25.4.6 Local Government Procedures – Compliance with Local Ordinances/Regs – Changes in Law. When the state administrative rules applicable to a comprehensive plan amendment are amended during the local proceedings, raising the issue of compliance with the old administrative rules is not sufficient under ORS 197.763(1) and ORS 197.835(3) to raise the issue of whether the application complies with the new provisions of the amended rules. *Walker v. Josephine County*, 60 Or LUBA 186 (2009).

25.4.6 Local Government Procedures – Compliance with Local Ordinances/Regs – Changes in Law. ORS 215.750 does not prohibit a local government from applying a local code provision requiring an applicant for a forest template dwelling to demonstrate that the dwelling is "necessary for and accessory to" the forest use. *Greenhalgh v. Columbia County*, 54 Or LUBA 626 (2007).

25.4.6 Local Government Procedures – Compliance with Local Ordinances/Regs – Changes in Law. The purpose and intent of ORS 227.175(2) is to facilitate the processing of development proposals that require multiple applications by consolidating permit reviews that will apply existing laws with zone changes that will alter existing laws. *NE Medford Neighborhood Coalition v. City of Medford*, 53 Or LUBA 277 (2007).

25.4.6 Local Government Procedures – Compliance with Local Ordinances/Regs – Changes in Law. A 1979 board of county commissioners decision directing the county planning department to issue septic and building permits for a single-family dwelling does not necessarily confer a continuing right to construct a dwelling where no permits were ever issued, no steps have been taken to construct the approved development, and county approval standards have changed in the years since the 1979 decision such that the proposed development no longer complies with applicable criteria. *PJT, Inc. v. Jackson County*, 42 Or LUBA 536.

25.4.6 Local Government Procedures – Compliance with Local Ordinances/Regs – Changes in Law. Where a county has adopted specific ordinances to shield certain land use permits from subsequent changes in law without regard to whether the permit holder has a vested right to complete construction of the use based on substantial construction of the authorized use prior to the change in law, uses approved by land use permits that are not shielded from subsequent changes in law by the ordinances are not similarly shielded from those changes in law and must comply with existing law. *PJT, Inc. v. Jackson County*, 42 Or LUBA 536.

25.4.6 Local Government Procedures – Local Ordinances/Regs – Changes in Law. When a variance approval is based on a specific finding that the proposed use is permitted in the underlying zone, the variance approval establishes a time frame for constructing the proposed use, and when the applicant applies for the building permit within the allotted time, the city is obligated by ORS 227.178(3) to apply the same "standards and criteria" that were applicable at the time the variance application was submitted. *Gagnier v. City of Gladstone*, 38 Or LUBA 858 (2000).

25.4.6 Local Government Procedures – Local Ordinances/Regs – Changes in Law. ORS 227.178(3) implicitly requires that a city apply a consistent set of standards to the

discretionary approval of the proposed development of land and the construction of that development in accordance with the discretionary approval. A city may not apply one set of standards to the discretionary approval of a proposed development of land and subsequently apply an amended standard to deny a building permit to construct the development in accordance with the discretionary permit. *Gagnier v. City of Gladstone*, 38 Or LUBA 858 (2000).

25.4.6 Local Government Procedures – Local Ordinances/Regs – Changes in Law. The approval of a "permit" under ORS 227.160(2) and 227.178(3) carries with it the right to obtain the building permits that are necessary to build the approved proposed development of land, provided the applicant seeks and obtains those building permits within the time specified in the permit itself or in accordance with any applicable land use regulations that establish a deadline for seeking and obtaining required building permits. *Gagnier v. City of Gladstone*, 38 Or LUBA 858 (2000).

25.4.6 Local Government Procedures – Compliance with Local Ordinances/Regs – Changes in Law. Where a permit authorizing residential use of a property is granted without specifically authorizing a dwelling of any particular height, and detailed building plans are submitted 10 months after the residential permit is approved, the city is not obligated to apply the building height limitation that was in effect when the residential permit was approved. *Rivera v. City of Bandon*, 38 Or LUBA 736 (2000).

25.4.6 Local Government Procedures – Compliance with Local Ordinances/Regs – Changes in Law. A local government may change a prior interpretation that a plan provision is not an approval criterion and apply that plan provision as an approval criterion to a request for permit approval. *Holland v. City of Cannon Beach*, 34 Or LUBA 1 (1998).

25.4.6 Local Government Procedures – Compliance with Local Ordinances/Regs – Changes in Law. The commencement of proceedings to amend a local code provision cannot justify a variance; a variance cannot be granted without reference to variance standards existing at the time the application is submitted. *Krieger v. Wallowa County*, 31 Or LUBA 96 (1996).

25.4.6 Local Government Procedures – Compliance with Local Ordinances/Regs – Changes in Law. ORS 215.428(3), which states that approval or denial of an application shall be based upon the standards and criteria that were applicable at the time the application was first submitted, does not require a local government processing a partition application to proceed as if factual circumstances existing at the time of application remain unchanged. *Petree v. Marion County*, 29 Or LUBA 449 (1995).

25.4.6 Local Government Procedures – Compliance with Local Ordinances/Regs – Changes in Law. Where the standards upon which conceptual development approval was based are changed to disallow the use conceptually approved, and later decisions authorizing a building permit and final development approval for the use are adopted on the basis that the prior standards continue to apply, a petitioner is entitled to challenge the later decisions notwithstanding petitioner's failure to challenge the conceptual

development approval. *Tuality Lands Coalition v. Washington County*, 22 Or LUBA 319 (1991).

25.4.6 Local Government Procedures – Compliance with Local Ordinances/Regs – Changes in Law. Nothing in ORS 215.428(3) requires a county to apply standards in effect at the time one development application is submitted to a distinct and subsequent development application. *Tuality Lands Coalition v. Washington County*, 22 Or LUBA 319 (1991).

25.4.6 Local Government Procedures – Compliance with Local Ordinances/Regs – Changes in Law. Where a "conceptual approval" decision requires that an applicant file a new application for final development approval, and the challenged decision is made on the basis of that new application, the second development approval request is an "application" as that term is used in ORS 215.428(3) and the code provisions in effect at the time the second development application was submitted are applicable to the second development application. *Tuality Lands Coalition v. Washington County*, 22 Or LUBA 319 (1991).