



**PLANNING FOR NATURAL HAZARDS:
Key Elements of a Comprehensive Plan in Oregon's
Statewide Land Use Planning Program**

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***Oregon Department of Land Conservation &
Development***

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The Natural Hazards Technical Resource Guide Steering Committee

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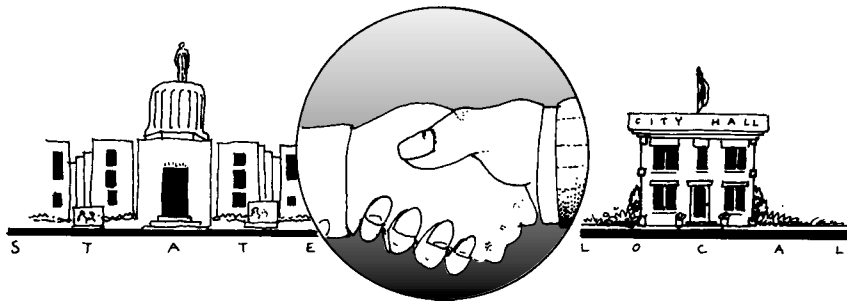
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Introduction:
A Partnership

In Oregon, state and local governments share the job of planning. The state, through the Land Conservation and Development Commission (LCDC), sets the overall rules for planning decisions and oversees the statewide planning program. Cities and counties adopt plans to comply with the statewide requirements. Day-to-day land use decisions are made by local governments in conformance with their state-approved plans.

Oregon’s Land Use Planning Partnership



LCDC

- Adopts statewide planning goals & administrative rules.
- Approves locally adopted comprehensive plans.
- Periodically reviews and approves revised plans.
- Reviews amendments to plans and implementing ordinances.

(PRINCIPAL STATUTE: ORS 197)

CITIES and COUNTIES

- Adopt comprehensive plans in compliance with statewide goals.
- Make land use decisions in conformance with state-approved plans.
- Amend plans and implementing ordinances to meet changing needs and to comply with new requirements.

(PRINCIPAL STATUTES: ORS 215 & 227)

Section 1: Statewide Planning Requirements

The Statewide Planning Goals are Oregon’s mandatory standards for comprehensive planning. Goals set requirements for comprehensive plans and how land use decisions are to be made. For example, the goals require that local governments provide opportunities for citizen involvement. They also set standards on how certain types of land are planned and zoned. The goals also apply to state agencies when they make decisions affecting land use. LCDC is responsible for adopting rules to interpret the goals and land use planning laws. LCDC — the commission — is a seven-person panel appointed by the Governor, and confirmed by the Senate. The commission meets regularly and commissioners serve without compensation. The Department of Land Conservation and Development (DLCD) carries out commission decisions and administers other parts of the state’s land use laws.

Oregon Land Use Planning Goals

Related Oregon Administrative Rules (OAR)



1 Citizen Involvement	660-001 Procedural Rules	660-025 Periodic Review Process
2 Land Use Planning	660-002 Delegation of Authority to the Director	660-030 State Agency Coordination
3 Agricultural Lands	660-003 Acknowledgment Process	660-031 State Permit Compliance
4 Forest Lands	660-004 Exception Process	660-033 Agricultural Lands
5 Natural Resources, Scenic & Historic Areas, and Open Space	660-006 Forest Lands	660-034 Park Planning
6 Air, Water and Land Resources Quality	660-007 Metropolitan Housing	660-035 Federal Consistency
7 Areas Subject to Natural Disasters and Hazards	660-008 Housing	660-036 Ocean Planning
8 Recreational Needs	660-009 Industrial & Commercial Development	660-037 Coastal Shorelands
9 Economic Development	660-011 Public Facilities Planning	660-040 Public Records
10 Housing	660-012 Transportation Planning	660-045 Enforcement Orders
11 Public Facilities and Services	660-013 Airport Planning	
12 Transportation	660-014 Incorporation of New Cities	
13 Energy Conservation	660-015 Statewide Planning Goals & Guidelines	
14 Urbanization	660-016 Goal 5	
15 Willamette River Greenway	660-017 Classifying Oregon Estuaries	
16 Estuarine Resources	660-018 Plan Amendment Review Process	
17 Coastal Shorelands	660-020 Willamette River Greenway	
18 Beaches and Dunes	660-021 Urban Reserve Areas	
19 Ocean Resources	660-022 Unincorporated Communities	
	660-023 Goal 5 (new)	



1.1 Summary of Goals

The 19 Statewide Planning Goals reflect Oregonians' desire to protect the state's landscape and to provide orderly planning for urban and rural development. The goals reflect five general themes:

- Planning for People
- Protecting Farm and Forest Lands
- Managing Urban and Rural Development
- Protecting Natural Resources
- Managing Coastal and Ocean Resources

Planning for People

Goal 1

Goal 1 calls for “the opportunity for citizens to be involved in all phases of the planning process.” It requires each community to have a citizen involvement program that includes an officially recognized committee for citizen involvement and opportunities for citizens to be involved in all phases of the planning process.

Goal 2

Goal 2 outlines the basic procedures for Oregon's statewide planning program. It requires that each city and county in Oregon have a comprehensive plan that includes factual information, policies and implementing measures. Goal 2 contains procedures for reviewing and amending comprehensive plans.

Protecting Farm and Forest Lands

Goal 3

Goal 3 reflects Oregonians' desire to protect agricultural land from development. The goal defines “agricultural land” and requires counties to inventory such lands and to “preserve and maintain” agricultural land through exclusive farm use zoning. The goal recognizes that not all agricultural land has the same value or needs the same level of protection. Details on the uses allowed in farm zones are found in Oregon Revised Statute (ORS) Chapter 215 and in Oregon Administrative Rules (OAR) Chapter 660, Division 033.

Goal 4

Goal 4 defines forest lands and requires counties to inventory them and adopt policies and ordinances that will “conserve forest lands for forest uses.” It reflects the importance of forestry to Oregon's economy. Details on the uses allowed in forest zones are found in ORS Chapter 215 and in OAR Chapter 660, Division 006.

Managing Urban and Rural Development

There are several Statewide Planning Goals that help local governments plan and manage the growth of Oregon's cities and unincorporated communities.

Goal 14

Goal 14 requires cities to estimate future growth and to plan and zone enough land to meet those needs. It calls for each city and surrounding county to establish an "urban growth boundary" to identify and separate urbanizable land from rural land. The land inside the boundary is where a city will grow over the next 20 years.

Goal 9

Goal 9 requires communities to inventory commercial and industrial lands, project future needs for such lands and plan and zone enough land to meet those needs. As a result, every city in Oregon will have a supply of land to sustain a healthy local economy.

Goal 10

Goal 10 specifies that each city must plan for and accommodate a variety of housing types, locations and densities. It requires communities to inventory their buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet housing needs.

Goal 11

Goal 11 requires that cities of more than 2,500 have a public facility plan to guide development. Efficient planning of public services such as sewer, water, law enforcement and fire protection promotes cost effective and efficient provision of urban and rural services.

Goal 12

Goal 12 requires communities to adopt transportation system plans to provide for "a safe, convenient and economic transportation system." It requires land use decisions and local transportation planning be closely coordinated with the Oregon Department of Transportation.

Protecting Natural Resources

Goal 5

Goal 5 is designed to protect Oregon's natural and cultural resources. Local governments are required to inventory resources such as wetlands, riparian corridors and wildlife habitat. Communities use the inventories to determine which resources are most significant and to protect such resources in a manner that complies with Goal 5 and applicable administrative rules.

Goal 6

Goal 6 requires that all comprehensive plans and implementing measures comply with state and federal environmental laws.



Goal 7

Goal 7 addresses natural hazards. It requires that local governments apply “appropriate safeguards” when planning for development in areas of natural hazards, such as floodplains and areas subject to landslides.

Goal 8

Goal 8 calls for each community to evaluate its recreational areas and facilities and develop plans to deal with the projected demand for new recreational opportunities

Goal 13

Goal 13 requires communities to manage and control their local land uses in ways that promote energy conservation.

Goal 15

Goal 15 establishes procedures to guide urban and rural development along the Willamette River.

Managing Coastal and Ocean Resources

Goal 16

Under Goal 16, LCDC classified Oregon’s 22 major estuaries into three broad categories: natural, conservation and development. Coastal communities have adopted estuary plans to comply with Goal 16.

Goal 17

Goal 17 specifies how coastal shorelands and resources are to be managed and protected.

Goal 18

Goal 18 regulates development on beaches and dunes.

Goal 19

Goal 19 is designed to “conserve the long-term values, benefits and natural resources of the near-shore ocean and the continental shelf.” It addresses issues such as dumping dredge spoils and discharging waste products into the open sea.

Section 2: Comprehensive Plans

2.1 What is a Comprehensive Plan ?

A comprehensive plan is an official document adopted by a city or county which sets forth the general, long range policies on how the community's future development should occur. Local plans must:

- 1) Address all the applicable topics in the Statewide Planning Goals, as well as issues of local concern.
- 2) Anticipate and provide for future land use needs (20 years).
- 3) Include plan elements corresponding to each statewide goal (e.g., citizen involvement, agricultural lands, natural hazards, transportation, coastal resources, etc.).
- 4) All implementing measures must comply with the statewide goals and be consistent with and carry out comprehensive plan policies.

2.1.1 The Key Components of a Plan Required by Statewide Goal 2

A comprehensive land use plan combines the following:

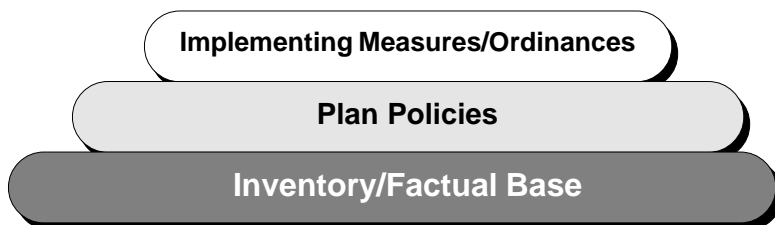
- (1) An inventory of existing conditions (factual base);
- (2) General goals and objectives;
- (3) Policies; and
- (4) Implementing ordinances and regulations.

2.1.2 Components of the Comprehensive Plan

The diagrams on the next two pages illustrate the relationship of the required components of a comprehensive plan.

Inventories provide the basis for plan policies. The term **Inventory** is often used synonymously with **factual base** as a comprehensive plan component.

The figure below shows the relationship between the plan inventory/factual base, plan policies, and implementing measures. The figure is in the shape of a pyramid because each successive component is both dependent on, and more specific than the previous component. The inventory factual base provides the basis and justification for plan policies. The plan policies provide general guidance in review of land use proposal. The implementing measures/ordinances provide the specific standards and criteria against which development proposals are reviewed.



Sidebar

Comprehensive Plan Inventories:

“The findings, data, and technical analysis on which a plan’s policies are based. In smaller jurisdictions the inventory material often is included in the same document as the plan’s policies and adopted with them. The entire document then is described as ‘the Plan’. In larger jurisdictions the inventory is usually presented in one or more volumes separate from the plan policies. The inventory and policies are usually adopted together; however, communities may adopt inventories and policies separately. State law requires communities formally adopt both components into their comprehensive plans.

“The separate volumes of inventory material are variously described as background reports, technical reports, or support documents. Common synonyms for ‘inventory’ include ‘factual base,’ ‘data base,’ and ‘background material.’”¹

1. Rohse, M. (1987). *Land-Use Planning in Oregon: A No-Nonsense Handbook in Plain English*. Corvallis, OR: Oregon State University Press.



Planning for Natural Hazards: Key Elements of a Comprehensive Plan

Comprehensive Plan (Oregon Revised Statute 197.015(5))

City Comprehensive Plan



Plan Map

Housing
Land Use
Natural Hazards
Transportation
...

Inventories

Policy 1
Policy text ...
Policy 2
Policy text ...
Policy 3
Policy text ...

Policies

Down-
town
Plan

West-
side
Plan

Neighborhood Plans

Capital
Improvements

Transportation
Systems

Public
Facilities

Functional Plans

Zoning
Ords.

Land
Division
Ords.

Implementing Measures

Major steps in comprehensive planning process

ASSEMBLE POLICY BACKGROUND:

- Community desires and priorities
- Legal constraints
- Financial condition
- Statewide Goals and LCDC rules
- Federal policies

ASSEMBLE FACTUAL BASE:

- Past and current physical, social and economic characteristics
- Physical, technical and environmental limits and potentials
- State and federal agency plans
- Projected community needs

Develop or revise community goals for future development

Project alternate probable patterns for future development

Evaluate alternate development patterns based on community needs and state requirements

Select and adopt plan that most nearly achieves needs and complies with state requirements

Adopt or amend regulatory ordinances and measures for implementation of adopted plan

State Review of comp plan and implementing measures, Periodic Review or Post-Acknowledgment Plan Amendment Process

Continuing implementation of adopted comprehensive plan and regulatory ordinances



The Three Levels of Hazard Assessment

Community-Wide Hazard Identification



Community- Wide Vulnerability Assessment



Risk Analysis

2.1.3 Inventories and Fact Base

While much of this chapter provides a broad discussion of Oregon's Statewide Planning Program, this section focuses on approaches to developing a natural hazards inventory. A thorough examination of factual base for natural hazards can found in Cooperating with Nature: Confronting Natural Hazards with Land-Use Planning for Sustainable Communities.1 The following overview draws on information from that publication.

1) Community-Wide Hazard Identification is the basis for hazard assessment, and is commonly found in comprehensive plans. It is the process of estimating the geographic extent of the hazard, its intensity, and its probability of occurrence.3 This process usually results in a hazard map. Such maps are effective in providing information about the nature and extent of natural hazards.

Community-wide hazards maps provide a general outline of areas where a more thorough review of development should occur due to potential hazards. Overlay zones are often used to require specific development review standards.

Using hazard maps at a scale of 1 inch to 2,000 feet usually is sufficient for general land use planning and for decisions about locating public facilities.4 Yet, it is not always possible to discern the precise location of hazardous areas on specific parcels of property at this scale. To review development applications at the specific parcel level, the maps should distinguish individual parcels.

Tip Box



The Factual Base

For natural hazards to play a significant role in land use management decisions, the factual base detailing the nature and severity of the hazard must be at least as credible as that for the host of other issues that go into determining appropriate land use... Hazard assessment is the mechanism that provides this factual basis."2

Tip Box



Natural Hazards Inventory Checklist:

Your communities inventory should contain the following elements:

- Description of Each Hazard
History of Events for Each Hazard
Generalized Boundaries of All Known Hazards: flood, landslide, slope, seismic, coastal, and wildfires.
Inventory of Critical Facilities, Lifelines and Other Key Facilities
A Vulnerability Assessment
A Risk Assessment



Tip Box

Inventory critical facilities — are any of the following in a hazard area?

- Emergency Operations Center
- City or Town Offices
- Water and Wastewater Treatment Plants
- Sewage Pumping Stations
- Police or fire Stations
- Schools
- Hospitals
- Day-Care facilities
- Power Substations
- Public Works Garages
- Nursing Homes
- Elderly Housing
- Correctional Facilities
- Shelters
- Hazardous Materials Facilities
- Power Plants
- Access Roads to the above Facilities
- Evacuation Routes

2) Community Wide Vulnerability Assessment is the second level of hazard assessment. It combines the information from hazard identification with an inventory of the existing (or planned) property and population exposed to a hazard, and it attempts to predict how different types of property and population groups will be affected by a hazard.⁵ The optimum method for doing this at the local level is to use parcel-specific assessment data on land use and structures.⁶ Many local comprehensive plans do not contain a vulnerability assessment.

Vulnerability assessment is necessary to understand the consequences of alternative land use configurations. This level of hazard assessment, as with risk analysis, is benefiting from advances in analytic capabilities and digitized land use data. An Oregon example of vulnerability assessment is Portland Metro's Natural Hazards Mitigation Program.

Beginning in 1992, Metro and the Oregon Department of Geology and Mineral Industries (DOGAMI) worked together to produce seismic hazard maps. As part of the project, Metro evaluated buildings for seismic risk, identified vital systems (such as electric power, gas, telecommunications, etc.) and key facilities (such as fire stations, medical services, facilities storing or using hazardous materials, etc.). Metro's geographic information system (GIS) was then used to identify the region's vulnerability to earthquake hazards.

3) Risk Analysis is the final and most advanced level of hazard assessment. It involves estimating the damage, injuries, and costs likely to be experienced in a geographic area over a period of time.⁷ This could be community wide or site specific. Risk has two measurable components: (1) the magnitude of the harm that may result, defined through vulnerability assessment; and (2) the likelihood or probability of the harm occurring.⁸

This level of hazard assessment is becoming more common, but relatively few community examples currently exist. Florida completed such an assessment for hurricane risk on Gasparilla Island. Probable damage was calculated using five hurricane intensity categories for a given year based on the value and structural characteristics of 461 existing habitable buildings and the probability of each storm category.⁹

2.1.3 Summary of Three-Level Hazard Assessment:

- (1) Community-Wide Hazard Identification
- (2) Community-Wide Vulnerability Assessment — Now that we know where the hazard is, what is the risk to new and existing development?
- (3) If really serious about hazard reduction, a community can compile a risk analysis.

Finally, in addition to the three levels of community wide hazard assessments, communities need to evaluate potential



risks from natural hazards when siting new development. Most inventories conducted at community and/or regional scale lack the detail for site-specific analysis. Therefore communities may need to require site specific evaluation in areas of known hazards prior to allowing new development to proceed.

2.1.4 Site Specific Risk Analysis

Communities can use a regulatory process to assist in evaluating development in hazard-prone areas. If the site is located within the boundary of a known hazard area, the developer can be required by local government regulations to retain a professional to evaluate level of risk at the proposed site and provide recommendations on mitigation measures. During the review of the site development plan, planners must rely on detailed technical information to obtain the most accurate evaluation.

2.2 Why is Hazard Assessment Important?

For natural hazards, hazard assessment provides a factual base; the factual base is the supporting foundation for a comprehensive plan's policies and implementing measures. Ultimately, the more sophisticated the level of hazard assessment, the stronger the local support for policies and ordinances. An important consideration in hazard assessment is the level of precision needed to support decisions about where to locate boundaries that determine allowable land uses or impose different development regulations.¹⁰

2.3 What are the Challenges that Local Communities Face in Developing a Factual Base?

Unfortunately, increasing the level of detail and the accuracy of hazard identification and vulnerability assessment increases the cost of completing the factual base. Your community will have to decide whether the benefits of better information justify the cost. The level of hazard assessment depends on the severity of the local hazard, availability of community resources, and public support.

Another challenge for local communities may be the availability and use of technology. Many local governments identify staff training among the most serious problems they encounter in implementing GIS and other advanced technologies.¹¹ The staff expertise available to apply these techniques to natural hazards problems is likely to continue to be a major constraint in many jurisdictions.

In Oregon, educational resources like the Metro Area Disaster Geographic Information System (MAD GIS) CD-ROM¹² and the State Service Center for Geographic Information Systems (<http://www.sscgis.state.or.us>) are helpful tools in addressing this problem. Also, local academic institutions may have faculty or students with technological expertise that could be utilized by local governments in hazard assessment.

2.4 How can the Natural Hazard Technical Resource Guide Help Your Community in Developing a Factual Base?

The most useful information on factual base development is located in Sections 2 and 4 of each hazard specific chapter: **Identifying Hazards in your Community** and **Evaluation and Implementation Strategies**. If your community is affected by a natural hazard, consult the appropriate chapter for hazard assessment information.

Sidebar

Academic Resources

In some cases, academic institutions can be a valuable resource in the development of a hazards factual base. A graduate student in geography, environmental sciences, planning or a related field may want to do thesis work relating to a community's needs. Or, an interested instructor might organize a group of students to work on a community project. GIS researchers have facilitated hazard mapping efforts in places like Portland and Deschutes County. A group of Southern Oregon University geology students helped to develop a damage survey after flooding events in Talent and made recommendations for hazard mitigation. These types of partnerships provide real world educational experience for students and produce affordable planning assistance.

Some considerations for academic/community partnership projects in factual base development are:

- Do community deadlines match the school's timeline?
- How well organized is the proposed project?
- Do the objectives of the project relate well to the educational objectives of the student(s)?

Wind Damage - Portland Metro Area



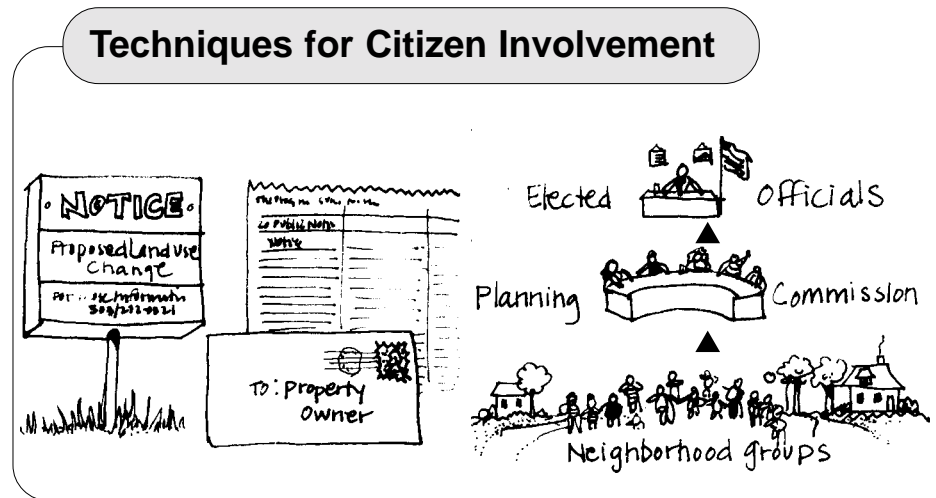
Photo by: FEMA Region X



Section 3: Key Participants: Citizens and Other Governments

3.1 Citizen Involvement

Citizen participation is a hallmark of Oregon’s planning program. Citizens must be kept informed under Goal 1. Each city and county plan includes an adopted citizen involvement program which describes how the public can participate in each phase of the planning process. Local governments must periodically evaluate their efforts to involve citizens, and, if necessary, update their programs.



3.2 Coordination

Coordination simply means that government agencies must consult with one another before making land use decisions. The benefits are obvious: by working together, local government, special districts, and state and federal agencies can make decisions that support one another and avoid unnecessary duplication or policy conflicts. For example, coordinated plans help ensure that public spending on roads, sewer, water and other facilities occurs both where and when it is needed. Each local government and state agency has a process for coordinating its decisions with other units of government. This usually involves mailing notices of pending decisions to other agencies and giving them an opportunity to comment. Under Oregon law, state agency actions affecting land use must be compatible with acknowledged city and county comprehensive plans.

For many land use decisions, public notice is printed in the newspaper, and notices are mailed to surrounding property owners. In Oregon, land use decisions are made in meetings that must be open to the public. Some local governments use neighborhood or area advisory committees to review major land use issues and make recommendations to the planning commission or elected officials.

Tip Box



Emergency Management

Coordination with local emergency managers and hazard mitigation plans helps local governments avoid and minimize damage caused by natural hazards. For more information contact Oregon Emergency Management at <http://www.osp.state.or.us/oem/> and the Oregon Emergency Management Association at <http://www.oregonemergency.com>

Section 4: Changing Times, Changing Plans

Plans are not cast in stone; they can and must be revised to reflect new needs and circumstances. Under Oregon law, the post-acknowledgement plan amendment and periodic review processes keep plans current.

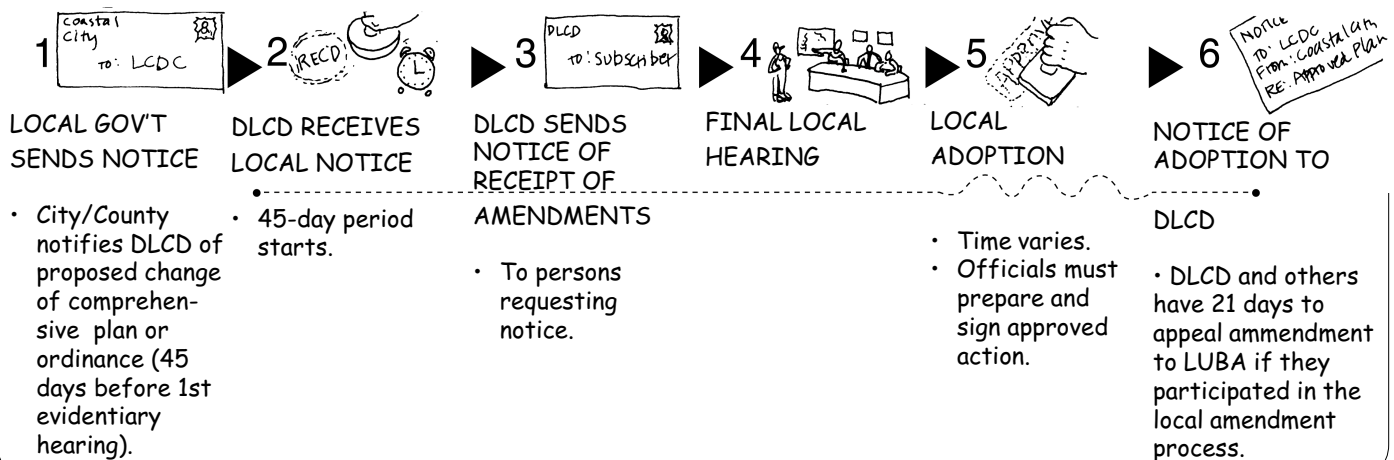
4.1 Post Acknowledgement Plan Amendment Process (PAPA)

Statewide, thousands of individual plan and ordinance amendments are made every year. Cities and counties must provide DLCD notice of proposed plan and ordinance changes. In turn, DLCD notifies interested agencies, groups, and individuals. This ensures that plans will continue to be coordinated. It also gives DLCD an opportunity to make sure the proposal complies with the Statewide Planning Goals. By law, local governments must notify DLCD 45 days before the first evidentiary hearing (usually before the planning commission) on a proposed plan or ordinance amendment. A local government may provide less notice, but that may increase the likelihood of the amendment being appealed to the state Land Use Board of Appeals (LUBA).

4.2 Measure 56

In 1998, Oregon voters approved Ballot Measure 56 amending ORS Chapters 215 and 227 to require “written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with [an] amended or new comprehensive plan ...”. Property is considered “rezoned when the governing body ... (a) changes the base zoning classification of the property; or (b) adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.” Local governments may apply to DLCD for reimbursement of “all actual and reasonable costs of providing notice” where the local government’s rezoning effort is either: (1) initiated by a requirement of periodic review; or (2) by a new, or amendment to an existing, administrative rule or statute.

Plan Amendment Review Process: ORS 197.640, OAR 660 Div. 18





4.3 Periodic Review Process

Depending on population, cities and counties must reevaluate their plans and ordinances and submit the revisions to DLCD for approval. This process, called "periodic review," is designed to ensure that plans are updated to reflect new information and changing needs and circumstances. Conditions triggering periodic review are:

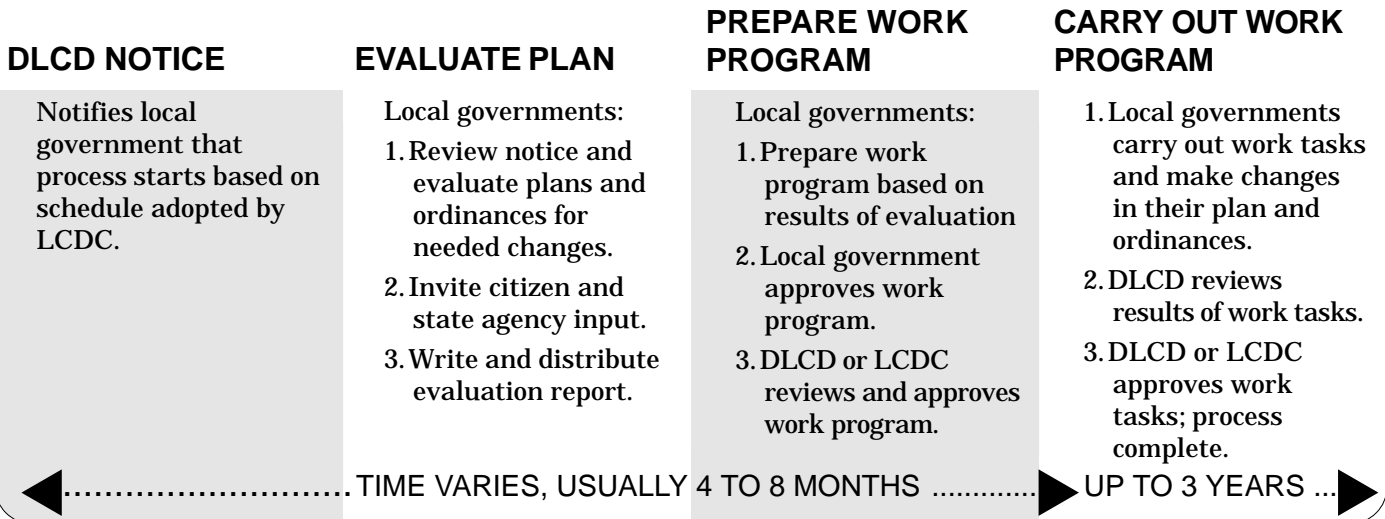
- 1. A substantial change in circumstances so that the comprehensive plan or land use regulations do not comply with the statewide planning goals;
2. Decisions implementing acknowledged comprehensive plan and land use regulations are inconsistent with the goals;
3. Issues of regional or statewide significance, intergovernmental coordination or state agency plans or programs affecting land use which must be addressed in order to bring comprehensive plans and land use regulations into compliance with the goals; or
4. The local government, commission or department determines that the existing comprehensive plans and land use regulations are not achieving the statewide planning goals.

Jurisdictions Required to go through Periodic Review:

Table with 2 columns: Jurisdiction/Population and Intervals. Rows include Counties (15,000-50,000 and 50,000 or more) and Cities (2,500-25,000 and 25,000 or more).

Counties and cities with populations less than those listed above are exempt from periodic review unless specifically scheduled by LCDC or are a city in proximity to cities over 25,000 (see ORS 197.628 et. seq. and OAR 660-025 for details).

The 4 Steps of the Periodic Review Process



Section 5: Plan Implementation

5.1 Local Planning Decisions ... Yes or No to Specific Uses

Plan policies contain general decisions about what land uses go where. Policies generally include procedures and standards outlining how subsequent planning decisions will be made. Actual development usually requires a permit or approval from the city or county to make sure the development meets plan policies and ordinance standards.

Most planning decisions are routine — they only involve a building permit for a use allowed outright by the plan. Uses that are not permitted outright are subject to more detailed review. Specific standards for approving proposed land uses are stated in the development ordinance or the local plan. The public usually receives notice in advance of this type of review. Such reviews give a city or county an opportunity to consider the details of a proposed use and how it fits with the site and surrounding uses. They also provide an opportunity for neighbors and the public to review and comment.

Some local land use decisions (e.g., zone changes) require post acknowledgment plan amendments (PAPA) requiring advance notice to DLCD prior to adoption.

The process for making land use decisions is designed to make sure that affected parties have an opportunity to comment and that decisions are made fairly. Check your local zoning ordinance for specific requirements.



Section 6: The Appeals Process

Typical Land Use Decision

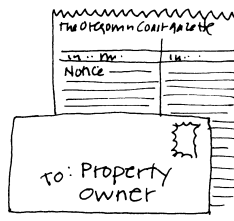
- 1. Variance
- 2. Conditional Use Permit
- 3. Minor Zone Change

1 APPLICATION



- By property owner.
- Includes supporting information.

2 PUBLIC NOTICE



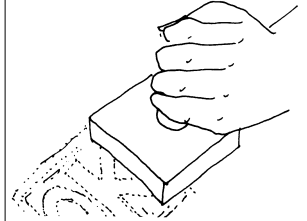
- To properties within prescribed distance.

3 PUBLIC HEARING



- Testimony, pro and con.
- Proponent has the burden of proof.

4 DECISION



- Usually by planning commission, unless appealed to local governing body.

Because Oregonians have different values and interests, they sometimes disagree over whether a particular development complies with applicable local and state standards. Comprehensive plans have reduced the potential for controversy by making general decisions about what uses go where. But there are still disagreements. Oregon's commitment to open government has led to the creation of appeals processes at both the local and state levels, giving citizens opportunities to challenge land use decisions.

6.1 Who Can Appeal?

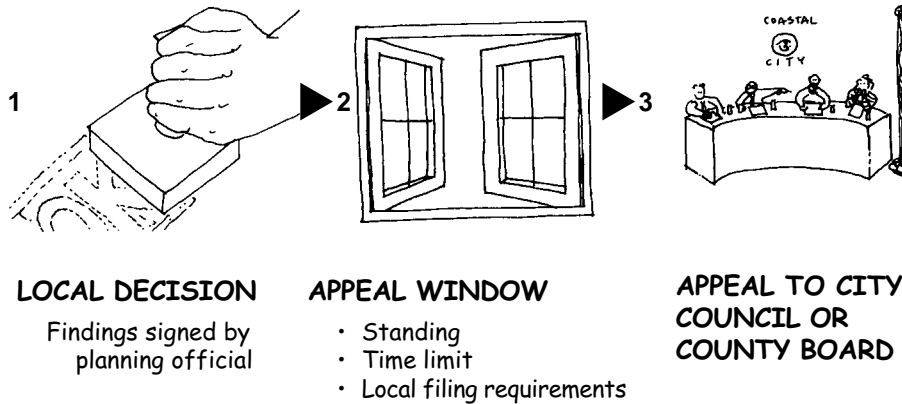
To appeal a land use decision, a person or organization must qualify or have "standing." Generally, to establish standing, a person must be harmed or affected by the proposed development. Standing requirements vary from community to community. Some communities allow appeals by almost anyone. Others limit appeals to nearby property owners or to those who participated in the first local hearing. To have standing to appeal to LUBA a petitioner must: (1) have participated in local hearings (or demonstrate that it was not possible to do so because of an error by the local government); and (2) be affected or harmed by the local decision.

6.2 Local Appeals

Most local land use decisions are made by a planning commission or hearings official. Most of these decisions can be appealed to the governing body — city council or county board of commissioners. Local standards vary, but most cities and counties allow introduction of new evidence showing whether the relevant standards have been met.

Requirements for filing appeals are spelled out in each local zoning ordinance. The ordinance will provide information on deadlines for filing appeals, filing fees, timeline for hearings and a decision, and the legal standards for decisions.

Key Parts of the Plan



6.3 State-Level Appeals . . . The LUBA Process

City and county land use decisions are final and are deemed to meet state law unless they are appealed to the Land Use Board of Appeals (LUBA). LUBA is a panel of three “referees” appointed by the Governor and confirmed by the state senate. Almost all appeals involving local land use decisions go to LUBA (rather than to circuit or district courts). The person who appeals a local decision to LUBA is the “petitioner.” Petitioners must show how the local decision violated local ordinances, the local plan, state law, or, where applicable, the statewide planning goals. LUBA’s review is limited to determining whether the city or county has properly applied the relevant standards and has enough evidence to support its decision. Objections or appeals to periodic review work tasks are reviewed by DLCD and LCDC, not LUBA.

LUBA Appeal Process

Local Decision

LOCAL HEARING ► **FINAL DECISION**

Approval by City Council or County Board of Commissioners.

Occurs when orders and findings are signed.
Starts 21-day clock for appeal to LUBA.

LUBA Appeal

NOTICE OF INTENT TO APPEAL ►

Petitioner files with LUBA.

RECORD OF LOCAL DECISION ►

Local government submits records of local hearings and findings.

PETITIONER’S BRIEF ►

Must explain how local decision violates plan, ordinances, state law or goals. Show standing.

RESPONDENT’S (LOCAL GOVERNMENT) BRIEF ►

Responds to petitioner’s brief.

LUBA HEARING ►

Final arguments.

LUBA DECISION

Written decision, affirming or reversing decision or returning decision to local government for further hearings.



Section 7: Additional Information on Land Use Planning in Oregon

As mentioned at the beginning of this document, Oregon's land use planning program is a working partnership between the state and cities and counties. The statewide land use program is really a network of 277 state-approved city and county comprehensive plans. Plans reflect the interests of both local communities and the state. As interests change, so too must the plans. The Department of Land Conservation and Development provides both funds and technical assistance to help Oregon's local government maintain their comprehensive plans. The following section describes some of DLCD's other activities and provides information on how to contact the agency.

DLCD provides grants to local governments to help them with planning issues. These funds may be used to conduct inventories, revise plans and ordinances, implement programs and conduct periodic reviews of their comprehensive plans.

Technical assistance to local governments is one of DLCD's most important functions. Assistance is provided by technical specialists based in Salem and by regional representatives in Bend, Central Point and Portland. Assistance includes conducting workshops, publishing technical bulletins and public outreach materials, and providing responses to written and phone requests for land use planning information. DLCD provides information to local governments and the public regarding changes to land use statutes and administrative rules. DLCD's website provides more, up-to-date information in an easily accessible format.

One of DLCD's primary technical-assistance responsibilities is to work with local governments to ensure that local comprehensive plans are up-to-date.

DLCD participates with four other state agencies (Department of Transportation, Environmental Quality, Economic and Community Development, and Housing and Community Services) as part of the Community Solutions Team (CST). The purpose of the CST is to coordinate state agency programs, investments and actions with state and local growth management objectives. Currently, there are nine (9) regional CSTs made up of field staff from each of the five agencies.

For additional information regarding DLCD and its programs, please contact the department at: 503-373-0050.

Fax: 503-378-6033

DLCD also has several field offices:

Bend 541-388-6424 or 541-388-6157.
Fax: 541-388-6480

Central Point 541-858-3152
Fax: 541-858-3142

Portland 503-731-4065
Fax: 503-731-4068

Written requests for information can be sent to:

Oregon Department of Land Conservation and Development, 635
Capitol Street NE Suite 150, Salem, Oregon 97301.

Copies of state land use statutes, statewide planning goals and LCDC administrative rules and information about DLCD's program and publications are available on the department's web site at www.lcd.state.or.us.



Key Elements of a Comprehensive Plan Endnotes:

- ¹ Burby, R. (Ed.). (1998). Cooperating with Nature. Washington, D.C.: Joseph Henry Press.
- ² Deyle, R., French, S., Olshansky, R., & Paterson, R. (1998). Hazard assessment: the factual basis for planning and mitigation. In R. Burby (Ed.), Cooperating with Nature. (pp. 119-166). Washington, D.C.: Joseph Henry Press.
- ³ (ibid.)
- ⁴ (ibid.)
- ⁵ (ibid.)
- ⁶ (ibid.)
- ⁷ (ibid.)
- ⁸ (ibid.)
- ⁹ (ibid.)
- ¹⁰ (ibid.)
- ¹¹ French, S., & Wiggins, L. (1989). Computer adoption and use in California planning agencies: implications for education. Journal of Planning Education and Research, 8(2), 97-107.
- ¹² Metro. (1997). Metro Area Disaster Geographic Information System: GIS Tools for Emergency Management Planning. Portland, OR.