30.2.1 Zoning Ordinances – Amendment – Generally. Where local code amendments allow accessory uses and structures in an EFU zone, arguments that (1) the amendments improperly exempt such structures from a local code requirement that steps be taken to minimize adverse impacts on farm and forest uses and (2) the provisions governing such uses are inconsistent with ORS 215.213(3)(b) provide no basis for reversal or remand where the amended code is comparable to the prior code and where the petitioner does not develop any argument explaining why the amendments are substantive instead of technical. *Landwatch Lane County v. Lane County*, 80 Or LUBA 80 (2019).

30.2.1 Zoning Ordinances – Amendment – Generally. Provisions of a challenged ordinance that refer to or rely on provisions of a prior ordinance that LUBA remanded are invalid, even where the prior ordinance contained a severability clause purporting to allow unchallenged aspects of the prior ordinance to take effect after LUBA's remand. *Landwatch Lane County v. Lane County*, 80 Or LUBA 80 (2019).

30.2.1 Zoning Ordinances – Amendment – Generally. Where a significant resource overlay zone provision requires that (1) resource sites not be altered or impacted to a degree that destroys their significance, (2) the proposed development not result in the loss of habitat for threatened or endangered species, (3) all feasible alternatives to the development that would not result in a substantial adverse impact on identified resource values be considered and rejected, (4) the development be sited on the property in such a manner that minimizes adverse impacts on identified resources, and (5) documentation be provided regarding requirements for state or federal permits or licenses and that appropriate resource management agencies have reviewed the development proposal against their plans, policies, and programs, the local government does not err in concluding that that provision applies at the development stage rather than the PAPA stage. *VanSickle v. Klamath County*, 80 Or LUBA 241 (2019).

30.2.1 Zoning Ordinances – Amendment – Generally. Where a city within Metro's jurisdiction adopts its portion of an intergovernmental concept plan into its comprehensive plan and applies an industrial zoning designation to a portion of the planning area with slopes greater than 10 percent, that Metro's previous decision to include the planning area in its UGB stated that land needed for industrial uses should generally have slopes of less than 10 percent and that a previous Metro housing need projection anticipated almost 600 more housing units than the industrial zoning designation would allow provide no basis for reversal or remand where Metro's previous UGB decision is not evidence, an applicable approval criterion, or a relevant consideration for the city in determining the correct zoning designation for the property and where Metro's previous housing need projection has been superseded by a later decision to remove the property from its inventory of buildable residential lands. *Watts v. City of Tualatin*, 80 Or LUBA 339 (2019).

30.2.1 Zoning Ordinances – Amendment – Generally. The planning commission's conclusion that the subject properties are subject to "site review requirements" is not supported by anything in the text of the Old Code, Ordinance 20224, or the New Code. *Simons Investment Properties, LLC v. City of Eugene*, 80 Or LUBA 458 (2019).

30.2.1 Zoning Ordinances – Amendment – Generally. A county's comprehensive plan is a working document that must be updated to reflect existing conditions and future planning

obligations. Where nothing in the statewide planning goals or the county's comprehensive plan prohibits amendments to expand areas in the county to which certain plan designations may be applied, provided those areas meet all applicable statutory and rule requirements, such amendments do not provide grounds for remand or reversal. Counties have wide latitude to adopt and revise their comprehensive plans and zoning ordinances; amendments to the comprehensive plan need only comply with the statewide planning goals. *Central Oregon Landwatch v. Deschutes County*, 79 Or LUBA 253 (2019).

30.2.1 Zoning Ordinances – Amendment – Generally. Goal 14 prohibits urban uses on rural lands. Where a county's text amendments to its comprehensive plan do not allow any urban uses on rural land, but merely expand the allowable locations in the county that could be the subject of an application to change the plan designation to rural industrial, and the text amendments require the applicant to demonstrate that the proposed use for which the rural industrial plan designation change is consistent with all statewide planning goals, including Goal 14, a petitioner's arguments that the amendments violate Goal 14 do not provide a basis for reversal or remand. *Central Oregon Landwatch v. Deschutes County*, 79 Or LUBA 253 (2019).

30.2.1 Zoning Ordinances – Amendment – Generally. A petitioner's challenge to a county's amendments to its comprehensive plan that expand the allowable locations in the county that could be the subject of an application to change the plan designation to rural commercial and rural industrial, that argue that the county's adopted and acknowledged rural commercial and rural industrial zones impermissibly allow urban uses in contravention of Goal 14 are an impermissible collateral attack on an acknowledged land use regulation where no provisions of the county's code were amended by the challenged decision. *Central Oregon Landwatch v. Deschutes County*, 79 Or LUBA 253 (2019).

30.2.1 Zoning Ordinances – Amendment – Generally. The fact that an adopted local code amendment includes language which was not included in the notice to DLCD required by ORS 197.610(1) is not by itself sufficient to explain why the notice was inadequate so as to require reversal or remand of the amendment decision. *McCaffree v. Coos County*, 79 Or LUBA 512 (2019).

30.2.1 Zoning Ordinances – Amendment – Generally. A local code amendment adopted to implement provisions of ORS 197.724 is not an "action[] taken under ORS 197.722 to ORS 197.728" so as to place the amendment decision outside of LUBA's scope of review pursuant to ORS 197.726(1). Instead, such an amendment is an action taken under ORS 197.646(1), which requires local governments to amend their land use regulations "to comply with a new requirement in land use statutes." *McCaffree v. Coos County*, 79 Or LUBA 512 (2019).

30.2.1 Zoning Ordinances – Amendment – Generally. Senate Bill (SB) 1051 (2018), section 12 did not require cities to amend their land use regulations to implement SB 1051 by July 1, 2018. SB 1051 itself is silent regarding any requirement, much less a deadline for a city to amend its land use regulations to comply with its provisions. SB 1051, section 12 provides for a delayed "operative date" of July 1, 2018. That delayed operative date provides a grace period before which the provisions of SB 1051 did not apply, and after which, the statute applies directly and cities are required to "allow" accessory dwelling in areas required by the statue. But SB 1051 does not direct

cities as to the mechanism by which to allow accessory dwellings. *Home Builders Assoc. v. City of Eugene*, 78 Or LUBA 441 (2018).

30.2.1 Zoning Ordinances – Amendment – Generally. While ORS 197.646(1) requires the city to amend its land use regulations to implement SB 1051 (2018), ORS 197.646(2)(b) requires the Land Conservation and Development Commission (LCDC) to establish by rule the time period within which a local government must amend its code to implement a new land use statute "if the legislation does not specify a time period for compliance[.]" LCDC has not adopted any rules specifying a time period for implementation of SB 1051, and SB 1051 itself does not require cities to adopt amendments to their codes that implement all of the provisions of SB 1051 by July 1, 2018. *Home Builders Assoc. v. City of Eugene*, 78 Or LUBA 441 (2018).

30.2.1 Zoning Ordinances – Amendment – Generally. A city council does not err by amending its zoning ordinance to prohibit renting dwellings in a residential zone for weddings following a ruling by a municipal court that the zoning ordinance did not prohibit such use, where the city believed its zoning ordinance already prohibited such use and petitioner offers no legal theory for why the city could not adopt such an amendment to clarify the issue. *Whittemore v. City of Gearhart*, 75 Or LUBA 374 (2017).

30.2.1 Zoning Ordinances – Amendment – Generally. ORS 227.180(1)(b) authorizes city councils to provide that a decision by a hearings officer or other decision-making authority in a proceeding for discretionary permit or zone change approval is the city's final decision. But ORS 227.180(1)(b) does not authorize a city council to make a hearings officer's or other decision-making authority's decision the city's final decision concerning an application for a comprehensive plan map amendment. *Housing Land Advocates v. City of Happy Valley*, 73 Or LUBA 405 (2016).

30.2.1 Zoning Ordinances – Amendment – Generally. A zoning ordinance standard that requires that zoning map amendments must be consistent with relevant comprehensive plan policies provides no basis for reversal or remand, where petitioners appealed an annexation ordinance and failed to appeal the ordinance that rezoned the annexed properties. *Knaupp v. City of Forest Grove*, 67 Or LUBA 398 (2013).

30.2.1 Zoning Ordinances – Amendment – Generally. Where on remand of a decision that amends a county zoning ordinance, the county adopts a new ordinance with new amendments, but does not explicitly or implicitly re-adopt the original ordinance, on appeal to LUBA of the new ordinance the petitioner cannot challenge the original ordinance or the findings adopted on remand that are intended to support the original ordinance. *Hatley v. Umatilla County*, 66 Or LUBA 265 (2012).

30.2.1 Zoning Ordinances – Amendment – Generally. Whether a city council initially tries to reverse a hearings official's interpretation of the city zoning code by amending the zoning code has no bearing on whether the city council could also effectively reverse the hearings official's interpretation by adopting an interpretation of its own. *Randazzo v. City of Eugene*, 65 Or LUBA 272 (2012).

30.2.1 Zoning Ordinances – Amendment – Generally. An ordinance that adds a destination resort overlay to a number of acres that were not included on the originally adopted destination resort overlay map "amends" the destination resort overlay map. That the county may have intended to include those acres within the destination resort overlay when the map was originally adopted does not make the map "amendment" something other than an "amendment." *Remington Ranch, LLC v. Crook County*, 59 Or LUBA 361 (2009).

30.2.1 Zoning Ordinances – Amendment – Generally. An ordinance that repeals an existing comprehensive plan and zoning map and replaces it with a revised map is an "amendment" of the existing comprehensive plan and zoning map. *Remington Ranch, LLC v. Crook County*, 59 Or LUBA 361 (2009).

30.2.1 Zoning Ordinances – Amendment – Generally. While a local government may have a legitimate planning interest in adopting regulations that effectively consolidate substandard-size lots for development purposes, the method it chooses to determine which properties are consolidated for development purposes cannot be based on apparently arbitrary differences in the wording or form of deeds, such as whether or not a deed transferring multiple properties listed each property under a separate heading. *Thomas v. Wasco County*, 58 Or LUBA 452 (2009).

30.2.1 Zoning Ordinances – Amendment – Generally. Where the "Decision" section of a land use decision expressly grants only "planned unit development subdivision plan" approval, but the decision read as a whole clearly also grants the zoning map amendment that was included in the planned unit development and subdivision plan application, LUBA will interpret the decision to grant all three of the requested approvals. *Wasserburg v. City of Dunes City*, 52 Or LUBA 70 (2006).

30.2.1 Zoning Ordinances – Amendment – Generally. City findings that there has been increased commercial development in the neighborhood and that traffic has increased on a nearby state highway and resulted in increased noise are sufficient to demonstrate compliance with a subjective "changed neighborhood conditions" rezoning criterion. *Jaffer v. City of Monmouth*, 51 Or LUBA 633 (2006).

30.2.1 Zoning Ordinances – Amendment – Generally. Absent some authority to the contrary, the uses allowed within a Public Parks zone or a Public Amusement zone are not limited to "recreational" or "public amusement" uses. *Cox v. Polk County*, 49 Or LUBA 78 (2005).

30.2.1 Zoning Ordinances – Amendment – Generally. A hearings officer errs in concluding that a commercial zone implements the medium density residential plan designation, simply because some commercial uses are allowed in some residential zones. *Knutson Family LLC v. City of Eugene*, 48 Or LUBA 399 (2005).

30.2.1 Zoning Ordinances – Amendment – Generally. An assignment of error that challenges a county's failure to apply code criteria governing zoning map amendments provides no basis for reversal or remand where the assignment of error contends the zoning code criteria should have been applied to a comprehensive plan map amendment. *Doherty v. Morrow County*, 44 Or LUBA 141 (2003).

30.2.1 Zoning Ordinances – Amendment – Generally. Where an ordinance that adopts legislative amendments to a zoning ordinance includes no findings responding to concerns that the amendments violate Statewide Planning Goals 5 and 9 and a comprehensive plan policy, (2) there is no evidence in the record that would allow LUBA to conclude those concerns are without merit, and (3) the comprehensive plan provision pertaining to protection of industrial lands and quarries under Goals 5 and 9 is ambiguous, LUBA will remand the ordinance. *OCAPA v. City of Mosier*, 44 Or LUBA 452 (2003).

30.2.1 Zoning Ordinances – Amendment – Generally. The fixed goal post rule established by ORS 215.427(3) does not apply to an application for a zone change where (1) that application for a zone change is part of, or submitted contemporaneously with, an application for a comprehensive plan amendment, and (2) the zone change is requested to implement the requested comprehensive plan amendment rather than as a separate request that could be approved independently of the requested comprehensive plan map amendment. *Friends of the Applegate v. Josephine County*, 44 Or LUBA 786 (2003).

30.2.1 Zoning Ordinances – Amendment – Generally. Where the ORS 215.283(1)(w) authorization for rural fire service facilities in EFU zones had taken effect, but a county had not yet amended its zoning ordinance to reflect the statutory change, ORS 215.283(1)(w) applies directly, and the county does not violate the zoning ordinance by approving a rural fire service facility in its EFU zone. *Keicher v. Clackamas County*, 39 Or LUBA 521 (2001).

30.2.1 Zoning Ordinances – Amendment – Generally. ORS 215.050(2) requires that zoning amendments shall implement the adopted comprehensive plan. When a local government adopts a zone change but does not adopt a contemporaneous comprehensive plan change, resulting in plan map/zoning map inconsistency, the decision must be remanded. *DLCD v. Klamath County*, 38 Or LUBA 769 (2000).

30.2.1 Zoning Ordinances – Amendment – Generally. Criteria governing an application to rezone property to allow for the siting of a mobile home park need not comply with requirements in ORS 197.307 and ORS 197.480 for "clear and objective" standards regulating the siting of needed mobile homes, at least when a city has otherwise planned and designated sufficient land to satisfy the need for mobile home parks within its jurisdiction. *Evergreen Development, Inc. v. City of Coos Bay*, 38 Or LUBA 470 (2000).

30.2.1 Zoning Ordinances – Amendment – Generally. New land use regulations can only become acknowledged under ORS 197.625(2) if the ordinance adopting those new land use regulations is "affirmed on appeal under ORS 197.830 to 197.855." Where LUBA remands the adopting ordinance because a portion of the new land use regulations is found to be defective, without specifically affirming the remaining portions of those regulations, no part of the ordinance is considered acknowledged under ORS 197.625. *Western States v. Multnomah County*, 37 Or LUBA 835 (2000).

30.2.1 Zoning Ordinances – Amendment – Generally. In amending an acknowledged zoning ordinance to reduce maximum building heights, a city is not required to demonstrate that the

amendment complies with the statewide planning goals where the acknowledged comprehensive plan contains "specific policies or other provisions which provide the basis for the regulation." ORS 197.835(7)(b). However, where the comprehensive plan includes only general policies that make no reference to maximum building heights, the city must demonstrate that the amendment complies with the statewide planning goals. *Marine Street LLC v. City of Astoria*, 37 Or LUBA 587 (2000).

30.2.1 Zoning Ordinances – Amendment – Generally. A county acts within the discretion afforded by ORS 197.829(1) and *Clark v. Jackson County*, 313 Or 508, 515, 836 P2d 710 (1992), where the zoning ordinance requires a finding that utilities and services likely to be needed by the "anticipated uses" are available, the county limits allowed uses on the property to the applicant's proposed use, and the county interprets the term "anticipated uses" to consist solely of the proposed use. A reasonable person could construe the term "anticipated uses" to denote something less than the range of uses allowed in the zone. *City of Newberg v. Yamhill County*, 36 Or LUBA 473 (1999).

30.2.1 Zoning Ordinances – Amendment – Generally. That a local government might in future quasi-judicial proceedings recognize that the procedures required by its amended zoning ordinance conflict with the procedures required by ORS 215.416(11) for permit decisions, and therefore follow the procedures required by the statute, does not make the procedures required by the amended zoning ordinance consistent with the statute and does not make a LUBA appeal challenging the zoning ordinance amendment premature. *Rochlin v. Multnomah County*, 35 Or LUBA 333 (1998).

30.2.1 Zoning Ordinances – Amendment – Generally. Where petitioner fails to assign error to detailed findings explaining why certain acknowledged comprehensive plan provisions constitute "specific policies" that, under ORS 197.835(7)(b), make it unnecessary for the city to demonstrate compliance with statewide planning goals when amending city land use regulations to implement those policies, LUBA will reject an assignment of error alleging the city erred by failing to demonstrate that the new and amended land use regulations comply with the statewide planning goals. *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

30.2.1 Zoning Ordinances – Amendment – Generally. Under OAR 660-012-0045(2) local codes must require compliance with ODOT access standards or require that an applicant obtain an access permit from ODOT as a condition of approval. *Dept. of Transportation v. Douglas County*, 34 Or LUBA 608 (1998).

30.2.1 Zoning Ordinances – Amendment – Generally. LUBA's scope of review is not precluded or affected when petitioner assigns error to a plan amendment but fails to assign error to a corresponding zone change. Under ORS 197.175(2)(b) and 197.835(7)(b), zoning ordinances must conform to and comply with the local government's comprehensive plan, therefore a remand on the basis of error respecting the plan amendment would necessarily invalidate the corresponding zone change. *Geaney v. Coos County*, 34 Or LUBA 189 (1998).

30.2.1 Zoning Ordinances – Amendment – Generally. Where the county's decision to apply overlay zoning directly implements plan policies that were previously determined to comply with the statewide planning goals, and the policies are sufficiently specific to provide the basis for case-

by-case evaluation of development applications, ORS 197.835(7)(b) does not require the local government to apply the goals independently to the decision. *Cuddeback v. City of Eugene*, 32 Or LUBA 418 (1997).

30.2.1 Zoning Ordinances – Amendment – Generally. Under ORS 197.646(3), there is no grace period prior to required local government compliance with amendments to statutes, rules or Statewide Planning Goals. *DLCD v. Lincoln County*, 31 Or LUBA 240 (1996).

30.2.1 Zoning Ordinances – Amendment – Generally. Where a local government does not identify specific provisions in its comprehensive plan which it contends provide the basis for challenged land use regulation amendments, under ORS 197.835(5)(b), LUBA is required to reverse or remand the land use regulation amendments if they do not comply with applicable provisions of the Statewide Planning Goals. *Churchill v. Tillamook County*, 29 Or LUBA 68 (1995).

30.2.1 Zoning Ordinances – Amendment – Generally. Where amendments to a local government's comprehensive plan or land use regulations do not amend or affect the local government's acknowledged Citizen Involvement Program (CIP), the only way a petitioner can demonstrate a violation of Goal 1 is by demonstrating a failure to comply with the acknowledged CIP. *Churchill v. Tillamook County*, 29 Or LUBA 68 (1995).

30.2.1 Zoning Ordinances – Amendment – Generally. Where respondents do not identify specific provisions in the applicable comprehensive plan, which they contend provide the basis for challenged zone changes, under ORS 197.825(5)(b) LUBA is required to reverse or remand the zone changes if they do not comply with applicable provisions of the Statewide Planning Goals or their implementing rules. *Opus Development Corp. v. City of Eugene*, 28 Or LUBA 670 (1995).

30.2.1 Zoning Ordinances – Amendment – Generally. Legislative changes to acknowledged comprehensive plans or land use regulations that reduce a local government's supply of industrially designated land must be supported by (1) findings demonstrating the remaining industrially designated land is adequate to satisfy the requirements of Goal 9, (2) argument establishing compliance with Goal 9 based on plan provisions, code provisions and evidence in the record, or both. *Opus Development Corp. v. City of Eugene*, 28 Or LUBA 670 (1995).

30.2.1 Zoning Ordinances – Amendment – Generally. Where the deadlines established by OAR 660-12-055(1) and (2) for adoption of regional and local transportation system plans (TSPs) have not yet passed, and the local government has not yet adopted a TSP, the requirements of OAR 660-12-045(2) and (3) for regulations implementing TSPs are inapplicable to a decision amending the local code. *Melton v. City of Cottage Grove*, 28 Or LUBA 1 (1994).

30.2.1 Zoning Ordinances – Amendment – Generally. That the record shows a code amendment will affect a site that has direct access onto a particular road is a sufficient basis for requiring the local government's determination under OAR 660-12-060(2)(c), that the amendment does not allow land uses resulting in "levels of travel or access * * * inconsistent with the functional classification of a transportation facility," to include consideration of impacts on that road. *Melton v. City of Cottage Grove*, 28 Or LUBA 1 (1994).

30.2.1 Zoning Ordinances – Amendment – Generally. Where a local government decision amending its land use regulations does not interpret comprehensive plan goals and map designations as being inapplicable to such amendments, but rather explains how the proposed amendment implements certain comprehensive plan goals and is consistent with certain plan map designations, it is clear the governing body interprets those plan goals and map designations as being applicable to the land use regulation amendment. *Melton v. City of Cottage Grove*, 28 Or LUBA 1 (1994).

30.2.1 Zoning Ordinances – Amendment – Generally. Post-acknowledgment local code amendments which are not adopted to satisfy periodic review requirements are deemed acknowledged under ORS 197.625, if such amendments are not appealed to LUBA. *Historical Development Advocates v. City of Portland*, 27 Or LUBA 617 (1994).

30.2.1 Zoning Ordinances – Amendment – Generally. ORS 215.503(2)(a), requiring all legislative acts related to comprehensive plans or zoning adopted by a county governing body to be by ordinance, applies to legislative decisions adopting or amending comprehensive plans and zoning ordinances, not to quasi-judicial plan or zone changes. *Sahagian v. Columbia County*, 27 Or LUBA 592 (1994).

30.2.1 Zoning Ordinances – Amendment – Generally. Where petitioners contend legislative land use regulation amendments are inconsistent with certain arguably relevant comprehensive plan provisions, and those plan provisions are not interpreted in the challenged decision, LUBA must remand the challenged decision for the local government to adopt the necessary plan interpretations as part of its decision. *Redland/Viola/Fischer's Mill CPO v. Clackamas County*, 27 Or LUBA 560 (1994).

30.2.1 Zoning Ordinances – Amendment – Generally. Providing notice of a post-acknowledgment plan or land use regulation amendment to the Department of Land Conservation and Development under ORS 197.610(1) is inadequate to satisfy a local government's coordination obligations. *1000 Friends of Oregon v. City of North Plains*, 27 Or LUBA 372 (1994).

30.2.1 Zoning Ordinances – Amendment – Generally. Where petitioners contend a land use regulation amendment fails to comply with the statewide planning goals and implementing rules, and respondents fail to identify specific provisions in the local comprehensive plan that provide the basis for the challenged amendment, LUBA will assume no such provisions exist, and under ORS 197.835(5)(b) LUBA has authority to reverse or remand the land use regulation amendment if it does not comply with the statewide planning goals or implementing rules. *1000 Friends of Oregon v. Marion County*, 27 Or LUBA 303 (1994).

30.2.1 Zoning Ordinances – Amendment – Generally. Where LUBA has remanded a city decision annexing certain property, a subsequent city decision amending the comprehensive plan and zoning designations for that property, in reliance on the annexation, exceeds the city's authority. *Roloff v. City of Milton-Freewater*, 27 Or LUBA 256 (1994).

30.2.1 Zoning Ordinances – Amendment – Generally. Any amendment to an acknowledged land use regulation must comply with all applicable statewide planning goals, if the comprehensive plan "does not contain specific policies or other provisions that provide the basis for the regulation." ORS 197.835(5)(b). *Roloff v. City of Milton-Freewater*, 27 Or LUBA 256 (1994).

30.2.1 Zoning Ordinances – Amendment – Generally. Comprehensive plan and zone amendments which *lessen* the impacts or demands that goal, plan and code standards were adopted to address are likely to be consistent with those goal, plan and code standards. *McInnis v. City of Portland*, 27 Or LUBA 1 (1994).

30.2.1 Zoning Ordinances – Amendment – Generally. An amendment to an acknowledged land use regulation must comply with the local government's acknowledged comprehensive plan. ORS 197.175(2)(d); 197.835(5)(a). *Rea v. City of Seaside,* 26 Or LUBA 444 (1994).

30.2.1 Zoning Ordinances – Amendment – Generally. Prior to local government action to designate new or existing plans and regulations as its Transportation System Plan (TSP), in the manner required by OAR 660-12-010(2), any challenge to adoption of a plan or regulation amendment based on failure to comply with the TSP requirements of OAR 660-12-010 through 660-12-050 is premature. *Pacific Rivers Council, Inc. v. Lane County*, 26 Or LUBA 323 (1993).

30.2.1 Zoning Ordinances – Amendment – Generally. An ordinance that amends an acknowledged land use regulation is subject to the requirements of ORS 197.610 and 197.615. *Oregon City Leasing, Inc. v. Columbia County*, 26 Or LUBA 203 (1993).

30.2.1 Zoning Ordinances – Amendment – Generally. It is impermissible for a local government to amend a land use ordinance or comprehensive plan provision in the guise of interpreting either. *Murphy Citizens Advisory Comm. v. Josephine County*, 26 Or LUBA 181 (1993).

30.2.1 Zoning Ordinances – Amendment – Generally. A local government cannot simply conclude its failure to list shopping centers as a permitted or conditional use in any existing zoning district creates an ambiguity and, on that basis, determine it will allow shopping centers as a conditional use in a particular zoning district. Such an action constitutes improperly amending the zoning ordinance in the guise of interpreting it. *Loud v. City of Cottage Grove*, 26 Or LUBA 152 (1993).

30.2.1 Zoning Ordinances – Amendment – Generally. Where a local government's final decision is not to adopt a legislative amendment to its acknowledged comprehensive plan and land use regulations, ORS 197.830(2) and 197.620(1) deny standing to appeal such a final decision to LUBA. *ODOT v. Klamath County*, 25 Or LUBA 761 (1993).

30.2.1 Zoning Ordinances – Amendment – Generally. If a challenged permit decision misconstrues an acknowledged land use regulation, that provides a basis for reversing or remanding the decision under ORS 197.835(6) and (7)(a)(D). It does not mean the challenged decision is a land use regulation amendment. *Heceta Water District v. Lane County*, 24 Or LUBA 402 (1993).

30.2.1 Zoning Ordinances – Amendment – Generally. Plan text and map amendments and zoning text and map amendments are not "permits," as that term is defined in ORS 215.402(4). *Leonard v. Union County*, 24 Or LUBA 362 (1992).

30.2.1 Zoning Ordinances – Amendment – Generally. That a local government may have provided inadequate notice of a post-acknowledgment plan and land use regulation amendment to the Department of Land Conservation and Development (DLCD) will not excuse a person's failure to file a notice of intent to appeal that decision with LUBA within 21 days after the decision became final, where the person was not entitled to receive notice of the challenged decision from DLCD. *Leonard v. Union County*, 24 Or LUBA 362 (1992).

30.2.1 Zoning Ordinances – Amendment – Generally. LUBA does not apply land use decision making approval criteria in the first instance. It is the local government's responsibility to consider the evidentiary record, identify the applicable standards, make the decision in the first instance and explain the basis for its decision in its findings. *ODOT v. City of Waldport*, 24 Or LUBA 344 (1992).

30.2.1 Zoning Ordinances – Amendment – Generally. The applicant for comprehensive plan and zone map amendments has the burden of establishing compliance of the proposed amendments with the applicable approval standards. *Hess v. City of Portland*, 23 Or LUBA 343 (1992).

30.2.1 Zoning Ordinances – Amendment – Generally. Under ORS 197.835(5)(b), an amendment to a local government land use regulation is subject to reversal or remand for failure to comply with the Statewide Planning Goals, unless the comprehensive plan contains "specific policies * * * which provide the basis for" the amended regulation. *Ramsey v. City of Portland*, 23 Or LUBA 291 (1992).

30.2.1 Zoning Ordinances – Amendment – Generally. That a previously approved zone change included a condition providing that if a conditional use permit for a mobile home park on the subject property is not obtained, the property would revert to its previous zoning, does not make the merits of the previous rezoning decision subject to LUBA's review in an appeal of the local government decision approving the conditional use permit. *Burghardt v. City of Molalla*, 22 Or LUBA 369 (1991).

30.2.1 Zoning Ordinances – Amendment – Generally. There is nothing unconstitutional about providing only published notice of legislative rezoning. *Sabin v. Clackamas County*, 20 Or LUBA 23 (1990).

30.2.1 Zoning Ordinances – Amendment – Generally. ORS 197.615(2)(a) requires that a local government give notice of decisions amending its acknowledged comprehensive plan and land use regulations to persons who participate during the local proceedings and request such notice in writing. *Club Wholesale v. City of Salem*, 19 Or LUBA 576 (1990).

30.2.1 Zoning Ordinances – Amendment – Generally. Where a local government has no rules establishing specific procedures or forms for persons participating in post-acknowledgment plan and land use regulation amendment proceedings to utilize in making a written request for notice

under ORS 197.615(2)(a)(B), and has no rules establishing to whom requests for such notice must be directed, a request for a copy of the city's final *decision* directed to the city attorney is sufficient to satisfy ORS 197.615(2)(a)(B). *Club Wholesale v. City of Salem*, 19 Or LUBA 576 (1990).

30.2.1 Zoning Ordinances – Amendment – Generally. Where a local government provides a party with a copy of the decision amending its comprehensive plan and land use regulations, but fails to advise the party of the date the challenged decision became final or of the requirements for appealing the decision to LUBA, the notice requirements of ORS 197.615(2)(b)(B) and (D), applicable to post-acknowledgment plan and land use regulation amendments, are not satisfied. *Club Wholesale v. City of Salem*, 19 Or LUBA 576 (1990).

30.2.1 Zoning Ordinances – Amendment – Generally. While a decision to approve a zone change does not approve a "permit," within the meaning of ORS 227.160(2), a decision that approves both a variance and a minor partition does approve a "permit." *Harvard Medical Park, Ltd. v. City of Roseburg*, 19 Or LUBA 555 (1990).