

**19. Goal 15 – Willamette River Greenway.** Goal 15 guidelines and county code requirements that require to “the greatest possible degree, necessary and adequate public access will be provided along the Willamette River by appropriate legal means,” can be met where the city finds that current public access along the river provided by a public riverfront path is adequate, and the city does not err in construing the provision as requiring access only “along” the river instead of “to” the river. *Hulme v. City of Eugene*, 79 Or LUBA 218 (2019).

**19. Goal 15 – Willamette River Greenway.** Where a cross-petitioner seeks a remedy not available to it by statute, it is an obstacle to LUBA’s review of the cross-assignment of error. LUBA lacks authority to affirm in part, and reverse in part a local government’s approval of cross-petitioner’s project application. ORS 197.835(1). Even assuming that the city erred by applying Willamette Greenway standards to cross-petitioner’s housing project application, because they are not “clear and objective,” the city’s decision approving the development could not be reversed because it is not “prohibited as a matter of law.” If LUBA agreed with cross-petitioners, the correct disposition would be remand, except that remand was not requested and would have no effect on the city’s decision approving the application. In such a situation, LUBA will consider the request a contingent cross-assignment of error. *Hulme v. City of Eugene*, 79 Or LUBA 218 (2019).

**19. Goal 15 – Willamette River Greenway.** Pursuant to OAR 660-004-0018(4)(a), where a city finds that “[e]xisting plan and zoning designations” will be maintained for land subject to a Goal 15 exception, but does not explain why “existing plan and zoning designations” “limit the uses \* \* \* public facilities and services, and activities” to only those that are justified in the exception, remand is required for the city to explain why the land subject to an exception to Goal 15 satisfies the requirement in OAR 660-004-0018(4)(a) that the plan and zone designations “limit the uses \* \* \* public facilities and services, and activities” to those justified in the exception, or apply plan and zone designations that limit the uses to the transportation facilities that are justified in the exception. *Deumling v. City of Salem*, 76 Or LUBA 99 (2017).

**19. Goal 15 – Willamette River Greenway.** Where a petitioner argues a Geographic Information System map in the record suggests that a portion of the Willamette River Greenway included in a city’s Goal 15 exception is located outside the city limits, but within county limits, and therefore the county is also required to join in or approve its own Goal 15 exception, petitioner fails to allege a basis for remand or reversal because as a matter of law the official Willamette River Greenway overlay zone boundary is the boundary mapped by the Oregon Department of Transportation, which confirms the greenway overlay zone is entirely within city limits. *Deumling v. City of Salem*, 76 Or LUBA 99 (2017).

**19. Goal 15 – Willamette River Greenway.** OAR 660-004-0022(6), which provides the standards for approving an exception to Goal 15, allows adverse effect on habitat as long as the adverse effect is not “significant.” An argument that challenges a local government’s findings that with mitigation, impacts to riparian habitat from a proposed new bridge project will not be significant because the need for mitigation at all demonstrates that the bridge will have a “significant adverse effect” on riparian values provides no basis for reversal or remand. *Deumling v. City of Salem*, 76 Or LUBA 99 (2017).

**19. Goal 15 – Willamette River Greenway.** Goal 15 requires that the Willamette Greenway setback be based on the inventory of uses and resources within the Greenway. Remand is necessary where a city adopts a 75-foot setback that is not based on the acknowledged Greenway inventory. *Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013).

**19. Goal 15 – Willamette River Greenway.** The category of “water-related uses” that may be allowed within the Greenway setback include waterfront paths, boardwalks, educational displays and similar public facilities used to provide public access to the waterfront. *Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013).

**19. Goal 15 – Willamette River Greenway.** Roads and highways are not water related uses allowed within a Greenway setback without an exception to Goal 15. However, a code provision authorizing “bridges for pedestrians, bicycles and motor vehicles” within the Greenway setback is not categorically inconsistent with Goal 15, as some bridges could qualify as water related uses. *Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013).

**19. Goal 15 – Willamette River Greenway.** Goal 15 requires that the Greenway boundaries be shown on a comprehensive plan map, but does not require local governments to show the Greenway setback from the river on a comprehensive plan map. *Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013).

**19. Goal 15 – Willamette River Greenway.** Even if a county is not required to issue Willamette Greenway approvals at the same time it issues a use permit to retroactively approve a wedding event business within the Greenway, a county must nonetheless impose conditions or other measures sufficient to ensure that required Greenway permits will be obtained. *White v. Lane County*, 68 Or LUBA 423 (2013).

**19. Goal 15 – Willamette River Greenway.** When a local government amends its greenway boundary to include additional land not previously included within the boundary, the local government must also amend its Goal 15, Paragraph B inventory to include the new land in the inventory. *Gunderson, LLC v. City of Portland*, 67 Or LUBA 290 (2013).

**19. Goal 15 – Willamette River Greenway.** Goal 15 is silent regarding whether amendments to the greenway regulations trigger an obligation to update the greenway inventory, and if so whether the entire inventory must be updated or only the parts of the inventory that are affected by the amendments. However, the phrase “develop the plans and \* \* \* programs” can be fairly read to encompass not only the initial development of the plans and programs but continued development and evolution of the plans and programs through changes to them. Where a current inventory or portions of that inventory were used in developing new greenway regulations, or if the new greenway regulations are of such a nature that the inventory or some part of the inventory must be updated, the inventory must be updated. *Gunderson, LLC v. City of Portland*, 67 Or LUBA 290 (2013).

**19. Goal 15 – Willamette River Greenway.** LUBA will affirm a planning commission’s conclusion that ponds and a slough area were included within the city’s Willamette River Greenway boundary for their important natural values, and not because the area is a “channel” of

the Willamette River, where the city's adopted greenway boundary map and a study the city relied on in setting the boundaries support the city's conclusion. *Willamette Oaks, LLC v. City of Eugene*, 67 Or LUBA 351 (2013).

**19. Goal 15 – Willamette River Greenway.** The phrase “flows water at ordinary low water” as used in ORS 390.310(1) most likely refers to the flow of water of a surface body of water from the main channel of the Willamette River into the disputed body of water. *Willamette Oaks, LLC v. City of Eugene*, 67 Or LUBA 351 (2013).

**19. Goal 15 – Willamette River Greenway.** Water flowing from the main channel of the Willamette River through gravel and rocks of a man-made weir is not a method of transmitting water from the river that falls within the ORS 390.310(1) description of “flows water at ordinary low water.” *Willamette Oaks, LLC v. City of Eugene*, 67 Or LUBA 351 (2013).

**19. Goal 15 – Willamette River Greenway.** A hearings officer's interpretation of the phrase “Willamette River” found in the portion of the city's code that implements Statewide Planning Goal 15 (Willamette River Greenway) as meaning only the main channel of the Willamette River is inconsistent with the definition of “Willamette River” set out at ORS 390.310(3), which is referenced in Goal 15 and which defines Willamette River to include all “channels” of the river. *Willamette Oaks LLC v. Lane County*, 64 Or LUBA 328 (2011).

**19. Goal 15 – Willamette River Greenway.** Goal 15, Paragraph (C)(3)(j) does not provide a blanket exemption from development review for expansions or intensifications of existing urban uses that are located within the Willamette River Greenway, but merely recognizes that urban uses that were already located along the riverfront at Goal 15's adoption are allowed to remain along the riverfront without having to be relocated “away from the river.” *Gunderson, LLC v. City of Portland*, 62 Or LUBA 403 (2011).

**19. Goal 15 – Willamette River Greenway.** Challenges to a local government's amendment of the Willamette River Greenway boundary for compliance with Statewide Planning Goal 15 are not within LUBA's scope of review. ORS 390.322 gives LCDC jurisdiction to approve greenway boundary amendments, and OAR 660-020-0065(6) provides that such amendments are to be approved by rule making. ORS 197.825(2)(d) provides that LUBA does not have jurisdiction to review administrative agency decisions that result in rule making. *Gunderson, LLC v. City of Portland*, 62 Or LUBA 403 (2011).

**19. Goal 15 – Willamette River Greenway.** A city finding that the “top of the bank” is located entirely within 50 horizontal feet of the high water line is not supported by substantial evidence, where the applicant submitted a survey showing that at two points the top of the bank is further than 50 horizontal feet, and the city cites no specific evidence to the contrary. *Kingsley v. City of Portland*, 55 Or LUBA 256 (2007).

**19. Goal 15 – Willamette River Greenway.** Where a city code requires that one of two different methods for determining the top of the bank be applied, depending on which of two specified site conditions are found, the choice of method for determining the top of the bank is governed by the corresponding site condition, notwithstanding that the resulting top of the bank is discontinuous.

The city errs in determining the location of the top of the bank based not on one of the two specified methods, but rather on the city's preference for a continuous setback. *Kingsley v. City of Portland*, 55 Or LUBA 256 (2007).

**19. Goal 15 – Willamette River Greenway.** Goal 15 requires that local comprehensive plans designate lands within the Willamette River Greenway that are suitable for acquisition so that they may be put to one of a number of uses identified in Goal 15. *Willamette Oaks, LLC v. City of Eugene*, 46 Or LUBA 813 (2004).

**19. Goal 15 – Willamette River Greenway.** A final city decision to purchase property within the Willamette River Greenway is a land use decision, where the city is required to apply its comprehensive plan provisions that identify the property the city will purchase within the Willamette River Greenway for Willamette River Greenway purposes. *Willamette Oaks, LLC v. City of Eugene*, 46 Or LUBA 813 (2004).

**19. Goal 15 – Willamette River Greenway.** A statement that the requested Willamette River Greenway permit is to allow placement of a dwelling on the identified subject property is sufficient to satisfy the requirement of ORS 197.763(3)(a) that the notice of hearing “[e]xplain the nature of the application and the proposed use or uses which could be authorized.” *Reeves v. Yamhill County*, 28 Or LUBA 123 (1994).