

**40. Wetlands.** Where a county has an acknowledged Goal 5 program, which includes an acknowledged inventory, and rural wetlands are included in a special category that is not part of that inventory, amendments to the county's ordinance that modify protections to rural wetlands do not change the county's procedures for inventorying Goal 5 resources and do not conflict with Goal 5 because they continue to provide interim protection of resources in a special category. *Redland / Viola / Fischer's Mill CPO v. Clackamas County*, 33 Or LUBA 152 (1997).

**40. Wetlands.** City's interpretation of local wetland mitigation policy to "preserve wetland habitat" as allowing replacement of 0.05 acres of existing wetland with a larger wetland area is not clearly wrong and must be affirmed. *Noble v. City of Fairview*, 30 Or LUBA 180 (1995).

**40. Wetlands.** Where a local code requires a "recreation/open space area" as part of a mobile home park, it is reasonable for the local government to interpret "recreation/open space area" to include wetlands. *Burghardt v. City of Molalla*, 29 Or LUBA 223 (1995).

**40. Wetlands.** Where post-acknowledgment legislative land use regulation amendments make portions of a county's acknowledged program for wetlands protection inapplicable to rural wetlands, the county must demonstrate, either in the decision or through argument and citations to the record in its brief, that with regard to rural wetlands, the amendments result in a program that complies with Goal 5 and the Goal 5 rule. *Redland/Viola CPO v. Clackamas County*, 27 Or LUBA 560 (1994).

**40. Wetlands.** If a county implements ORS 215.418(1) by providing in its code that it will notify DSL of "developments" in wetlands identified on the Statewide Wetlands Inventory, it must interpret "developments" consistently with the types of development applications and approvals for which such notice is required by ORS 215.418(1)(a)-(e). *Redland/Viola CPO v. Clackamas County*, 27 Or LUBA 560 (1994).

**40. Wetlands.** Where the local code prohibits residential, but not commercial or industrial, development in certain wetlands, and includes density transfer provisions for residential developments limited by wetlands, but not for commercial or industrial developments, there is a rational basis to justify the disparate code treatment of residential versus commercial or industrial developments. *J.C. Reeves Corp. v. Clackamas County*, 27 Or LUBA 318 (1994).

**40. Wetlands.** Where petitioner fails to identify applicable legal standards regarding wetlands or explain why the proposal violates such applicable legal standards, petitioner supplies no basis for reversal or remand of the challenged decision. *City of Barlow v. Clackamas County*, 26 Or LUBA 375 (1994).

**40. Wetlands.** That an approved wetland mitigation plan includes property that was not within the development application, does not mean that a local government may not rely upon the wetland mitigation plan as a condition of approval of the development application. *Choban v. Washington County*, 25 Or LUBA 572 (1993).

**40. Wetlands.** Where a comprehensive plan policy specifically refers to wetlands identified in "future inventorying processes," it is reasonable for the local government to interpret that plan policy as inapplicable to individual permit decisions not involving wetlands identified on the local government's acknowledged plan inventory. *Frankton Neigh. Assoc. v. Hood River County*, 25 Or LUBA 386 (1993).

**40. Wetlands.** ORS 197.279(2) establishes the procedures required for adoption of a wetland conservation plan. A local government's failure to adopt a wetland conservation plan, provides no basis for reversal or remand of a challenged decision, because local governments are not required to adopt such plans. *Clarke v. City of Hillsboro*, 25 Or LUBA 195 (1993).

**40. Wetlands.** Where the local code includes an exception to the term "wetland" for wetlands created by "human activity as part of an approved development project," and there is no dispute that the subject wetland was created with the knowledge and consent of the local government, it is clearly wrong for the local government to fail to consider whether the wetland is within the local code exception. *Annett v. Clackamas County*, 25 Or LUBA 111 (1993).

**40. Wetlands.** Where a local decision maker relies on prior nonspecific and equivocal testimony concerning the location and presence of wetlands, in place of a well documented specific expert study, and adopts no findings explaining that choice, the challenged decision is not supported by substantial evidence. *Reeder v. Clackamas County*, 23 Or LUBA 583 (1992).

**40. Wetlands.** A local government decision adopting a proposed wetlands conservation plan for subsequent submittal to the director of Division of State Lands is not a final decision. *Blatt v. City of Portland*, 21 Or LUBA 510 (1991).

**40. Wetlands.** An ordinance which adopts a natural resources management plan (NRMP) pursuant to local code provisions is a *final* decision with regard to adoption of a NRMP, even though the NRMP is also a *proposed* wetlands conservation plan and is submitted to the DSL for approval as such. *Blatt v. City of Portland*, 21 Or LUBA 510 (1991).