

# Land Use Primer

## **Relationship of the CEAP to the Comprehensive Plan (Goals and Policies):**

The attached “primer” provides an overview of how climate change is related to the Statewide Land Use Planning program and how, in turn, the CEAP is related to the City’s Comprehensive Plan and Land Use Development Code.

The City’s land use planning system is an essential tool for implementing the CEAP. The City’s Comprehensive Plan, Housing Element includes the following (which serves as an example of how the CEAP can be integrated into the Plan).

Ashland Comprehensive Plan: Housing Element

ENVIRONMENTAL STEWARDSHIP AND SUSTAINABILITY (6.10.03)

(3) Goal: Encourage the development of housing in ways that protect the natural environment and encourage development patterns that reduce the effects of climate change.

Policy 18: Development standards shall be used to fit development to topography, generally following the concept that density should decrease on physically and environmentally constrained lands.

Policy 19: Promote infill and compact development patterns to encourage housing affordability, maximize existing land resources, and conserve habitat and environmentally sensitive areas.

Policy 20: Promote building and site design that supports energy efficiency, renewable energy generation, and water conservation in new residential developments.

Policy 21: Ensure that city housing efficiency policies, programs and standards support the implementation strategies and actions described in the Ashland Climate and Energy Action Plan.

## **The Reality**

Integration of CEAP into the Comprehensive Land Use Plan will require patience. The City rarely updates the elements of the Plan and, most often, relies upon consultants to do so (i.e. it isn’t cheap).

That should not deter the CPC in developing and advancing changes to the City’s Development Code in an effort to implement the CEAP. That view is supported by Bill Molnar, the City’s Community Development Director. He has stated that the City’s Plan (because of its broad-brush goals and policies) can serve as the basis (legal justification) for any future change in the City Development Code that would be necessary to implement the CEAP.

The CPC should carefully consider how the City’s Development Code could help to facilitate both resiliency and adaptation, and forward proposed amendments to the Code to the City’s Planning Commission for their and the City Council’s consideration.

## **Next Steps:**

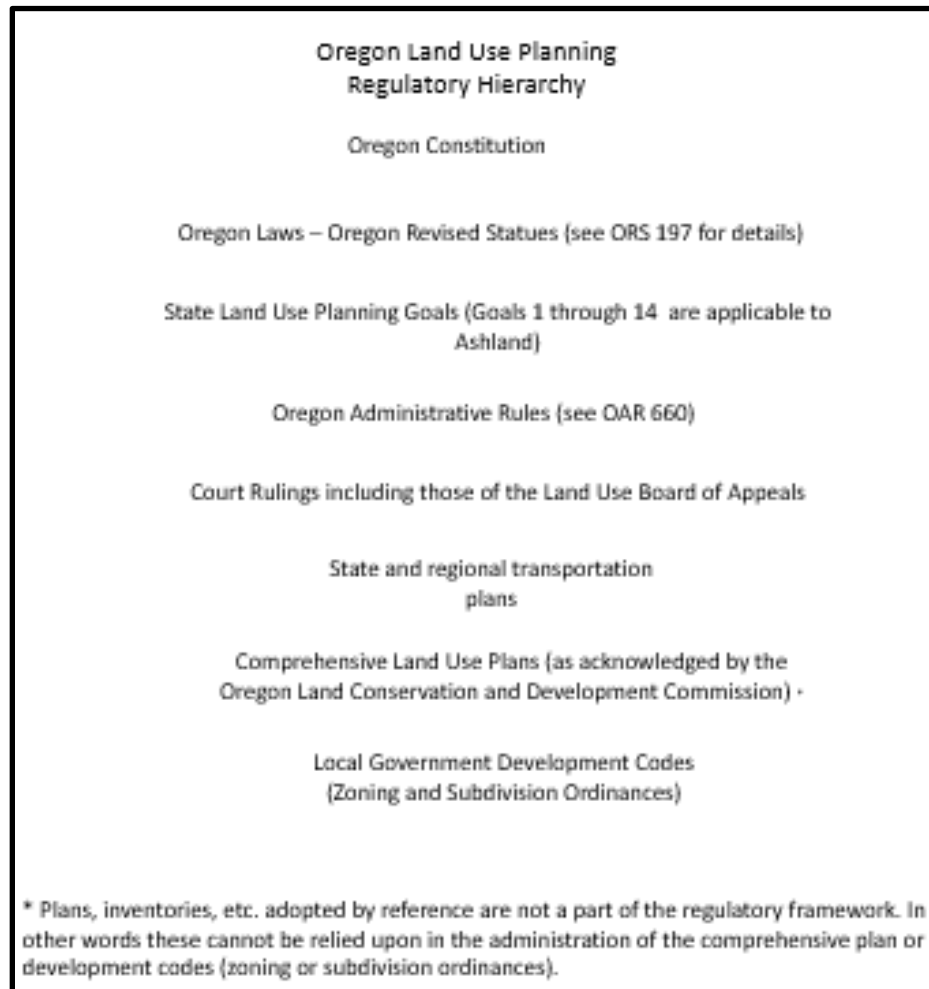
Identify in the CEAP Implementation Plan all built environment strategies which could be appropriately integrated/formulated as Development Code amendments (i.e. land use regulations).

# Primer on Land Use Planning and Climate Change

## In Oregon

### I. Introduction

In Oregon, land use planning and land development are regulated by a strict hierarchy of state laws, statewide planning goals, court rulings, plans and regulations at the State and local levels. This is illustrated below.



As would be logical, each lower level must be coordinated and conform to the levels above. This is particularly relevant in relation to the local comprehensive plan and the local development code. Local development regulations must rely upon and conform to the goals, policies and maps, as adopted, in the comprehensive plan.


Oregon Revised Statue 197.010(1) enshrines that approach in law:

“The Legislative Assembly declares that

- “(1) In order to ensure 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:
- “(a) Must be adopted by the appropriate governing body at the local and state levels;
  - “(b) Are expressions of public policy in the form of policy statements, generalized maps and standards and guidelines;
  - “(c) Shall be the basis for more specific rules and land use regulations which implement the policies expressed through the comprehensive plans;
  - “(d) Shall be prepared to assure that all public actions are consistent and coordinated with the policies expressed through the comprehensive plans; and
  - “(e) Shall be regularly reviewed and, if necessary, amended to keep them consistent with the changing needs and desires of the public they are designed to serve.”

Ironically, despite the widespread support amongst the public for action on climate change, the legislature nor the Land Conservation and Development Commission has adopted a “climate goal” or compelled local government to regulate land uses in a manner that limits carbon emissions and their contribution to climate change (see next section).

## II. Brief History

“Oregonians in the 1960s and '70s became concerned as they watched rapid population growth begin to take place around the state. Lawmakers responded with  [Senate Bill 100](#), which Governor Tom McCall signed into law in 1973. At that time, farming and timber harvesting were the state’s largest industries and many Oregonians thought eventual development of land for new homes and industries would displace these economic engines. SB 100 tied local planning to a set of guiding statewide principles. The new law created the [Land Conservation and Development Commission](#) to craft the rules that guide the system.” Source: <https://www.oregon.gov/lcd/OP/Pages/History.aspx>

Due to its long history, the statewide system of land use planning is technically and legally complex reflecting legislative refinements, special interest ballot measures, adoption of rules governing the interpretation and application of the statewide land use goals, and almost 50 years of litigation and court rulings.

The Oregon legislature, in 2009?, adopted [ORS 197.010](#)(2)B which provides:

“Additionally, the land use program should, but is it not required to, help communities achieve sustainable development patters and manage the effects of climate change.”

### III. Relationship between Climate Change and Land Use Planning

Oregon, as of this writing, does not have a statewide land use goal that specifically addresses climate change or carbon emissions. (CO<sub>2</sub> it is not considered a pollutant – regulated under Goal 6, see below). Consequently, local governments, as a part of their comprehensive land use planning process, must rely upon related statewide land use planning goals to address these issues. Those most likely to be effective in reducing carbon emissions and facilitating adaptation are shown in bold:

[Goal 1](#) Citizen Involvement

[Goal 2](#) Land Use Planning

[Goal 3](#) Agricultural Lands

[Goal 4](#) Forest Lands

[Goal 5](#) Natural Resources, Scenic and Historic Areas, and Open Spaces

**[Goal 6](#) Air, Water and Land Resources Quality**

**[Goal 7](#) Areas Subject to Natural Hazards**

[Goal 8](#) Recreational Needs

[Goal 9](#) Economic Development

[Goal 10](#) Housing

**[Goal 11](#) Public Facilities and Services**

**[Goal 12](#) Transportation**

**[Goal 13](#) Energy Conservation**

**[Goal 14](#) Urbanization**

### IV. An Example

One of the CPC's projects priorities may be useful to demonstrate how climate priorities can be integrated and effectively implemented through the comprehensive plan.

CPC project: "understand current policy regarding health impacts from extreme heat and other climate impacts and make policy recommendations."

Extreme heat is not addressed in the City's Comprehensive Plan, Environmental Resources Element (which includes natural hazards). Goals and policies to address and minimize the adverse effect of increasing summer-time temperatures are not included.

An example of what might be included in the Comprehensive Plan and the City's Development Code follows.

Comprehensive Plan: Natural Hazard, Extreme Heat

Background (this is illustrative and not intended to serve as comprehensive plan text):

“Keith Oleson of the National Center for Atmospheric Research in Boulder, Colorado [looked at what might happen](#) if every roof in large cities around the world were painted white, raising their reflectivity — known to climate scientists as albedo — from a typical 32 percent today to 90 percent. He found that it would decrease the urban heat island effect by a third — enough to reduce the maximum daytime temperatures by an average of 0.6 degrees C, and more in hot sunny regions such as the Arabian Peninsula and Brazil.

“Other studies suggest even greater benefits in the U.S. In a [2014 paper](#), Matei Georgescu of Arizona State University found that “cool roofs” could cut temperatures by up to 1.5 degrees C in California and 1.8 degrees in cities such as Washington, D.C.” source:

<https://e360.yale.edu/features/urban-heat-can-white-roofs-help-cool-the-worlds-warming-cities>

Goal: Minimize the adverse impacts to health, safety and welfare of Ashland residents due to extreme temperatures.

Policy 1) Develop a uniform and effective program of development code requirements, incentives, and public education to maximize the benefits of white roof installation on new and existing buildings in Ashland.

Policy 2) Provide for the integration of Firewise building materials into roof construction and replacement roofing.

The City’s Development Code could potentially include language:

- 1) Requiring shading on south facing windows (either through landscaping or mechanical shading),
- 2) Requiring light colored roofing (new construction and replacement roofs) with an “A” fire rating or “green roofs.”
- 3) Requiring heat pumps in new construction.

Without adoption of comprehensive plan goals and policies similar to those listed above, the City’s authority to enforce that above code requirements would not be sustained on an appeal to the Oregon Land Use Board of Appeals, [LUBA](#) (the court of review for appeals of local land use decisions). LUBA would find that the Development Code provisions were not supported by goals and policies contained in the City Comprehensive Land Use Plan. It bears noting that the [Oregon Natural Hazards Mitigation Plan](#) specifically acknowledges “extreme heat” as a natural hazard for southwest, mid-Columbia, northeast and southeast Oregon (see Table 2-1, page 70).

## V. Conclusion

The integration of climate related policy priorities into future land development projects, whether private or public, relies upon inclusion of “new” policies in the City’s comprehensive plan and subsequent reflection in the development code. State land use goals don’t allow the City to regulate carbon emissions but it is possible, in fact desirable, to address related issues to the degree possible within the City’s comprehensive plan and development code through related elements (as listed in Section III).