

36.8 Nonconforming Uses – Regulation. Where a local government decision appears to authorize a nonconforming use and additional dwelling without notice or findings to support those approvals, LUBA will remand the decision. *DLCD v. Curry County*, 33 Or LUBA 728 (1997).

36.8 Nonconforming Uses – Regulation. When a local government determines a use is a nonconforming use, it must establish the parameters of the nonconforming use. Any changes in the nonconforming use after it became nonconforming, are governed by the code provisions controlling changes of nonconforming uses, not by former code performance standards applicable to the use before it became nonconforming. *Spathas v. City of Portland*, 28 Or LUBA 351 (1994).

36.8 Nonconforming Uses – Regulation. Although ORS 92.017 requires that legally established lots continue to be recognized as individual, separately transferable lots, even where subsequent changes in land use regulations make those lots nonconforming, a local government may impose land use regulations requiring that two or more of such nonconforming lots be combined for development purposes. *Campbell v. Multnomah County*, 25 Or LUBA 479 (1993).

36.8 Nonconforming Uses – Regulation. A local government interpretation of a code "lot of record" provision as allowing legally created but now substandard lots to be separately developed if adjoining lots are held in separate ownership or if the lots were shown on a plat of record prior to the date the relevant zoning requirements took effect is reasonable, and LUBA will defer to that interpretation. *Campbell v. Multnomah County*, 25 Or LUBA 479 (1993).

36.8 Nonconforming Uses – Regulation. Where a local government correctly determines that a parking lot is a nonconforming use, and was not automatically made an approved conditional use under applicable code provisions, it commits no error in failing to apply plan and code provisions that would apply to expansion of the parking lot if it were correctly viewed as a conditional use. *Glisan Street Assoc., Ltd. v. City of Portland*, 25 Or LUBA 116 (1993).

36.8 Nonconforming Uses – Regulation. The statutory provisions set out at ORS 215.130 governing regulation of nonconforming uses apply to counties, not to cities. *Hood River Sand v. City of Mosier*, 24 Or LUBA 381 (1993).

36.8 Nonconforming Uses – Regulation. Where a challenged ordinance requires discontinuation of a use after expiration of a five year amortization period, but also allows a property owner to apply for hardship relief if such property owner can substantiate that an investment made exclusively in the nonconforming use cannot be adequately amortized within the five year period specified by such ordinance, property owners have no basis to contend their property has been taken until they have applied for and been denied the hardship relief. *Cope v. City of Cannon Beach*, 23 Or LUBA 233 (1992).