

**26.2.9 LUBA Jurisdiction – Land Use Decision: Statutory Test – Transportation Facility Exception.** Once a city has adopted an access management plan (AMP) as part of its transportation system plan (TSP), future city or ODOT actions to implement the projects described in the AMP might qualify as the type of actions that are exempted from LUBA’s review jurisdiction by ORS 197.015(10)(b)(D) because those actions are the kinds of actions described in ORS 197.015(10)(b)(D) and they are “authorized by and consistent with” the city’s TSP. However, where the city has neither adopted the AMP as part of the TSP or established that the projects described in the AMP are “authorized by and consistent with” the city’s TSP, a city decision to approve the AMP is not exempted from LUBA’s review jurisdiction by ORS 197.015(10)(b)(D). *Rhodes v. City of Talent*, 47 Or LUBA 574 (2004).

**26.2.9 LUBA Jurisdiction - Land Use Decision: Statutory Test - Transportation Facility Exception.** Under OAR 660-012-0040(4), LUBA does not have jurisdiction to review “timing and financing provisions” in a transportation financing program. However, LUBA does have jurisdiction to review a city decision that determines that a particular facility alternative is consistent with its transportation system plan, notwithstanding that such a decision may be driven in part by timing or financing considerations. *Ramsey v. City of Philomath*, 46 Or LUBA 241 (2004).

**26.2.9 LUBA Jurisdiction – Land Use Decision: Statutory Test – Transportation Facility Exception.** Where a city imposes conditions of approval requiring external street improvements as part of a land use decision approving a conditional use permit, the aspects of the decision requiring external street improvements are not subject to the exception to the definition of land use decision at ORS 197.015(10)(b)(D), notwithstanding that if the required improvements were imposed in a separate decision not involving conditional use approval, those improvements might fit within the exception. *Terra v. City of Newport*, 36 Or LUBA 582 (1999).

**26.2.9 LUBA Jurisdiction - Land Use Decision: Statutory Test - Transportation Facility Exception.** Decisions which would otherwise be statutory land use decisions, but which involve the design, construction, operation, maintenance or repair of roads, are exempt from the statutory definition of land use decision and, therefore, not subject to LUBA's jurisdiction. *Leathers v. Washington County*, 31 Or LUBA 43 (1996).

**26.2.9 LUBA Jurisdiction - Land Use Decision: Statutory Test - Transportation Facility Exception.** Local government decisions granting design review approval for segments of a light rail transit (LRT) line which do not approve final *engineering* design or construction of the LRT facility are not within the exception to the definition of "land use decision" established by ORS 197.015(10)(b)(D). *Tri-County Metro. Trans. Dist. v. City of Beaverton*, 28 Or LUBA 78 (1994).