

Policy 7.1.1 Limit loss of life and damage to property from natural hazards by regulating or prohibiting development in areas of known or potential hazards.

Policy 7.1.8 Provide standards in City Codes for planning, reviewing, and approving development in areas of potential landslides that will prevent or minimize potential landslides while allowing appropriate development.

Policy 7.1.9 Locate, design, and construct structures in conformance with current building codes and standards for seismic-resistant design.

Policy 7.1.11 Prioritize roadways needed for public service, medical, and emergency vehicles during emergencies.

Finding: This proposal makes no changes to the City's development regulations or inventories of air, water, and land resources, nightlighting, noise or natural hazards. The proposed annexation code amendments may assist in identifying potential impacts to these resources at the time of annexation application (Goal 6).

Goal 8: Parks and Recreation

Policy 8.1.1 Provide an active neighborhood park-type facility and community park-type facility within a reasonable distance from residences, as defined by the Oregon City Park and Recreation Master Plan, to residents of Oregon City

Policy 8.1.5 Identify and construct a network of off-street trails throughout the city for walking and jogging.

Policy 8.1.6 Provide land for specialized facilities such as sports fields and indoor recreational facilities.

Policy 8.1.9 Emphasize retaining natural conditions and the natural environment in proposed passive recreation areas.

Policy 8.1.12 Identify and protect land for parks and recreation within the Urban Growth Boundary.

Policy 8.1.14 Require or encourage developers to dedicate park sites as part of the subdivision review process. When possible, require or encourage developers to build parks to City standards and give them to the City to operate and maintain.

Finding: The proposed annexation code amendments may assist in identifying potential parks and recreation lands at the time of annexation application. All such lands that have been identified as potential parks and recreation areas have been identified in the various concept plans adopted for urban growth expansion areas (Goal 8).

Goal 10: Housing

Policy 10.1.1 Maintain the existing residential housing stock in established older neighborhoods by maintaining existing Comprehensive Plan and zoning designations where appropriate.

Policy 10.1.3 Designate residential land for a balanced variety of densities and types of housing, such as single-family attached and detached, and a range of multi-family densities and types, including mixed-use development.

Policy 10.1.4 Aim to reduce the isolation of income groups within communities by encouraging diversity in housing types within neighborhoods consistent with the Clackamas County Consolidated Plan, while ensuring that needed affordable housing is provided.

Policy 10.1.7 Use a combination of incentives and development standards to promote and encourage well-designed single-family subdivisions and multi-family developments that result in neighborhood livability and stability.

Policy 10.2.2 Allow increases in residential density (density bonuses) for housing development that would be affordable to Oregon City residents earning less than 50 percent of the median income for Oregon City.

Finding: This proposal makes no changes to the Comprehensive Plan, zoning, or land use designations for lands within the Metro Urban Growth Boundary. The City's buildable land supply – those lands currently designated and identified for development as set forth in the City's adopted Housing Needs Analysis or Buildable Lands Inventory - will remain unaffected by this change. The proposed amendments will not alter the City's residential land supply in terms of its types, locations and affordability ranges in any respect. Because these amendments have no effect on the City's overall supply of land, these comprehensive plan policies are either inapplicable or they are met. With respect to Policy 10.2.2, the amendments specifically identify the provision of housing as an objective that satisfies "the best interests of the City" annexation factor.

The Fair Housing Council of Oregon (FHCO) and Housing Land Advocates (HLA) submitted written comments raising concerns that the proposed annexation amendments would impact the City's residential land supply and development standards in a way that contravenes Goal 10. The City Commission provides the following findings in response to those concerns.

First, there is an outstanding question about whether Goal 10 applies directly to this code amendment. As already stated, no Comprehensive Plan text or map changes are proposed. Therefore, the Statewide Planning Goals do not apply by virtue of ORS 197.175(2)(a). The City's Comprehensive Plan has been acknowledged to fully implement Goal 10. These amendments need comply with the applicable comprehensive plan policies and nothing more. ORS 197.175(2)(d) and (e). *See also Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139, 170-71 (1998), *aff'd* 158 Or App 1, 970 P2d 685 (1999).

Second, Goal 10 is inapplicable for the same reason why most, if not all, of the City's Goal 10 plan policies are inapplicable; the amendments do not alter the City's inventory of buildable lands. In a very old case, *Homebuilders Association of Corvallis v. City of Corvallis*, the Homebuilders challenged a Corvallis ordinance requiring voter approved annexation, arguing that it would add unreasonable cost, variability, and delay in the provision of housing, in violation of Goal 10. (the Corvallis ordinance implemented the voter approval charter limitation triggering SB 1573 and the litigation that followed.) LUBA agreed that the ordinance added uncertainty to the annexation process, but that uncertainty alone did not constitute a violation of Goal 10. 1 Or LUBA 14 (1980), *aff'd* 49 Or App 576, 620 P2d 67 (1980). LUBA's holding makes sense given that Goal 10 is directed at retaining a needed housing inventory and, if there is a shortfall, zoning lands as necessary to ensure a diversity of needed housing

options and makes no mention of restricting local government abilities to manage for efficient and orderly growth.

Finally, to the extent that Goal 10 applies, it is satisfied because the amendment injects greater clarity and predictability into the annexation process. First, the amendments identify precisely which public services and infrastructure availability necessary to serve the development must be analyzed. It requires that all calculated infrastructure and service demand be included within the City's adopted utility or transportation master plans. Further, these amendments require the identification of infrastructure funding sources necessary for construction allowing for orderly and efficient growth. Finally, by requiring master plan review as an additional step for any annexation over 5 acres, the City will have an additional opportunity to conduct a site-specific evaluation of not just the public utility adequacy, but also to ensure that parks, natural areas, and whatever existing historic and cultural resources that may exist are protected for the public's benefit. Everyone deserves adequate public amenities and as a result, planning for and ensuring the provision of complete communities does further the City's equity objectives.

As noted above, all of the City's infrastructure master plans have been updated to include service to all of the lands adjacent to the City and within the urban growth boundary at planned and zoned densities. These plans remain in effect regardless of this refinement of the City's annexation criteria and will continue to be revised in future when changes in planned density or services dictate doing so and whether such a such updating has occurred in advance is a factor that the City Commission should consider when evaluating an annexation proposal.

The City also received testimony from the Home Builders Association of Metropolitan Portland arguing that the proposed amendments violate the clear and objective standards set forth in ORS 197.307(4). ORS 197.307(4) is triggered when reviewing requests for the "development of housing." As a general matter, annexation applications are rarely, if ever, coupled with an application to develop housing (i.e. a "permit"). For that reason alone, ORS 197.304 does not apply. Further, annexation is fundamentally different from other land use reviews in that it is largely political. The traditionally political nature of annexation is directed at whether or where to change its jurisdictional boundaries is a question solely of self-determination. SB 1573 elimination of voter approval in particular circumstances does not prohibit a city from determining whether a proposal otherwise complies with the otherwise adopted ordinances including the annexation factors set forth in OCMC 14.04.

Goal 11: Public Facilities

Policy 11.1.1 *Ensure adequate public funding for the following public facilities and services, if feasible:*

Transportation infrastructure • Wastewater collection • Stormwater management • Police protection • Fire protection • Parks and recreation • Water distribution • Planning, zoning and subdivision regulation • Library services • Aquatic Center • Carnegie Center • Pioneer Community Center • City Hall • Buena Vista House • Ermatinger House

Policy 11.1.2 *Provide public facilities and services consistent with the goals, policies and implementing measures of the Comprehensive Plan, if feasible.*

Policy 11.1.3 *Confine urban public facilities and services to the city limits except where allowed for safety and health reasons in accordance with state land-use planning goals and regulations.*