

**CHAPTER X**

**GENERAL IMPLEMENTATION**

## GENERAL IMPLEMENTATION

### INTRODUCTION

Since zoning was first established in New York City in 1915, land use regulation has evolved into a fairly sophisticated network of many techniques and strategies. Several techniques applicable to Jacksonville are included because in most instances, the comprehensive plan will not implement itself, although Oregon court cases emphasize that a comprehensive plan is in fact the controlling land use planning instrument for a city.

The techniques presented will not all be effectuated immediately. Some may never be enacted and others may not be put to use for several years. They are presented to outline possible strategies and courses of action that may be desirable in the future.

### INVENTORY OF IMPLEMENTATION TECHNIQUES

Jacksonville has a long-standing tradition of enacting and enforcing very stringent design regulations and land use laws. This tradition has caused property values to rise at faster rates and to higher levels than for a majority of surrounding jurisdictions. This value enhancement is largely attributable to the preservation and protection restrictions, just as there is a premium attached to an upscale planned unit development through the application of a stringent set of the codes, covenants, and restrictions. The City intends to protect and preserve the quality of life and social benefits that accrue to its citizens by continued implementation of the existing regulatory framework and hereby recognizes the value enhancements that accompany such regulations.

#### Regional Planning

Jacksonville participates in a multi-jurisdictional effort to evaluate issues common to the Greater Bear Creek Valley. The Rogue Valley Council of Governments coordinates a Regional Problem Solving effort authorized by State Statute to provide a more local approach to finding solutions to area wide problems. Solutions are not required to fall within all provisions of the Oregon Administrative Rules, although they must remain consistent with the Oregon Revised Statutes.

The Regional Problem Solving effort permits flexibility in land use allocations from one city to another, and it seeks to preserve the best farmland in the region while identifying land that may be available in the long term for eventual urban growth. The probable result of regional planning will be the designation of areas where future growth may occur around the Region's various jurisdictions, where key infrastructure improvements need to be made, and where growth should not occur (simultaneously applying some protective/incentive measures such as buffer designations to keep growth out of those areas).

Within the growth or Urban Reserve areas, Urban Growth Boundary expansions will take place. Urban Growth Boundaries (UGB) are an Oregon innovation that defines where growth will occur over the next twenty years. Once a property is within a UGB, it may apply for annexation. If outside, it may not.

## Comprehensive Plan

The Comprehensive Plan establishes the following broad land use categories that are depicted on the Comprehensive Plan Map. The Comprehensive Plan Map is a site-specific graphic representation of the pattern and distribution of desirable future land uses within the city.

### **Residential**

Border Residential - (One-half acre to five-acre size minimum.) Areas designated for border residential are peripheral to the more dense village center of Jacksonville. Because of levels of service or other natural or developmental factors, these areas are best suited to large lot sizes. These areas will also likely require emphasis on buffering from resource uses. Minimum lots area in the BR zone is determined based on the topographic nature, service availability, surrounding land uses, and the relevance characteristics of the area.

Hillside Residential - (One-half acre to five acre lot size minimum.) Hillside residential are generally characterized by steep slopes, sparse development, erosion hazards, soil limitations for building foundations and road construction and frequently, are not served with municipal sewer and water service. Special development treatments are necessary to reduce fire hazards. These areas possess some opportunities for large acreage homesites and cluster type development, although many of the areas are generally undevelopable. Minimum lots area in the HR zone is determined based on the topographic nature, service availability, surrounding land uses, and the relevance characteristics of the area.

Single-Family Residential - (6,000 - 12,000 square feet per dwelling unit.) This is the principal residential comprehensive plan designation. Most developed and developable areas fall within this category which is typified by traditional single family subdivisions and planned development. The areas designated Urban Single Family Residential are generally characterized by flat to gently sloping topography, served by municipal sewer and water service and not unduly impacted by other factors which inhibit urban level development.

Multi-Family Residential - (5,000 square feet for two-family dwellings, plus 2,400 square feet for each additional dwelling unit.) These areas are in proximity to the central portion of the city and adjacent to the elementary school on Hueners Lane. The Multiple-Family Residential designation has been applied in many cases as a transition area separating commercial uses from the school and more sensitive residential areas. The corresponding Multiple-Family Residential (MF) zoning district provides performance standards for a variety of residential uses, community services, and appropriate professional business and service offices. This designation is, therefore, established to provide low density, multiple family developments to serve the needs of low to moderate income households and the elderly, as well as provide for a compatible mixture of professional service uses. Areas designated Multiple Family Residential are characterized by generally flat topography and little or no physical development constraints. Existing mobile home parks within city limits and the urban growth boundary also fall within this designation.

Planned Unit Development (Residential Density of 5.5 units per acre.) The Planned Unit Development approach is to enable a greater degree of flexibility in the design of urban development than would otherwise be possible under the strict requirements of the development code. Provisions of this category are intended to promote more creative and imaginative design for urban development, promote the preservation of important natural features, viewsheds, and scenic qualities of the land, to promote a geographic intermixing, and to promote a mixture of land use and housing types.

## **Specialized**

**Historic Core** - The area designated Historic Core is generally the central business district, recognized as a National Historic Landmark. A minimal amount of development will occur in this area, although restoration and rehabilitation is appropriately encouraged and will take place.

**General Commercial** - Beyond the historic core area, there is a need to provide for the basic commercial needs of a growing population. Historically, this need has been fulfilled along Highway 238 in the northern portion of the city. This area, separated into two distinct nodes, is only partially developed and will generally intensify to meet the city's future commercial needs, supplemented by the provision of professional services in the Urban Multiple Family Residential areas. In addition to the wide variety of commercial uses that will be permitted within these areas, there will also be provision for light industrial uses of a compatible, low intensity and unobtrusive nature.

**Cottage Industrial** – The purpose of the Cottage Industrial designation is to permit a variety of small-scale manufacturing uses in an aesthetic environment that allows residents to conduct businesses from their property while having a minimal effect on their surroundings. Performance standards ensure compatibility with the surrounding area.

### **Special Protection District**

The Special Protection District is intended to provide the following objectives:

- A. To preserve and protect historic sites, parks, open spaces, scenic resources, and public and semi-public facilities such as schools, along with significant fish and wildlife habitat, watersheds and other natural resources within the city;
- B. To enhance and enrich the city's urban character so as to promote the emotional and physical well-being of present and future citizens.
- C. To protect the historic integrity of Jacksonville and provide the recreational and educational opportunities necessary to facilitate economic development through tourism.

### **Comprehensive Plan Map Interpretation**

The Comprehensive Plan map is designed to illustrate and guide the future transition of land from one use to another; in cases where the Comprehensive Plan and Zoning Ordinance Map are the same, no future land use change is contemplated during the planning period; in cases where the two maps differ, it is anticipated changes will occur during the planning period and the land will convert to a use in conformance with the Comprehensive Plan Map. In this respect, it should be pointed out the Comprehensive Plan Map is the controlling document governing land use within the city and urban growth boundary on a long range basis, and the Zoning Ordinance Map simply establishes current allowable land uses. Changes in zoning designation must be in conformance with the Comprehensive Plan Map. In those rare instances when it is found desirable to amend the Zoning Ordinance Map to a designation not in conformance with the Comprehensive Plan Map, formal amendment must also be made to the Comprehensive Plan Map, and those changes must conform to the spirit and intent of the Statewide Land Use Planning Goals.

## Zoning

Essentially, zoning is a means of ensuring that the land uses of an area are properly situated in relation to one another. It provides adequate amounts of space for each type of development. It allows for the control of development density so that the property can be adequately utilized without causing undue stress on the natural or cultural environment. This allows the directing of new growth into appropriate areas where public facilities and services exist or can be reasonably provided. It is necessary that zoning be used in a coordinated manner with other devices, such as subdivision regulations, to promote orderly growth. Zoning and subdivision ordinances, among other techniques, have been combined into a single overall Unified Development Code in Jacksonville. Although this has not generally changed the purpose or intent of the various ordinances, it has provided for a more concise and more readily understood assembly of land use regulations.

Most present day zoning enabling legislation is based upon the U.S. Department of Commerce 1924 Standard Zoning Enabling Act which defines zoning as the division of a governmental unit into districts and the regulation within those districts of:

1. The height, bulk, design and site orientation of buildings and accessory structures.
2. The area of a lot or parcel which may be occupied by structures and the size of required open spaces.
3. The density of development and the overall population.
4. The use of land for each of the basic land uses.

Conflicts among the various land uses may occur at the interface where various zoning districts change - for example, where residential districts end and commercial districts begin. Such conflicts also occur where rural lands lying outside city limits and the urban growth boundary interface with urban uses within the city. The following matrix will help identify potential conflicts among the various city and county uses. Although land use conflicts arise where the transition is made from one use to another, sensitive design coupled with reasonable buffering considerations can ease the transition in most cases. Therefore, impact between land uses is a question of degree and certain uses, although basically compatible, still require a certain degree of wise design to ensure that the transition area intelligently separates the two uses. Other uses simply should not be mixed when possible. Out of necessity, however, certain uses must at times interface. When this circumstance occurs, all necessary and reasonable buffering techniques must be employed to minimize adverse impacts and general conflicts as much as possible.

The following list of techniques, although not intended as all inclusive, can be used separately or in combination, to ensure a compatible transition among urban uses and between urban and rural uses:

1. **Spatial Separation.** The provision of distance in the form of setbacks between conflicting uses.
2. **Screening.** Screening is simply the use of fencing, solid walls or landscaping used to create a visual separation between conflicting uses.

3. Use Separators. Transitional uses such as parking areas and common open space are uses that may be employed in transition areas to separate conflicting functional uses while maintaining some accessory or incidental use of the transition area.
4. Berming or Mounding. Where noise and visual impacts are evident, berming can provide both a visual and noise buffer, as well as provide for a spatial separation.
5. Architectural Design. In certain instances, structural design may be employed to limit those features such as doors and windows on the sides of structures which abut or face the conflicting use.

Zoning by parcel size restrictions and use is by far the most popular and accepted type of zoning used. Another commonly used zoning device is density zoning. It establishes a maximum density for an area, usually in acreage required per dwelling unit and then allows the clustering of units so long as the overall density standard is maintained; this is commonly implemented through Planned Unit Developments described below.

Performance zoning is another alternative technique that regulates land use through performance standards rather than zoning restrictions. Under performance zoning, a community establishes districts on the basis of standards for noise, bulk of structures, and other factors. Jacksonville has three zones that include elements of performance zoning: HC (Historic Core), MF (Multiple-Family Residential, and GC (General Commercial). In the Historic Core zone, for example, commercial, educational, professional, and residential uses are possible, but are subject to a list of standards intended to preserve and enhance the unique character of the district.

### **Subdivision Regulations**

The earliest communities in this country were laid out by royal directives. A principal ingredient of most such directives was a map of the street system, typically a grid-iron pattern. From these early beginnings grew the U.S. Department of Commerce 1928 Standard City Planning Enabling Act, which gave birth to the modern subdivision ordinance. Subdivision regulations are locally adopted laws governing the process of converting raw land into buildable sites. This is normally accomplished by plat map review and approval procedures. As a practical matter, much subdivision regulation is treated as a bargaining process between a developer who desires cost effective standards of development, and the governing body which must protect the general public interest.

Subdivision regulations may serve a wide range of purposes. They enable the coordination of otherwise unrelated plans of numerous individual developments and in this process ensure that adequate provision is made for such major features of the comprehensive plan as rights-of-way for streets and utilities, parks, schools, and public facilities such as sewer and water. Subdivision regulations also provide a measure of control over internal design to ensure that the pattern of streets, lots and other public facilities will be safe, convenient, pleasant and economical to maintain. To be most effective, subdivision regulations and their administration must be closely coordinated with other local policies, ordinances and activities.

A common requirement for approval of a subdivision plat is the dedication of a certain percentage of each subdivision for permanent open space or other needed public facilities, or a payment in lieu thereof. The required dedication is justified on the grounds that each subdivider should provide community facilities in relation to the demand generated by the development.

Subdivision regulations can also incorporate performance standards to affect the appearance, quality, ecology, energy efficiency and solar orientation of an area by requiring that specific standards be met. When integrated with Planned Unit Development process, the subdivision ordinance should allow for optimal innovation and design flexibility.

### **Planned Unit Development/Cluster Housing**

Clustering is the development pattern and technique wherein structures are arranged into closely related groups. Instead of distributing houses uniformly over an entire area, clustering enables a developer to build at higher densities in certain locations and to preserve natural features in others. Cluster development requires a greater degree of skill to implement than does conventional subdivision planning. However, cluster arrangements offer a greater overall land use efficiency and more land in common open space. Open space held in common is typically managed through a homeowners' association.

Planned Unit Development (PUD) is an extension of cluster planning. The concept basically involves a mixture of densities, housing types and land uses. It may also include land uses of a cultural or recreational character. Like cluster planning, residential density, averaged over the entire area being planned, offers overall development control rather than individual lot regulations based on size and setback. The concept also allows a level of creativity and innovation of design not possible in conventional subdivisions. Generally, the advantages of planned unit developments include:

1. Building cost reduction.
2. Reduced costs for providing public facilities to the development since fewer streets are needed than for servicing scattered sites.
3. Preservation of larger amounts of open space.
4. Innovative design flexibility.
5. More compatible land use mixtures.

### **Special Review Committees**

Special programs headed by committees or commissions are often used for purposes of site plan review, historical and architectural review, parks review, or a combination of these and other matters of concern to a community. These committees are normally afforded broad guidelines for review and discretion is required to ensure that development pays close attention to community standards and detail. In some cases, more than one special review committee, in addition to the Planning Commission, is consulted for a recommendation. Often this creates delays and while necessary, communities should seek to streamline special review procedures and consolidate the interests of various committees into a single, well-organized and clearly defined review process.

### **Building Code**

The building code is designed to protect the health and safety of people using property and structures designed for human occupation. A variety of standards are contained in the Uniform Building Code (UBC) which relate to structural strength, fire safety, sanitation facilities, light, ventilation and room sizes. The UBC, in most cases, sets the minimum requirements for a

structure and can often be supplemented to provide for other local needs. Such needs often relate to standards for the energy efficiency of structures. In Jacksonville, the Building Inspector is directed to interpret building codes in such a way as to provide the greatest degree of flexibility for the preservation of historic structures.

### **Fire Code**

The Uniform Building Code incorporates structural standards to ensure that buildings are constructed to resist damage or destruction by fire. The Fire Code establishes additional standards to ensure public safety. It establishes occupancy limits and location of fire extinguishers in public places. Again, in Jacksonville, the Fire Chief is directed to interpret building codes in such a way as to provide the greatest degree of flexibility for the preservation of historic structures.

### **Code Enforcement**

Generally, code enforcement protects the public health, safety and welfare by preventing the deterioration of structures and by ensuring adherence to the community standards embodied by the comprehensive plan and implementing ordinances. In Jacksonville, care and discretion must be exercised to ensure that code enforcement furthers the historic character of the City and does not have the effect of threatening the integrity of historical structures.

Code enforcement can be implemented by the combination of two sets of three different levels of action: complaint-driven enforcement, intermittent enforcement, or continuous enforcement; and mitigation of violations, light penalties, or heavy penalties. Of the two sets, due to staffing limitations, current code enforcement in Jacksonville is complaint-driven, with a emphasis on mitigation of violations rather than enforcing penalties.

### **Physical Impact and Maintenance Codes**

The following variety of available devices provide techniques for ensuring the preservation of certain areas and structures in their desired state. Such devices include:

1. Litter control.
2. Weed and insect control, including high grass/ fire hazard suppression.
3. Erosion control.
4. Floodplain control.
5. Grading controls.
6. Affirmative Maintenance of historical structures and features through the Historical and Architectural Review Commission.

### **Capital Improvements Planning and Programming**

In addition to being an effective tool for implementing a comprehensive plan, a Capital Improvements Program (CIP) is an effective means to ensure that public dollars are wisely spent. The investment of public funds in such facilities as streets, utilities, parks, or buildings clearly

has an impact on the pattern of community development. Planning for such public facilities and the announcement of public intentions to acquire properties or schedule construction of new facilities can do much to influence private sector decisions. Since government actions can influence the pattern, timing and standards of private development, a coordinated mechanism for planning and programming public capital investments is desirable to balance competing pressures for limited funds, systematically review project proposals and demonstrate to the taxpaying public that fairness and objectivity are being exercised in public expenditures to achieve identified community goals. With the growing complexities in both financing and development activities, even the smallest units of government need to carefully analyze the way funds are allocated to be sure that they maximize the available dollars. No agency has enough money to accomplish its objectives: so it must have a method for determining priorities.

It is customary to prepare a capital improvements budget and program, revising the entire program as part of the biennial budgetary process. Long-range projects and their estimated costs are normally planned over a period ranging from five to ten years. Various component methods are available to inventory and prioritize projects for capital programming and allocate specific amounts of annual public funding for each.

### **Plan Review and Amendment**

Although the comprehensive plan is designed and intended to be the controlling land use planning instrument to the year 2015, it is important to recognize and effectively deal with major changes in the community. The comprehensive plan reflects the desires of the community at the time it is adopted and must be continually reviewed and revised to keep pace with changing circumstances and community desires and standards.

Decision makers should periodically re-examine the plan and consider, at their discretion, possible amendments to the plan text and generalized land use map. During this process, the thinking that led to the principal concepts of the plan should be weighed against the merits of the proposed changes. This review is the primary mechanism designed to ensure that the plan is kept up to date and not ignored as an obsolete, outmoded or unusable document.

Consistent with the process recommended through Regional Problem Solving, major reconsideration of the plan should occur every ten years and be coordinated with the plan updates for other jurisdictions in the greater Bear Creek Valley. This process should entail an overhaul of the entire plan, including new data inventory, updated forecasts and a major restudy of plan goals, policies and implementation strategies. The following are the basic processes that should be used in reviewing, updating and amending the various components of the Comprehensive Plan, including the Urban Growth Boundary.

**PLAN GOALS, POLICIES, IMPLEMENTATION STRATEGIES, FORECASTS AND DISTRIBUTION-AND-ALLOCATION FORMULAS REVIEW AND AMENDMENT**

- (a) **Primary Responsibility:** City Council, Planning Commission.
- (b) **Initiation of Amendment:** City Council, Planning Commission.
- (c) **Type of Amendment:** Major (Legislative or Quasi-Judicial).
- (d) **Review Responsibility:** Planning Commission, Citizen Advisory Committee, Special Committee(s), Affected Agencies.
- (e) **Final Action:** City Council.
- (f) **Frequency:** Amendments may be proposed at any time subject to initiation. Every fifth year, major text revisions should occur through a broad legislative process. During this five-year review, proposed amendments received during the interim will be considered by the Citizen Advisory Committee and Planning Commission. If compelling reasons for these amendments occur between five-year review periods, a majority vote of the Planning Commission and City Council can authorize immediate initiation of the proposed amendment.
- (g) **Criteria:** Proposed amendments should be considered based upon a finding that one or more of the following standards are met:
  - (1) Updated data manifests significantly different trends than indicated by previous data;
  - (2) New data reflects a new or previously undisclosed public need;
  - (2) New community attitude representing a significant departure from previous attitude is found to exist by the Planning Commission or City Council;
  - (3) Changes in statutory or case law occur which affects the applicability or appropriateness of applicable portions of the plan text;
  - (5) A demonstrable error or inconsistency is found to exist.

Regardless of the previous standards, the proposed amendment must conform to the Statewide Planning Goals and be consistent with other unamended portions of the comprehensive plan.

The proposed amendment will be presented for review to the Citizens Advisory Committee who will forward a recommendation to the Planning Commission. The Planning Commission may at this point elect to hold a public hearing. The proposal will then be sent to all city departments, review committees and affected agencies for review. Upon receiving input from the various review bodies, the Planning Commission may elect to hold a public hearing with proper public notice as set forth in state law or forward a recommendation directly to the City Council.

The City council will hold at least one public hearing with proper public notice as set forth in state law. A majority vote of the City Council is sufficient to enact the amendment.

### **COMPREHENSIVE PLAN MAP REVISIONS**

Changes to the Comprehensive Plan map that have widespread and significant impact upon the immediate area of the change, such as quantitative changes, producing large volumes of traffic; a qualitative change in the character of the land use itself, such as conversion of residential to commercial use; or a spatial change that affects large areas or many different ownerships shall be treated as major amendments. Minor changes to the Comprehensive Plan map which focus on specific individual properties and which do not have significant effect beyond the immediate area of the change. A determination of whether a proposed change is major or minor is made by the Planning Director or City Administrator.

- (a) **Primary Responsibility:** City Council, Planning Commission.
- (b) **Initiation of Amendment:** City Council, Planning Commission. (Minor only) subject property owner.
- (c) **Type of Amendment:** Major (Legislative). Minor (Quasi-Judicial).
- (c) **Review Responsibility:** Planning Commission, Citizens Advisory Committee, Special Committee(s), Affected Agencies.
- (e) **Final Action:** City Council.
- (e) **Frequency:** Amendments may be proposed at any time subject to initiation. Every fifth year, major map revisions will be considered through a broad legislative process. During this five-year review, proposed major amendments received during the interim will be considered by the Citizens Advisory Committee and Planning Commission.

Annually, minor map revisions will be considered on a case by case basis. During this annual review, proposed amendments received during the interim will be considered by the Citizens Advisory Committee and Planning Commission.

If compelling reasons for these amendments occur between review periods, a majority vote of the Planning Commission and City Council can authorize immediately initiation of the proposed amendment.

- (f) **Criteria:** The proposed amendment must.
  - 1) conform to the Statewide Planning Goals and
  - 2) be consistent and compatible with other unamended portions of the comprehensive plan.

The proposed amendment will be presented for review to the Citizens Advisory Committee who will forward a recommendation to the Planning Commission. The Planning Commission may at this point elect to hold a public hearing. The proposal will then be sent to all city departments, review committees and affected agencies for review. Upon receiving input from the various review bodies, the Planning Commission may elect to hold a public hearing with proper public notice as set forth in state law, or forward a recommendation directly to the City Council.

The City Council will hold at least one public hearing with proper public notice as set forth in state law. A majority vote of the City Council is sufficient to enact the amendment

## **URBAN GROWTH BOUNDARY AND URBANIZATION POLICY REVISIONS**

### **Major Revisions**

(a) A major revision shall include any boundary change that would necessitate revisions to the intent of City or County Plan goals, policies, text, and/or that has widespread and significant impact beyond the immediate area.

(b) Major revisions are legislative actions, and will be considered by the City and County whenever deemed necessary by either City or County.

(c) A request for a major revision can be initiated by an individual or group or either jurisdiction. The party seeking the revision shall be responsible for filing adequate applications and written documentation with the City and County governing bodies.

(d) The final legislative action on major revision requests shall be based on the following criteria:

(i) There is a demonstrated need for the change to accommodate updated population trends, to satisfy urban housing needs, to assure adequate employment opportunities, or resolve critical livability issues;

(ii) The proposed change shall allow the orderly and economic provision of key urban and/or public facilities and services.

(iii) The proposed change shall allow the maximum efficiency of land uses within the current urbanizable area;

(iv) The proposed change shall analyze the environmental, energy, economic and social consequences and be found to provide a positive overall benefit;

(v) The proposed change shall be compatible with other elements of the City and County Comprehensive Plans; and,

(vi) The proposed change shall be compatible with Statewide Planning goals.

### **Minor Revisions:**

(a) Minor Revisions to the UGB or AMPC boundary line focus on specific individual properties and do not have a significant impact beyond the immediate area of the proposed change.

(b) Minor Revisions are quasi judicial in nature and may occur annually, unless a different date is agreed upon by both jurisdictions.

(c) Application for a Minor Revision can only be made by the subject property owners, their authorized agents, or by the City or County governing body. Written applications for Minor

Revisions must be filed in both the City of Jacksonville and Jackson County Planning Division Offices, on forms prescribed by each jurisdiction, along with applicable fees.

(d) Approval of a Minor Revision shall be based upon the same criteria required for major revision requests.

(i) The Planning Commissions are required to forward a recommendation and findings on each application to the City and County governing bodies for final consideration.

(ii) The City governing body shall be responsible for the preparation of the actual legal instrument which officially amends the boundary line.

Determination of Major Revisions and Minor Revisions:

The Planning Directors for the City and County are responsible for determining whether an amendment is to be considered through a major revision or a minor revision process, In the event that the Planning Directors cannot agree, the proposal will be forwarded to the respective Planning Commissions for their decision on the matter.