policy's adoption; or,
  - b. An applicant demonstrates that a proposed zone/plan density change complies with the following criteria: [PA 4-97/ZC 3-97-1239; 10/21/97]
    - i. If the property is subject to an adopted neighborhood plan, the applicant shall comply with any special zone/plan density change criteria that may be required by the neighborhood plan; and
    - ii. The applicant shall comply with all Comprehensive Plan Policies and Goals applicable to zone/plan density changes. Such applicable Goals and Policies include, but are not limited to the following:
      - A. A proposed plan/map density change shall not allow development that would exceed the capacity of planned public facilities and services [Goal 2, Section 1, Policy 11; Goal 2 Section 1 Policy 14(b)] and shall be appropriately related to the capacity of such public facilities, especially residential streets [Goal 10, Policy 6];

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- B. A proposed plan/map density change shall be appropriately located in relation to the functional classification of the access streets [Goal 2, Section 1 Policy 14(a)];
  - C. Density changes shall be consistent with adjacent land uses or can be made compatible through the ability to buffer, screen and blend dissimilar land uses [Goal 2, Section 1, Policy 14(c)];
  - D. A proposed plan/map density change shall address the effect of the change on overall land supply and shall comply with the Metro Housing Rule (OAR 666-07-000) [Goal 2, Section 1 Policy 14(d)];
  - E. The applicant shall demonstrate a public need for the proposed plan/map density change and that the proposed change will best meet the need when compared to alternatives [Goal 2, Section 1 Policy 14(e)];
  - F. The applicant shall demonstrate that the proposed density is appropriate for the location given public facilities, natural resources and hazards, road or transit access and proximity to commercial areas and employment concentrations [Goal 7, Policy 2; Goal 10, Policies 1 and 3];
  - G. A plan/map residential density change to high density (R-0, R-2 and R-3) shall be located within walking distance to bus lines or transit centers [Goal 10, Policy 8] and, where feasible, shall be located within close proximity to employment opportunities, shopping, parks and transit [Goal 10, Policy 11]; and
  - H. The applicant shall demonstrate that development allowed by the proposed zone/map residential density change will be compatible with the surrounding neighborhood, or can be made compatible pursuant to development review of an individual application pursuant to the criteria contained in the Zoning and Development Codes and Development Standards.
6. Require dedication or reservation of park lands or open space as part of all major development. The City may, at its discretion, require construction and dedication of recreation facilities when justified by the impacts of proposed development.
7. Ensure that land use regulations have sufficient flexibility to allow developers and the City to propose measures to:

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- a. Adapt development to unique and difficult site conditions;
  - b. Preserve open space and natural resources; and,
  - c. Avoid negative impacts on surrounding properties.
8. Ensure that development and implementation of the City's land use regulations and Comprehensive Plan minimize pressures to expand the Portland Metropolitan Urban Growth Boundary.
  9. Require preservation of significant inventoried and identified natural resources as conditions of approval for all development.
  10. Allow development at the maximum designated density when it is shown that:
    - a. Adequate public facilities and services can be provided;
    - b. Negative impacts can be resolved; and,
    - c. The development is in compliance with all applicable land use regulations.
  11. Require that residential densities and allowed land uses within the Lake Oswego Urban Services Boundary not exceed the capacity of planned public facilities and services.
  12. Allow development of permitted uses on legally created non-conforming lots subject to all applicable land use regulations.
  13. Allow for legalization of previously created illegal lots and opportunity to develop these parcels, provided:
    - a. Development occurs pursuant to applicable land use regulations; and,
    - b. Negative impacts are prevented on the surrounding residential neighborhood.
  14. Ensure that amendments to the Comprehensive Plan and Zoning Map are subject to specific locational criteria and other standards, including:
    - a. Location in relation to arterial or collector streets;
    - b. Capacity of public facilities and services;
    - c. Consistency with adjacent land use patterns or ability to buffer, screen and blend dissimilar land uses;
    - d. Conformance with Comprehensive Plan goals and policies, applicable and adopted neighborhood plans and applicable land use regulations;
    - e. Effect on overall land supply, and the Metro Housing Rule (OAR 660-07-000);

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- f. Demonstration of public need for the change and that the proposed amendment will best meet identified public need versus other available alternatives; and,
  - g. Other criteria determined necessary to ensure conformance with the Comprehensive Plan.
- 15. Review and update the Comprehensive Plan periodically, to ensure it:
  - a. Remains current and responsive to community needs;
  - b. Contains reliable information and provides dependable policy direction; and,
  - c. Conforms to applicable state law, administrative rules, and Metro requirements.
- 16. Upon determination it is in the public interest, legislative amendment to the Comprehensive Plan text and map may be initiated only by the Planning Commission or City Council. Any interested person may request that the Planning Commission or City Council initiate a legislative amendment to the Plan text or map.
- 17. Allow quasi-judicial Comprehensive Plan Amendments to be submitted at any time.
- 18. Develop and adopt specific Neighborhood Plans and implementing measures consistent with the Comprehensive Plan as the means to enhance neighborhood livability and achieve desired neighborhood character. A Neighborhood Association may request the Planning Commission and City Council to initiate Neighborhood Plan Map and text amendments at any time, without fee, upon finding that the proposed changes are in the public's interest and consistent with the Comprehensive Plan.
- 19. Review commercial, industrial, institutional and high density residential development to ensure the quality of building and site design, and overall appearance.
- 20. Allow major development to be designed and submitted for land use approval as planned unit developments to preserve open space, natural resources, and provide amenities.
- 21. Allow increased density and clustering of buildings on suitable portions of land proposed for development to preserve natural resources and open space.
- 22. Provide opportunities for mixed use commercial and residential development within commercial zones.
- 23. Coordinate the development and amendment of City plans and actions related to land use with other county, state, Metro, federal agency and special district plans.

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24. Comprehensively evaluate proposed land use actions to determine the full range of potential negative impacts and require applicants to provide appropriate solutions prior to approval.
25. Require developers to bear the burden of proof to demonstrate how proposed land use actions are consistent with the Comprehensive Plan and applicable codes and land use regulations.
26. Require developers, prior to application for permits, to discuss development proposals with neighborhood groups, residents and City staff.
27. Require new residential development of four or more units to address all of the following design criteria:
  - a. Preservation of required open space and natural resources;
  - b. Provision of a street system which provides efficient connection to higher order streets and major activity centers;
  - c. Development of transit opportunities appropriate to the scale and character of the development;
  - d. Development of a safe and convenient pedestrian and bicycle circulation system;
  - e. Management of surface water and storm drainage consistent with the City's Surface Water Management Plan;
  - f. Assurance of privacy and quiet for future residents and abutting properties;
  - g. Energy conservation measures such as energy efficient design and solar access, and the preservation of trees and the planting of new trees to provide summer cooling;
  - h. Buffering and screening from adjacent uses and streets;
  - i. Building placement and locational relationships;
  - j. Provision of adequate emergency vehicle access; and,
  - k. Reduction of dependency on the automobile on a per-capita basis.
28. Maintain a Development Review Commission and Planning Commission to review quasi-judicial and legislative land use matters and, when necessary, make recommendations to the City Council.

### **RECOMMENDED ACTION MEASURES**

- i. Develop a Public Facilities Plan\* and an implementing Capital Improvement Program\* to coordinate and guide the location, financing and timing of new public facilities.
- ii. Encourage Clackamas County to grant land use planning and development authority to the City for lands within the unincorporated Urban Services Boundary.

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- iii. Coordinate review of new development proposals with the Lake Oswego School District to determine impacts on the local school system.
- iv. Prioritize public facility plan projects as follows:
  - a. Correction of system deficiencies necessary to ensure public safety;
  - b. Protection of the community's investment in existing infrastructure;
  - c. Provision of service to allow new development within the City limits, except when paid for by the developer; and,
  - d. Provision of service necessary for annexation of unincorporated areas, except when paid for by those desiring the service.
- v. Planning for new public facilities and services shall consider:
  - a. The costs and benefits of expansion and whether costs can be equitably allocated to those creating demand;
  - b. The financial capacity of the City;
  - c. Environmental impacts of facility construction;
  - d. Need to accommodate future land uses and population growth; and,
  - e. Coordination with other required public facilities and services.
- vi. When allowed, density bonuses shall not:
  - a. Exceed 25% of the allowed zoning density on the development site;
  - b. Cause the capacity of public facilities and services to be exceeded; or,
  - c. Result in the loss of required open space and natural resources.
- vii. Establish engineering, planning, inspection and other fees and charges which are reasonably related to the administrative costs required to review and monitor development.
- viii. Periodically review and update system development charges and other development related fees to ensure equitable compensation to the City for impacts on public facilities and services.
- ix. Undertake periodic review and update of the Lake Oswego Comprehensive Plan every four to seven years.
- x. Evaluate the following concurrent with each periodic review or major revision of the Plan:

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- a. Consistency among the Plan, implementing City regulations, adopted neighborhood plans, state and federal law and administrative rules, and Metro requirements;
  - b. Past and ongoing City actions to determine if the intent of the Plan is being achieved; and,
  - c. Reliability and timeliness of Plan information.
- xi. Prioritize recommended action measures, and Public Facility Plan and Capital Improvement Program projects to implement desired Plan goals and policies.
  - xii. Work with responsible federal, state, and regional agencies to acquire information relevant to the City's land use planning program as it becomes available.
  - xiii. Encourage Clackamas County to participate in the development and implementation of neighborhood planning programs for areas within the unincorporated portion of the Urban Services Boundary.
  - xiv. Encourage all development to utilize innovative site and building design.
  - xv. Require all applications for major development to include an analysis of the development site and surrounding area which identifies:
    - a. Natural characteristics, features and potential hazards;
    - b. Topography;
    - c. Land use and transportation characteristics;
    - d. Availability and capacity of public facilities and services;
    - e. Existing structures and historic features; and,
    - f. Other factors determined necessary.
  - xvi. Provide adequate resources and personnel to:
    - a. Implement the Comprehensive Plan;
    - b. Monitor changing conditions which could affect City land use policy; and,
    - c. Conduct periodic review and update of the Plan.