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**I. THE LEGAL FRAMEWORK OF
OREGON LAND USE LAW**

A. (§1.1) Introduction

Land use law means different things to different people in Oregon. For some, it is a defining characteristic of a unique place—one of those things that “makes Oregon, Oregon.” For others, it is a series of administrative hurdles or a regulatory nightmare. This chapter leaves commentary on Oregon’s long-standing land use system to the editorial pages.

The purpose of this chapter is to map the legal framework that upholds Oregon’s land use laws. That framework is premised on the Oregon Legislature finding that “[u]ncoordinated use of lands within this state threatens the orderly development, the environment of this state and the health, safety, order, convenience, prosperity and welfare of the people of this state.” ORS 197.005(1). For better or worse, the Oregon land use system formulates and implements statewide land use policy to avoid such uncoordinated land use.

1. (§1.2) How to Use This Chapter and This Book

This book is intended to serve both experienced land use practitioners and lawyers advising clients on land use matters for the first time. Perhaps the most daunting question for a lawyer in the latter category is where to start researching the matter. The answer depends on the client’s current position and his or her desired result. One client may be a neighborhood group that wants to rezone an area along a stream to restrict future development. Another client may be a contractor who wants to establish a cabinet-making shop next to his or her home, or divide his or her property into two lots. These two clients illustrate the range of land use practice. The former involves land use planning, a public policy process (often lengthy, political, and perhaps contentious) for plans and land use regulations guided by the Oregon Statewide Planning Goals & Guidelines and applicable state or local law. The latter involves implementation of that policy, for example by land use permit approval or denial—that is, demonstrating that a particular use

complies or does not comply with preestablished plans and land use regulations.

NOTE: The statewide planning goals are adopted as administrative rules and are mandatory. Land use planning must comply with the goals. ORS 197.180(1)(a), 197.250. The guidelines, however, are merely suggestions about how a goal may be applied and are not mandatory. *See Oregon Statewide Planning Goal 2, Part III.*

Lawyers specializing in land use will recognize that this book has been significantly revised to add new chapters on federal statutory law (chapter 3), Ballot Measures 37 and 49 (chapter 5), annexation (chapter 8), and ethics in land use practice (chapter 15). Revised chapters treat federal and state constitutional limitations (chapter 2), state and regional planning policies (chapters 4 and 7), and the statewide planning goals (chapters 9–13).

The following chart will help determine where to start in this book. Depending on the circumstances, other chapters may apply as well.

CLIENT GOALS:	POSSIBLE CHAPTER(S) INVOLVED:
Establish outright use, conditional use, or build without design review	Ch. 14, Administrative Law Aspects of Local Proceedings
Build where design review or historic preservation involved	Ch. 14, Administrative Law Aspects of Local Proceedings Ch. 17, Design Review and Historic Preservation
Establish a use and/or build where desired use or building does not meet letter of law	Ch. 14, Administrative Law Aspects of Local Proceedings Ch. 18, Variances and Other Forms of Administrative Relief

§1.2 / Statutory, Administrative Framework

CLIENT GOALS:	POSSIBLE CHAPTER(S) INVOLVED:
Continue a use that was established, or commenced but not completed, before current land use law prevented it	Ch. 14, Administrative Law Aspects of Local Proceedings Ch. 19, Nonconforming Uses and Vested Rights
Divide land into two or more parcels	Ch. 14, Administrative Law Aspects of Local Proceedings Ch. 16, Land Divisions
Annex land into a city	Ch. 8, Annexation
Participate in a claim brought under Measures 37 or 49	Ch. 5, Ballot Measures 37 and 49 Ch. 14, Administrative Law Aspects of Local Proceedings
Determine property tax implications of particular zoning	Ch. 6, State Tax Impacts on Land Use
Develop a use that involves federal law, such as the Columbia River Gorge National Scenic Area Act or Americans with Disabilities Act	Ch. 14, Administrative Law Aspects of Local Proceedings Ch. 3, Federal Statutory Law
Appeal a local land use decision to the Land Use Board of Appeals	Ch. 20, Land Use Board of Appeals
Appeal a local decision to a city council, county commission, or hearings officer	Ch. 14, Administrative Law Aspects of Local Proceedings
Enforce land use regulations	Ch. 21, Judicial Remedies and Enforcement