

Chapter 13

Land Use Planning in Oregon

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Oregon's famed livability owes a deep debt to our forward-looking land use planning program. In the late 1960's, Oregon farmers became concerned that new houses built on farmland put their family businesses at risk. Republican Governor Tom McCall recognized that "sagebrush subdivisions" and "coastal condomania" could damage Oregon forever. A bipartisan push for an effective statewide method of managing growth and plan for change led to enactment of SB 100 in 1973.

Passage of SB 100 launched Oregon's land use planning leadership. Thousands of Oregonians participated in meetings and hearings throughout the state to guide the development of our planning program. From the input of those citizens, nineteen Statewide Planning Goals were developed to form the planning program's core (see www.lcd.state.or.us/goalhtml/goals.html).

These goals are designed to build a better Oregon and plan for the kind of economic development people in rural and urban areas welcome. By implementing these tools, Oregon cities and towns can grow into better places to live, avoiding uncontrolled sprawl that wastes taxpayers' money and ruins neighborhoods. The goals specifically protect farm and forest land for farming and forestry; stimulate economic development; protect coastal, scenic, natural and historic resources; develop livable towns and cities; and promote transportation choices.

But the list of goals begins with that of citizen participation (Goal 1) because it was clear that without continued commitment by Oregonians, planning becomes a weapon of the insiders and not a tool for better communities.

The Statewide Planning Goals represent an integrated vision of community planning that protects our quality of life. Oregon's land use planning program today faces numerous challenges that, if left unchecked, can undermine three decades of hard work to keep Oregon a special place to visit, live, and do business.

Irresponsible Development via Measure 37: Oregonians' quality of life is threatened by over 7,000 Measure 37 proposals on hundreds of thousands of acres for irresponsible development. Measure 37 has unleashed demands to build subdivisions on Steens Mountain and at the pristine Wallowa Lake East Moraine, mine pumice at Newberry Crater National Volcanic Monument, erect billboards throughout Portland, and expand a Washington County landfill. Plum Creek Timber Co., an out-of-state corporation, has proposed turning 32,000 acres of Coast Range forests into suburban-style subdivisions. If Measure 37 is not reformed (see Chapter 3), Oregon as we know and love it will cease to exist.

Population Growth: The population of Oregon is expected to increase by 50% by 2040 from 3.6 million to 5.4 million people, with some communities expected to double in size. Such rapid

growth challenges our ability to maintain our high quality of life while welcoming our new neighbors. We need to plan ahead in order to protect the industries that rely on productive farm and forestland and open space, maintain or improve the quality of our public services, and provide everyone with transportation choices so we do not overwhelm our roads and foul our air. Failing to plan for growth will not make it go away—it will only make it more expensive and less attractive.



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Economic Development: Planning for change can be a boost to local economies, both in rural and urban communities. Failure to plan means that we can only react to what happens, creating more economic uncertainty. Effective land use planning can stabilize neighborhoods and promote the kind of economic activity that is appropriate in the community. This practical approach is at the core of the requirements under Statewide Planning Goal 19.

How Oregon's Planning Program Works

Goals and Planning Process: Oregon's land use planning program is administered by the Oregon Department of Land Conservation and Development (DLCD) and requires every city and county to prepare a comprehensive land use plan that complies with all of the applicable Statewide Planning Goals. The Land Conservation and Development Commission (LCDC) reviews all comprehensive plans for compliance with these goals. By 1986, all cities and counties had adopted plans that had been "acknowledged" (approved) by LCDC. Each of these plans relied on extensive public participation, and all subsequent changes have required public hearings with local citizen involvement.

Localities have the flexibility under these rules to tailor local plans for local needs. Until 1999, land use laws required plans to undergo "periodic review" every four to 10 years to accommodate changing laws and circumstances. Since 1999, the Legislature has dramatically scaled back periodic review to the point it is unclear what mechanism will exist in the future to ensure the faithful and consistent implementation of state land use laws at the local level.

Citizen Participation: Citizen Participation is Goal 1 of the Oregon planning program. It is designed to ensure that everyone affected by a proposal has an opportunity to be notified of and participate in land use decisions. Procedural protections are in place to assure that land use decisions are based on fact and law, not favoritism or other inappropriate factors. Citizen appeals of local decisions (see below) are among the primary means of enforcing Oregon's land use laws.

Enforcement: DLCD itself has no enforcement power beyond its ability to file appeals with the Land Use Board of Appeals (LUBA), the equivalent of a specialized land use court. This board, which consists of three attorneys appointed by the governor, hears appeals of local land use decisions. If a party disagrees with a LUBA decision, they may appeal it to the Oregon Court of Appeals.

If a local government approves a development application that violates the statewide planning goals or otherwise acts contrary to state law, the only way for the state or the public to respond is to appeal the decision to LUBA. However, some local governments have imposed exorbitant and burdensome fees for land use appeals (upwards of \$3,000) that make it difficult or impossible for average citizens to appeal even blatantly illegal local actions, clearly discouraging citizen involvement in public processes.

Protecting Great Cities and Towns

Each of Oregon's 240 cities has an Urban Growth Boundary (UGB) that defines where and how the city plans to grow over the next 20 years. UGBs prevent uncontrolled sprawl and are a vital element of Oregon's land use planning program. They are based on a local analysis of land need and can be adjusted to reflect changing circumstances. Cities must designate sufficient land inside their UGBs to meet projected needs for residential, commercial, industrial, and civic uses, as well as parks and natural resources. Every community is required to provide and protect sufficient land within its UGB for all types of development, including housing for a wide range of incomes.

Defining where cities will grow saves money. UGBs save Oregon taxpayers millions of dollars by encouraging compact, efficient development, thereby avoiding the excessive costs of providing new infrastructure such as sewers, water lines, and roads for sprawling, low-density development. For example, one mile of road serving 20 houses costs more per house than one mile of road serving 50 houses. UGBs also help Oregon's economy by protecting the land base needed by two of the state's largest industries: agriculture and forestry.

Reliable planning protects land investments while avoiding speculation. Good planning also keeps real estate prices realistic. For instance, Portland has the lowest and among the most stable real estate prices of any city on the West Coast. Well-planned cities also save residents time because the services and facilities they need are literally closer to home.

Well-planned communities keep us healthy. People living in well-planned communities have better health (see "Measuring the Health Effects of Sprawl," www.smartgrowthamerica.org/healthreport.html).

Oregon's planning program, through Statewide Planning Goal 9, currently requires every city with a population over 2,500 to develop plans ensuring an adequate supply of non-agricultural industrial land. Responding to concerns about the availability of industrial land and the ability of communities to work through barriers to making sites ready for development, the 2003 Legislature passed HB 2011, which required, among other actions, development of a list of 25 sites of "statewide significance for job creation" which was released in December 2003. To read the task force report, go to http://egov.oregon.gov/Gov/ERT/pdf/industrial_lands_taskforce_report.pdf.

Economic development planning is about more than just land: Economic development is an important goal of good planning, and making land available for employment-related uses is one way of addressing that goal. However, the idea that "more land equals more jobs" is simplistic and, for many industries, is untrue. Many industries increasingly rely upon a location's livability—including access to outdoor recreation and scenic areas, short commutes, and strong neighborhoods—to attract talented workers. Moreover, it is important not to allow the need for industrial land to result in the sacrifice of farmland, which supports Oregon's critical agricultural industry. Often industrial land is rezoned as commercial land, as Salem did in the fall of 2005 in rezoning a 60-acre parcel from industrial to commercial for a proposed 400,000 square foot shopping center at the Chemawa interchange off I-5.



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Farmland Protections Provides Jobs and Food for Oregonians

Farm and ranch land supports an industry valued at \$4.3 billion in 2005 and net farm income has doubled in the last decade (Oregon Department of Agriculture). Over 140,000 jobs in Oregon are tied to agriculture, or 1 in every 12 Oregon jobs, with a combined payroll of over \$2.3 billion. Of all commodities shipped through the Port of Portland, agricultural products are first in tonnage and second in value.

Exclusive Farm Use (EFU) zoning is intended to keep non-farm housing and other incompatible development out of agricultural areas. Land in EFU zones is taxed based on its value for farming, not development. This helps farmers to continue farming their land rather than selling it for development. Each year counties approve hundreds of new houses in EFU zones. Measure 37 has resulted in proposals for thousands of acres to be converted from farm use to houses, posing a serious threat to the continued viability of Oregon's agricultural industry.

Oregon provides a range of tools designed to keep Oregon's farmland for farming. One such tool is the income test, which is a favorite target of those who misunderstand how it works. This administrative rule stopped the flagrant abuses of Oregon's farmland protections by assuring that "farm dwellings" are allowed only for bona fide farmers, rather than for people who just want to live in the country. Family farms and Oregonians eating Oregon-produced food need this kind of tool or one of equivalent effectiveness to protect our farmland for farming (see www.friends.org/ffr.html).

Coastal and Natural Resources Planning Protects People and the Coast

Oregon's planning program faces increasing challenges in protecting natural resources, especially wildlife habitat and scenic areas, from the effects of poorly designed or improperly located development. In 1996, LCDC repealed the statewide planning goal that mandated protection of outstanding scenic areas.

On the Oregon coast, some past practices and Measure 37 place communities at risk of unmanaged sprawl up and down Highway 101. Moreover, coastal development needs to value unique coastal natural resources and to anticipate coastal hazards, such as storm surge and landslide zones. New mechanisms are needed to improve local plans and their administration in order to curb sprawl along Highway 101 and protect the very qualities that are the basis for the tourism industry upon which our coastal communities rely for economic survival (see Chapter 17, Coastal and Marine Issues).

Forestland Protections Provide Jobs and Wood Products, Reduce Fire

Approximately 39 percent of Oregon's forestland base is privately owned. A stable forestland base, which our planning laws provide, promotes a sustainable timber industry, which in turn is good for the economy (see Chapter 14, Forests). Private forestlands also help maintain water quality, provide important wildlife habitat, and provide recreation opportunities for thousands of Oregonians. Oregon's land use laws have significantly reduced the conversion of forestland to other uses, but private forestlands remain at risk of being lost to development. The Natural Resources Conservation Service estimates that between 1982 and 1997, 105,500 acres of forestland were lost to urban development (NRI, 2000). Hundreds of houses are built in Oregon forest zones every year.

HB 3661, passed by the 1993 Legislature, weakened the standards for building a house in forest zones. This has led to a proliferation of residential homesites in forested areas. Since the

passage of HB 3661, more than 500 new residences, on average, have been built every year in forest zones (DLCD 2001).



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Current Status of Oregon's Land Use Program

Despite polling data showing strong public support for Oregon's land use planning program, recent land use legislation in Oregon has largely been aimed at weakening land use laws. Under the guise of fixing perceived problems, every legislative session since 1995 has seen significant efforts to roll back land use policies to allow easier expansion of UGBs, more development on farm and forestland, and conversion of industrial land to commercial uses. The land use program has also been significantly hampered by low levels of funding for state and local planning, and critically low funding for enforcement.

The results are harmful in both the short-term and long-term. In the short-term, poor planning decisions have real consequences for people's daily lives: worse traffic, higher taxes, and neighborhoods degraded by uncontrolled sprawl. As Oregon becomes less attractive as a place to live, our economy suffers. Companies relocate to Oregon because of the quality of life here: residents count on being able to get to the coast or the mountains without slogging through hours of traffic due to rural subdivisions and costly sprawl.

Time for a review: The 2005 Legislative Assembly commissioned the ten-member Oregon Task Force on Land Use Planning to lead a comprehensive review of our state's three-decade-old land use system. Every legislative session since the mid-1970s has seen proposals to "fix" this or that "problem," and through the years statutory changes, new administrative rules and additions to local ordinances have been layered onto what started as a fairly simple system. In creating the Task Force, the Legislature made a tacit commitment to decline further piecemeal changes to our planning laws in favor of a coordinated update after the Task Force completes its work in 2009.

If successful, the Task Force will help a new generation of Oregonians create a vision and define the tools we need to keep Oregon a special place to live, work, and play in the decades to come.

In the long-term, healthy, vibrant communities depend on our ability to create a vision of how our communities should grow and tools to make sure development is consistent with that vision. If we allow the land use program to become ineffective, the 5.4 million Oregonians expected to live here in 2040 will suffer the consequences.

Legislative Priorities

- ◆ Measure 37 must be reformed so that it provides fairness in land use planning for all Oregonians—landowners, neighbors, communities, and the general public.
- ◆ The 2005 legislature created a land use task force to reach out to Oregon citizens over four years and ask “what will the next 30 years look like?” Half of the money was appropriated in the 2005 session. The remainder of the funding for this four year task force should be approved in the 2007 session. The legislature should allow the task force to complete its work in 2009 before considering additional major changes to Oregon's land use planning program.
- ◆ Repeal the state ban on inclusionary zoning, which would provide local communities a full range of tools to promote affordable housing choices (see Chapter 2, Environmental Justice.)
- ◆ The Legislature should support proposals that help communities address the costs of growth. One approach is through systems development charges (SDCs). Currently, cities and counties can only assess SDCs on new developments for limited types of public infrastructure, such as water supply, sewage systems, transportation, and parks. State law should be amended so that local governments can charge SDCs for other types of public infrastructure, including schools, libraries, and police and fire stations.
- ◆ A second approach is to recognize that owners of land brought into a UGB boundary receive windfall profits through no action of their own. A portion of the increased value of their land should be assessed fees and then allocated to provide infrastructure to serve the newly urbanized area. Either of these types of proposals will protect taxpayers from having to subsidize new development.
- ◆ Legislation will undoubtedly again be introduced in an attempt to greatly accelerate development on rural lands. The Legislature has repeatedly rejected such bills and should continue to do so. Bills allowing increased development on so-called “secondary lands” and “non-resource lands” would increase low-density rural sprawl and weaken the protection given to Oregon's farm and forestlands.
- ◆ Efforts to strip LCDC of its regulatory and enforcement authority, possibly framed in the rhetoric of “local control” and “citizen participation,” may be introduced and should be rejected. One of the main features contributing to the success of Oregon's land use program is that while planning occurs on the local level, local plans must comply with minimal state standards for protection of farm and forest land, efficient urban development, and other important values.

Key Messages

- ◆ Reform Measure 37 so to provide fairness for all Oregonians.
- ◆ To protect Oregon's magnificent natural heritage, high quality of life, and economic vitality, we must plan for growth and change by investing in our urban areas, keeping our farms and forests productive, and promoting neighborhoods people want to call home.

- ◆ Communities should have the authority to recover the costs associated with new development by assessing growth impact fees (SDCs) for schools, libraries, police, fire and other local infrastructure.
- ◆ Rules that currently allow thousands of new homes to be built on productive farm, range, and forestland should be eliminated or refined; proposals to open millions of acres of resource land to low-density development should be rejected.
- ◆ Local citizens should be encouraged to become more, not less, involved in land use planning decisions.

Experts and Resources

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