

Oregon's Statewide Planning Program & Planning Commission Basics



Kelly Reid, Portland Metro Regional Rep.
Community Services Division

Enrolled
Senate Bill 100

Sponsored by Senators MACPHERSON, HALLOCK

CHAPTER.....

AN ACT

Relating to land use; creating new provisions; amending ORS 213.035, 213.010, 213.015, 213.030 and 453.045, 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 livability 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

Planning in Oregon

Oregon Land Use Act of 1973
(SB 100)

Land Conservation and
Development Commission (LCDC)

Department of Land
Conservation and Development
(DLCD)

State & Local Responsibilities



LCDC & DLCD

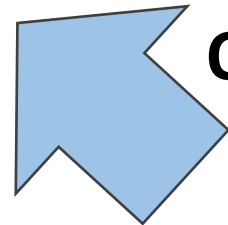
- Sets land use policy of statewide significance (goals and rules)
- Helps enforce goals
- Reviews local government plan & zoning amendments
- Provides technical assistance

State & Local Responsibilities



Counties & Cities

- Address local vision & needs
- Adopt and amend plans & codes in compliance with state goals
- Enforce codes & ordinances
- Make land use decisions



**Oregon has 36 counties &
241 incorporated cities**

19 Statewide Planning Goals



1. Citizen Involvement
2. Land Use Planning
3. Agricultural Lands
4. Forest Lands
5. Natural Resources, Scenic and Historic Areas, and Open Space
6. Air, Water and Land Resources Quality
7. Areas Subject to Natural Hazards

8. Recreational Needs
9. Economic Development
10. Housing
11. Public Facilities and Services
12. Transportation
13. Energy Conservation
14. Urbanization
15. Willamette River Greenway
16. Estuarine Resources
17. Coastal Shorelands
18. Beaches and Dunes
19. Ocean Resources

“Process” Goals

- Goal 1: Citizen Involvement
- Goal 2: Land Use Planning

Oregon's Statewide Planning GOAL 2: LAND USE

OAR 660-015-0000(1)

PART I -- PLANNING

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

City, county, state and federal agency and special district plans and actions related to land use shall be consistent with the comprehensive plan of cities and counties and regional plans adopted under ORS Chapter 215.

All land use plans shall include identification of issues and needs, inventories and other factual information for each applicable state goal, evaluation of alternative actions and ultimate policy taking into consideration economic, energy and other needs. The required supporting documents shall include supporting documents for implementation in a public office accessible to the public and measures consistent with the plan implementation coordinating government

implemented by the

Oregon's Statewide Planning Goals & Guidelines GOAL 1: CITIZEN INVOLVEMENT

OAR 660-015-0000(1)

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The governing body charged with preparing and adopting a comprehensive plan shall adopt and publicize a program for citizen involvement that clearly defines the procedures by which the general public will be involved in the on-going land-use planning process.

The citizen involvement program shall be appropriate to the scale of the planning effort. The program shall provide for continuity of citizen participation and of information that enables citizens to identify and comprehend the issues.

Federal, state and regional agencies and special-purpose districts shall coordinate their planning efforts with the affected governing bodies and make use of existing local citizen involvement programs established by counties and cities.

The citizen involvement program shall incorporate the following components:

1. **Citizen Involvement -- To provide for widespread citizen involvement.** The citizen involvement program shall involve a cross-section of affected citizens in all phases of the planning process. As a component, the program for citizen involvement shall include an officially recognized committee for citizen involvement (CCI) broadly

representative of geographic areas and interests related to land use and land-use decisions. Committee members shall be selected by an open, well-publicized public process.

The committee for citizen involvement shall be responsible for assisting the governing body with the development of a program that promotes and enhances citizen involvement in land-use planning, assisting in the implementation of the citizen involvement program, and evaluating the process being used for citizen involvement.

If the governing body wishes to assume the responsibility for, development as well as adoption and implementation of the citizen involvement program or to assign such responsibilities to a planning commission, a letter shall be submitted to the Land Conservation and Development Commission for the state Citizen Involvement Advisory Committee's review and recommendation stating the rationale for selecting this option, as well as an evaluation of the citizen involvement program. If the planning commission is to be used in lieu of an independent CCI, its members shall be selected by an open, well-publicized public process.

“Rural” Goals

Oregon's Statewide Planning Goals & Guidelines

GOAL 3: AGRICULTURAL LANDS

OAR 660-015-0000(3)

To preserve and maintain agricultural lands.

Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.

USES

Counties may authorize farm uses and those nonfarm uses defined by commission rule that will not have significant adverse effects on accepted farm or forest practices.

IMPLEMENTATION

Zoning applied to agricultural land shall limit uses which can have significant adverse effects on agricultural and forest land, farm and forest uses or accepted farming or forest practices.

Counties shall establish minimum sizes for new lots or parcels in each agricultural land designation. The minimum parcel size established for farm uses in farmland zones shall be consistent with applicable statutes. If a county proposes a minimum lot or parcel size less than 80 acres, or 160 acres for rangeland, the minimum shall be appropriate to maintain the existing commercial agricultural enterprise within the area and meet the requirements of ORS 215.243.

Counties authorized by ORS 215.316 may designate

agricultural land as marginal land and allow those uses and land divisions on the designated marginal land as allowed by law.

LCDC shall review and approve plan designations and revisions to land use regulations in the manner provided by ORS Chapter 197.

DEFINITIONS

Agricultural Land -- in western Oregon is land of predominantly Class I, II, III and IV soils and in eastern Oregon is land of predominantly Class I, II, III, IV, V and VI soils as identified in the Soil Capability Classification System of the United States Soil Conservation Service, and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land-use patterns, technological and energy inputs required, or accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands, shall be included as agricultural land in any event.

More detailed soil data to define agricultural land may be utilized by local governments if such data permits achievement of this goal.

Agricultural land does not include land within acknowledged urban growth boundaries or land within acknowledged exceptions to Goals 3 or 4.

Oregon's Statewide Planning Goals & Guidelines

GOAL 4: FOREST LANDS

OAR 660-015-0000(4)

and recreational opportunities appropriate in a forest environment; (3) locally dependent uses; (4) dwellings authorized by law.

IMPLEMENTATION

Comprehensive plans and zoning provide certainty to assure that forest lands will be available now and in the future for the growing and harvesting of trees. Local governments shall inventory, designate and zone forest lands. Local governments shall address the uses allowed by the goal and administrative provisions to zones to designated forest lands.

Zoning applied to forest land shall contain provisions which limit, to the extent permitted by ORS 527.722, uses which can have significant adverse effects on forest land, operations or practices. Such zones shall contain numeric standards for land divisions or standards for the review and siting of land uses. Such land divisions and standards shall be consistent with the applicable statutes, goal and administrative rule. If a county proposes a minimum lot or parcel size less than 10 acres, the minimum shall meet the requirements of ORS 527.630 and the values found on forest lands. Standards shall be designed to provide uses compatible with agriculture and to be consistent with the values found on forest lands. Local governments authorized by law may inventory, designate

GOAL 3: Agricultural Lands

GOAL 4: Forest Lands

Oregon's Statewide Planning Goals & Guidelines

GOAL 9: ECONOMIC DEVELOPMENT

OAR 660-015-0000(9)

Oregon's Statewide Planning Goals & Guidelines

GOAL 10: HOUSING

OAR 660-015-0000(10)

Oregon's Statewide Planning Goals & Guidelines

GOAL 14: URBANIZATION

OAR 660-015-0000(14)

(Effective January 1, 2016)

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Urban Growth Boundaries

Urban growth boundaries shall be established and maintained by cities, counties and regional governments to provide land for urban development needs and to identify and separate urban and urbanizable land from rural land. Establishment and change of urban growth boundaries shall be a cooperative process among cities, counties and, where applicable, regional governments.

An urban growth boundary and amendments to the boundary shall be adopted by all cities within the boundary and by the county or counties within which the boundary is located, consistent with intergovernmental agreements, except for the Metro regional urban growth boundary established pursuant to ORS chapter 268, which shall be adopted or amended by the Metropolitan Service District.

Land Need

Establishment and change of urban growth boundaries shall be based on the following:

(1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments, or for cities applying the simplified process under ORS chapter 197A, a 14-year forecast; and

(2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2). In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.

“Urban” Goals

GOAL 8: Recreation

GOAL 9: Economic
Development

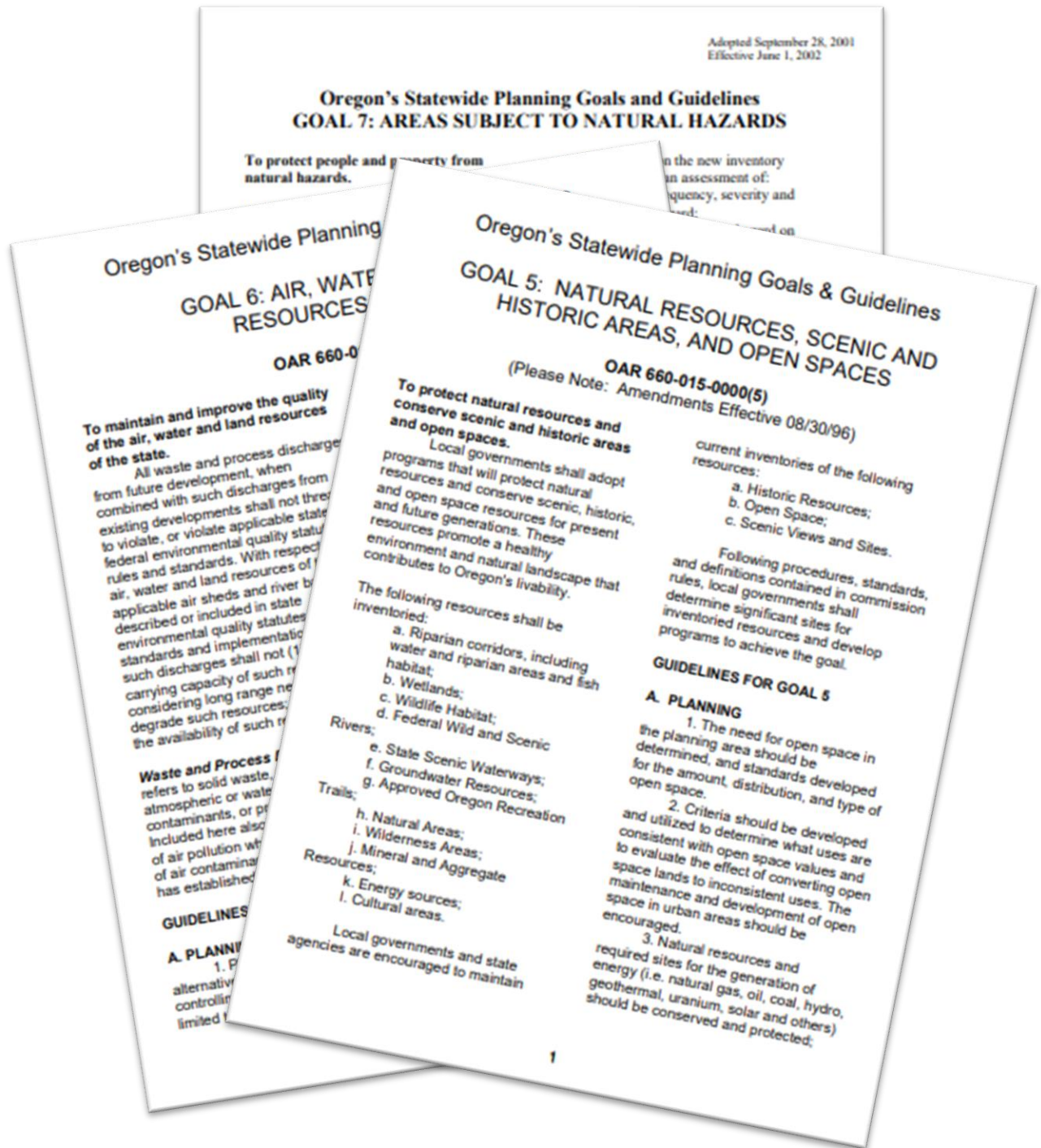
GOAL 10: Housing

GOAL 11: Public Facilities

GOAL 12: Transportation*

GOAL 13: Energy conservation

GOAL 14: Urbanization

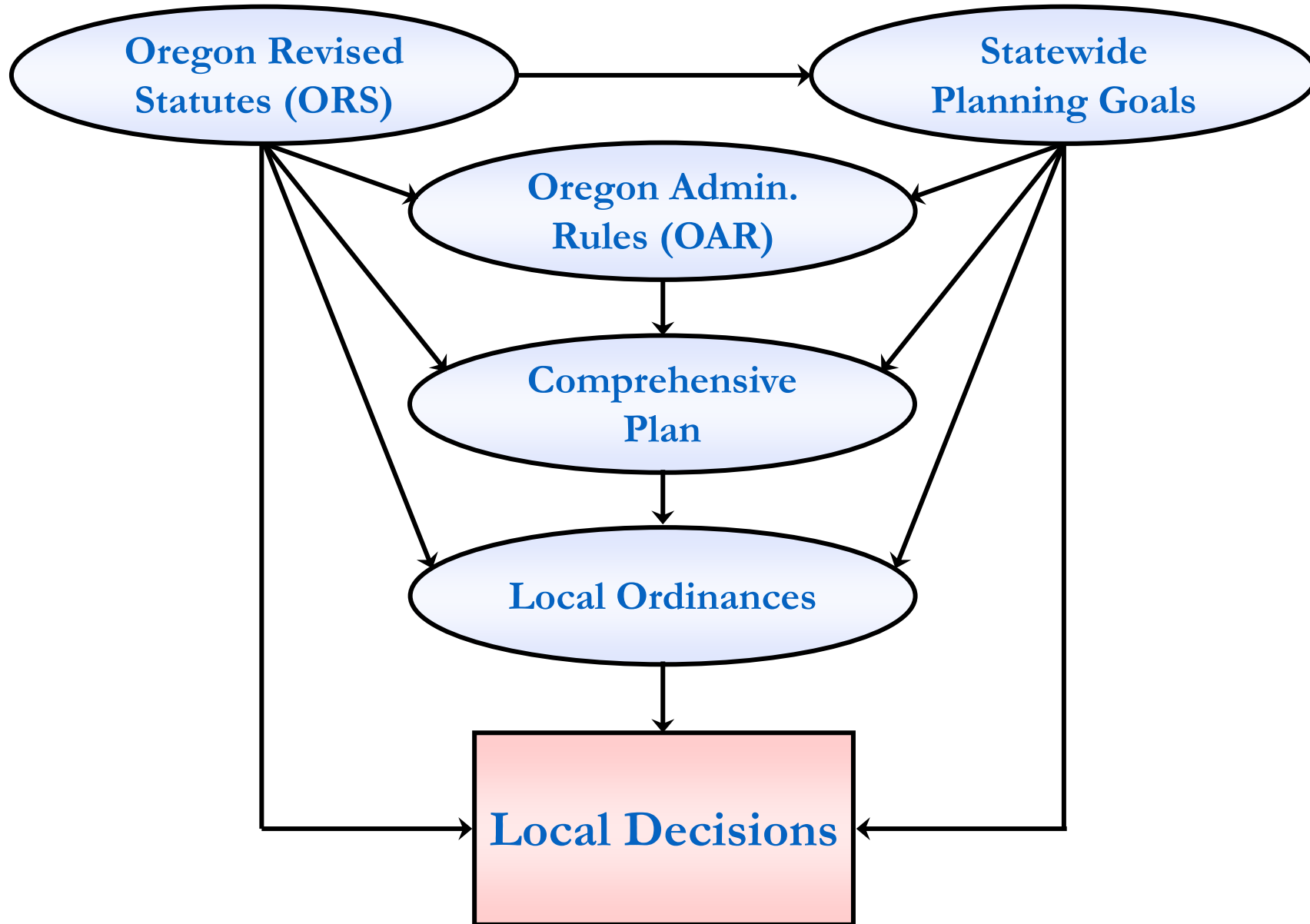


“Constraints” Goals

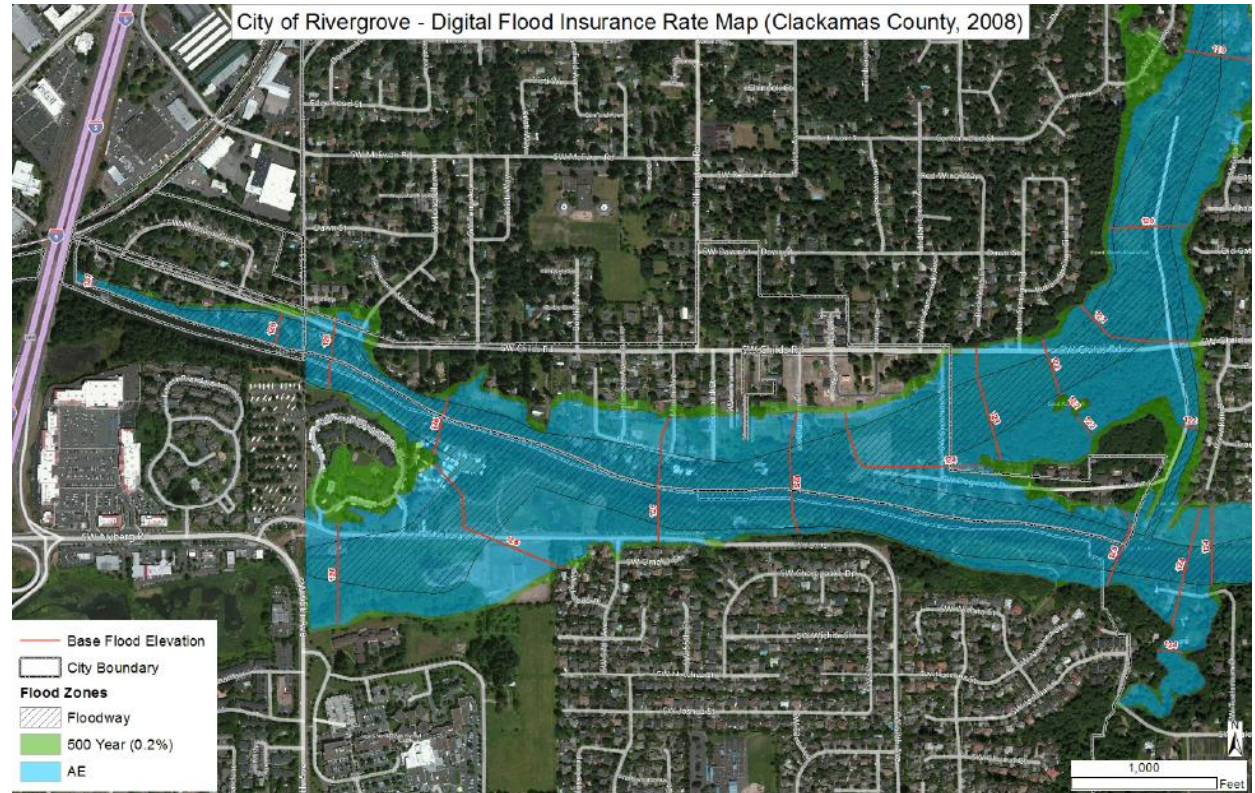
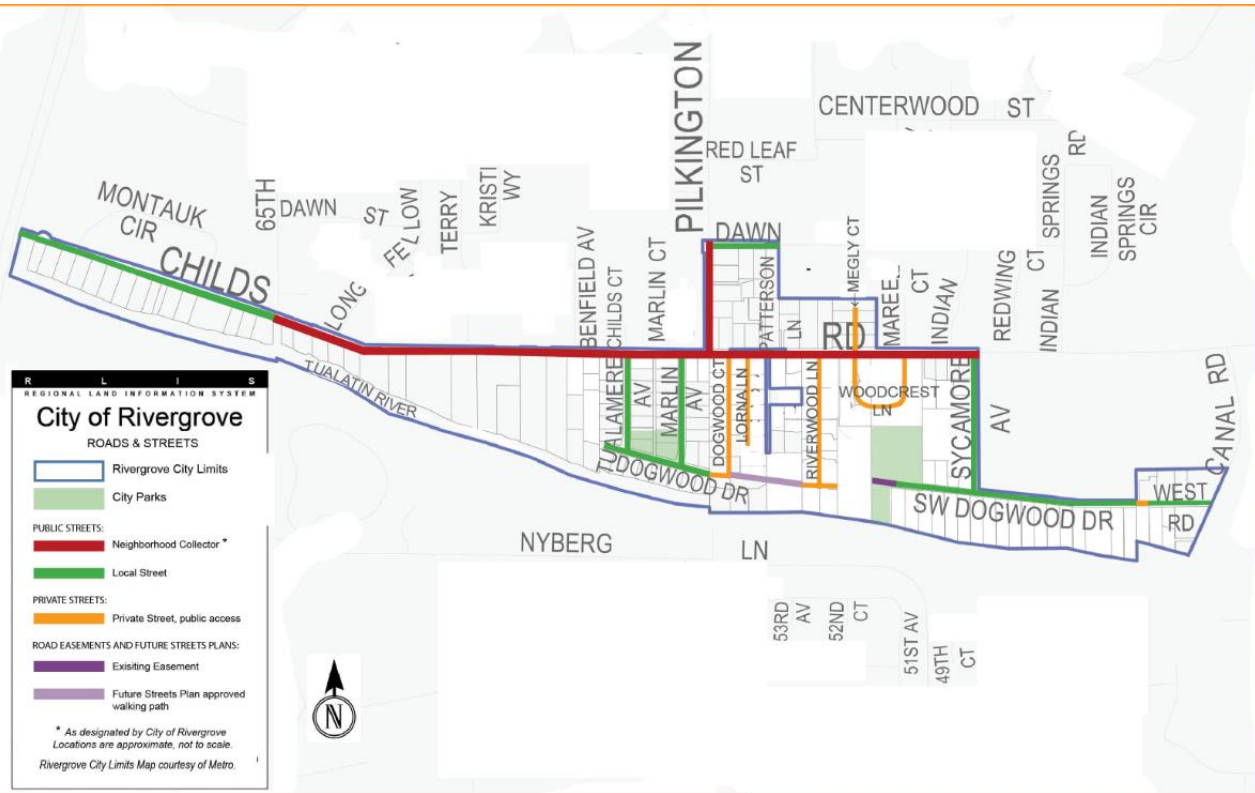
GOAL 5: Natural Resources, Scenic and Historic Areas, and Open Spaces

GOAL 6: Air, Water & Resource Land Quality

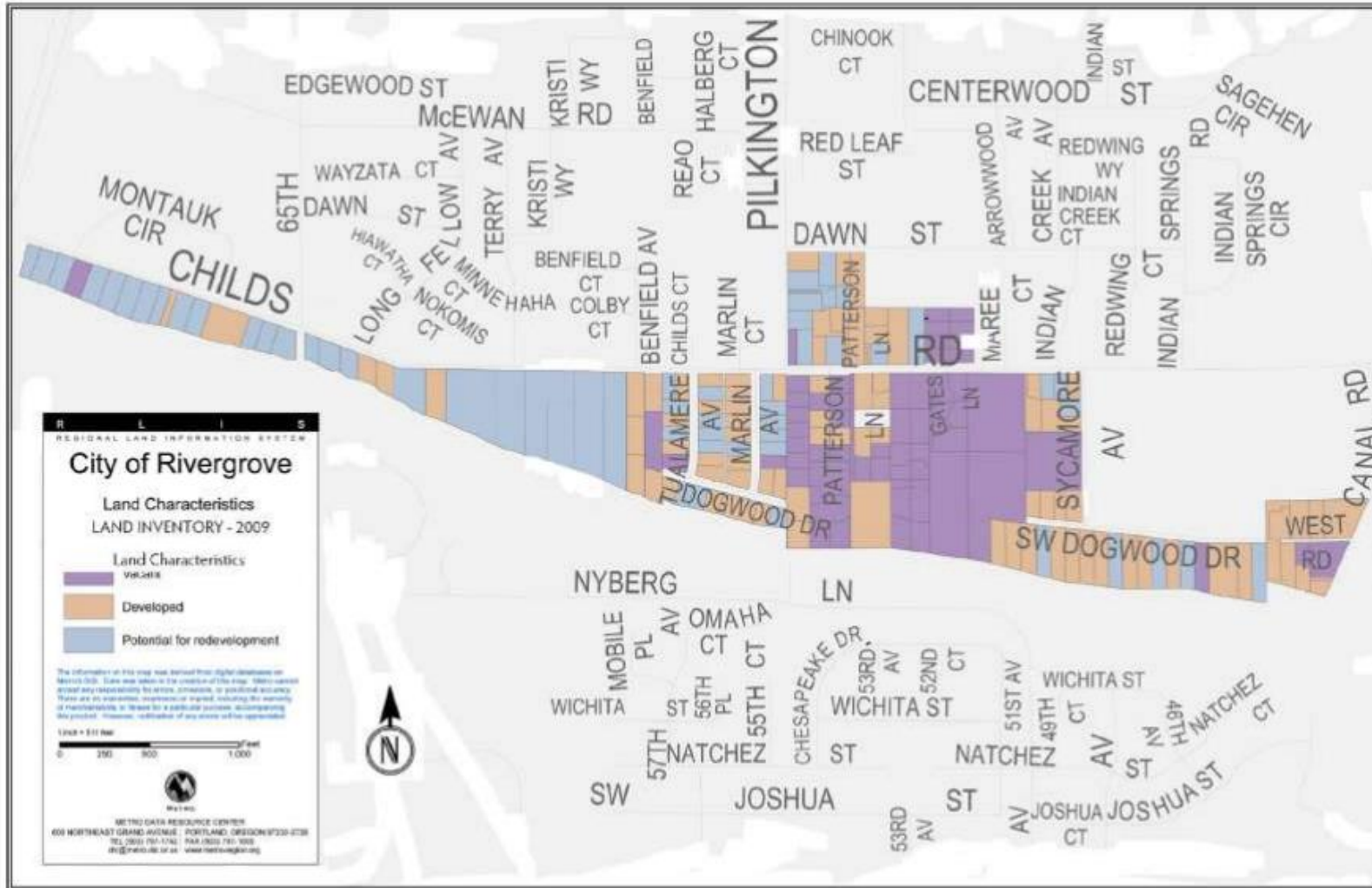
GOAL 7: Areas Subject to Natural Hazards



Rivergrove Planning Documents



Rivergrove Planning Documents



APPENDIX F-1
 City of Rivergrove - 2009
 LAND INVENTORY MAP

Residents & Voters



Governing Body:
City Council / County Commission

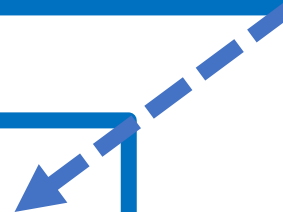
City Manager /
County Administrator



Planning
Commission



Planning Director
& Staff



Planning Commission Responsibilities



- Reflect Community Values
- Recommend Policies to City Council/County Commission
- Visioning and Long-Range Planning
- Educate the public and provide a public forum
- Make Land Use Decisions

Planning Commission Relationships



Elected Officials

Staff

The Public

- Understand responsibilities & authority
- Provide sound recommendations, findings, clear reasoning
- Regular formal & informal communication
- Do not be afraid to give governing body advice on planning matters – that is your role

Planning Commission Relationships



Elected Officials

Staff

The Public

- You are not Supervisory
- Staff is a resource “work as a team”
- Remember it’s okay to disagree
- Respect staff’s competing priorities
- Planning Commission is a “conduit” for the public to the staff
- “Staff” sometimes includes a government attorney

Planning Commission Relationships



Elected Officials

Staff



The Public

- Golden Rule: **Be Fair**
- Follow Open Meeting Law
- Do your homework
- Conduct hearings according to the rules
- Be respectful to everyone - *especially each other*
- Stay on topic
- Maintain a balance of thoroughness and efficiency

Responding to Stressful Situations



Don't descend to the level of vitriol directed at you.

Don't be intimidated in your decision-making.

Remember that the anger is not directed at you personally.

- Adjourn the meeting.
- For Quasi-judicial decisions, reconvene online (*HB 2560, effective Jan. 1, 2022, requires local governments to provide for online option*).
- Legislative decisions are not time- sensitive; consider alternative meeting formats.

Planning Commission Tools



Comprehensive Plan

Zoning &
Development Code

- Provides a framework to connect interrelated systems
- Provides a factual base
- Captures community vision
- Establishes goals and policies
- Guides land use, infrastructure, conservation of natural resources, economic development, and more.

Planning Commission Tools



Comprehensive Plan

Zoning & Development Code

- Specific regulations designed to implement comprehensive plan policies
- Regulates uses, location, density, height, setbacks, etc.
- Sets forth the criteria or standards that each application must meet in order to be approved
- Includes zoning, permitting procedures, development standards, and subdivision and partition standards

Types of Decisions: Legislative Land Use Decisions

- Adoption and amendment of policies and ordinances
- Affect a large geographic area, many ownerships
- No decision is required
- Adopted by elected officials; role of planning commission is to make a recommendation
- Less procedural restrictions apply
- Decision-makers sit as lawmakers
- Information used in making a decision may come from many sources (ex parte contact is allowed)
- Findings are less specific, but some are needed
- No specific state-mandated notice requirements other than “Measure 56” notice

Types of Decisions: Quasi-judicial Land Use Decision

- Decision-makers are an impartial tribunal
- Application of pre-existing criteria and requiring exercise of discretion
- Affects single or few ownerships
- Action required
- Decision-maker varies by local codes and procedures
- Opportunity for a hearing is required

Impartiality requires:

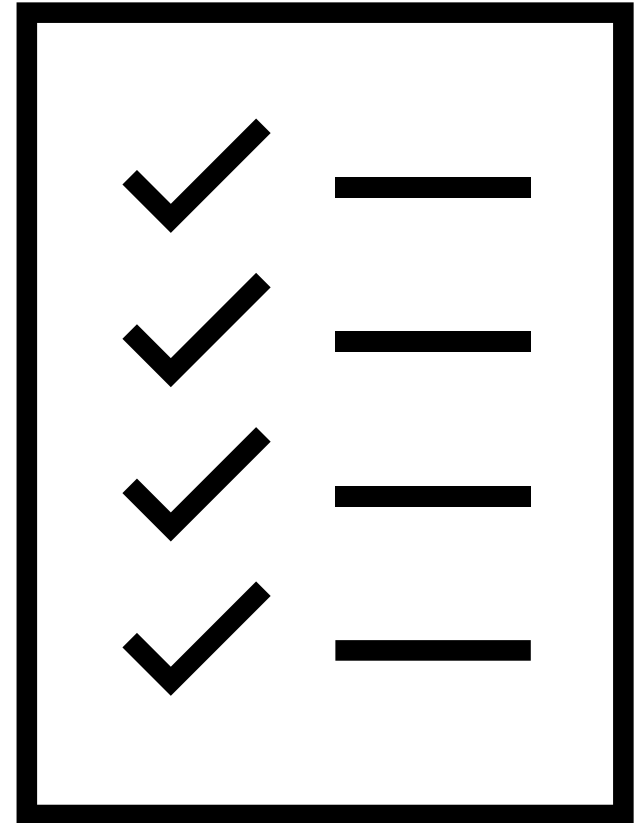
- Treat all parties fairly
- Allow all parties to know what the decision makers “know”
- Disclose all ex parte contacts
- Information considered by the decision maker should be factual

(Examples include land divisions, CUPs, variances)

Types of Decisions: Ministerial Action

- Staff decision
- Requires no exercise of discretion
- Application of pre-existing criteria
- Usually limited to one site
- Action required
- No notice, no hearing, no appeal opportunity

(Example: dangerous tree cutting permit)



Hearing Procedures



Legislative

Quasi-judicial

- Can be applicant or staff initiated
- Mailed notice to affected landowners (Measure 56 Notice)
- All have opportunity to participate
- No concerns with ex parte contact or bias, but conflict of interest concerns remain
- Recommendation to Board/Council

Hearing Procedures



Legislative



Quasi-judicial

Before the public hearing:

- Pre-application discussion
- Application submitted & reviewed for completeness
- Additional materials submitted for completeness
- Notice mailed at least 20 days before hearing to applicant & nearby property owners (within 100, 250 or 500 feet), recognized organizations, & any other local code requirements

Quasi-judicial Decisions



Hearings Procedure:
Use a script.

- Chair opens hearing
- Chair describes proceedings – rules of conduct for hearing
- Staff Report
- Testimony
 - Applicant, public, rebuttal
- Decision
 - Discussion
 - Motion and second
 - Deliberation and amendments
 - Vote
- After the hearing – written findings

The 120 Day Rule

- Final action on quasi-judicial applications required within 120 days inside urban growth boundaries, 150 days outside of urban growth boundaries.
- Extensions can be granted by the applicant through a written request.
- What happens if a city does not act in 120 days?
 - Applicant can file “writ of mandamus” in local circuit court

Findings

- The applicant has the burden of proof to show you that standards have been met.
- Findings include statements of:
 - Relevant facts
 - How each approval criterion is satisfied by the facts
 - The facts relied upon for the decision
- Purposes of findings include:
 - Aiding careful consideration of criteria by the reviewing body
 - Establishing what evidence the reviewing body relied on
 - Explaining how the conclusions are supported by substantial evidence

Continuance and Keeping the Record Open

- Mandatory if requested by applicant or anyone else prior to close of first evidentiary hearing – minimum seven days
- Consider the 120 or 150 Day Rule. Unless requested by the applicant, the clock rolls.
- Figure out where the hearing will pick up and make clear when granting the continuance
- One Scenario:
 - Seven days to submit additional written information and comments
 - Seven days for rebuttal opportunity to address new information submitted into the record – by any party
 - Seven days for the applicant to address issues raised by opponents

Raise it or Waive It

If a local government has provided proper notice:

Participants must raise issues during local proceedings. Any issues not raised are waived if the matter is appealed to LUBA.

Impartial Tribunal

The hearing body must be free of personal interest or bias. Concerns that question whether a tribunal is impartial:

- ex parte contact
- conflicts of interest
- bias

Ex Parte Contacts

- Contacts by a party on a fact in issue under circumstances which do not involve all parties to the proceedings
- Contacts may be oral or in writing.
- Discouraged in favor of the public hearing process.
- Disclose - on the record at the next hearing on the matter before any testimony or proceedings

Site Visits

- They are an ex-parte contact
- Good, if disclosed
- Commissioner must state on the record in detail what was observed, who was talked to, what was discussed, etc. during the site visit



Potential Conflict of Interest

- Any decision by a person acting as a public official, which **could be** to the private pecuniary benefit or detriment of
 - You
 - Your relative
 - Member of the household, or
 - Business with which you, your relative, or member of the household is associated
- You must declare but may participate in a decision, action or recommendation



Potential Conflict of Interest – What to do

- Announce when the chair calls for declarations before the hearing is opened, provide details, have it recorded
- If the conflict is not apparent until the hearing has begun, ask to be recognized and make the disclosure as soon as possible
- The commissioner can take part in the hearing. But, be concerned about appearance.
- If there is more than one hearing on the matter – announce each time the matter is on the agenda.



Actual Conflict of Interest

- Any decision by a person acting as a public official, which **would be** to the private pecuniary benefit or detriment of
 - You
 - Your relative
 - Member of the household, or
 - Business with which you, your relative, or member of the household is associated
- You must declare and must not participate in a decision, action or recommendation



Actual Conflict of Interest – What to do

- Publicly announce the conflict prior to participating in the hearing, and
- Refrain from participating in a debate on the issue or from voting on the issue
- Have the declaration go into the minutes of the hearing
- Make the announcement at each meeting the matter is on the agenda
- Recommended: leave the hearing room after making the declaration. You can return for the next agenda item.



Actual Conflict of Interest – Exception

- If an official's vote is necessary to meet a minimum number of votes to take official action.
- The exception is limited to “be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.”
- Be cautious.



Personal Bias – what to do

- Disclose the nature of the bias
- State whether or not in their opinion it requires disqualification
- When there is a sufficient quorum to conduct business without participation of a commissioner who has been challenged for bias, they should consider recusal.

Putting the People in Planning



Putting the People in Planning



A guide for local governmental agencies in Oregon

June 30, 2019

Questions now or later – reach out!



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