31.1.1 Permits – Approval Standards – Generally. Establishing that proposed "agri-tourism or other commercial events or activities" are "necessary to support the commercial farm uses or the commercial agricultural enterprises in the area" for purposes of ORS 215.283(4)(d)(A) is a relatively high hurdle: the county must find that the events are essential in order to maintain the existence of either the commercial farm uses on the subject property or the commercial agricultural enterprises in the area. *Friends of Yamhill County v. Yamhill County*, 80 Or LUBA 135 (2019).

31.1.1 Permits – Approval Standards – Generally. A demonstration that proposed "agri-tourism or other commercial events or activities" are "necessary to support" an approved commercial activity in conjunction with farm use under ORS 215.283(2)(a), such as a brewery, is not sufficient to demonstrate that the events are "necessary to support" an "existing commercial farm use of the tract," such as the growing of filberts, for purposes of ORS 215.283(4)(d)(A), even where revenue from the brewery "supplements" revenue from the growing of filberts. *Friends of Yamhill County v. Yamhill County*, 80 Or LUBA 135 (2019).

31.1.1 Permits – Approval Standards – Generally. A county may not allow unlimited, successive one-year extensions of permits for residential development on resource land where state statute and regulation provide that such permits "shall be valid for four years" and that "[a]n extension" thereof "shall be valid for two years," where nothing in the legislative history suggests an intent to allow more than one extension. *Landwatch Lane County v. Lane County*, 79 Or LUBA 96 (2019).

31.1.1 Permits – Approval Standards – Generally. 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).

31.1.1 Permits – Approval Standards – Generally. A county decision determining vested rights involves the "discretionary approval of a proposed development of land," and is therefore a "permit" decision under ORS 215.402(4). Such decisions must be processed under procedures consistent with ORS 215.416, regardless of whether a party's request for the "permit" decision is accompanied by requests for non-"permit" decisions, whether the request is labeled or easily identifiable as an "application" for a "permit," or whether the party affirmatively requests the required procedures. *Gillette v. Lincon County*, 79 Or LUBA 549 (2019).

31.1.1 Permits – Approval Standards – Generally. In *Pete's Mountain Homeowners Assn. v. Clackamas Cty.*, 227 Or App 140, 204 P3d 802, *rev den*, 346 Or 589 (2009), the Court of Appeals held that Ballot Measure 49, which was approved to replace previously approved Ballot Measure 37, must be given effect and replaces Ballot Measure 37 which would otherwise apply to a particular permit application, notwithstanding the ORS 215.427(3)(a) goal post statute that

requires that a permit application be subject to the standards in effect when the permit application was filed. *Pete's Mountain* case of conflicting statutes—Ballot Measure 49 conflicted with and applied in place of the goal post statute. The holding in *Pete's Mountain* does not mean that new county cell tower regulations apply to a permit application that was submitted before the new cell tower regulations were adopted. In that circumstance the goal post statute applies and the new cell tower regulations do not apply, because there is no statutory conflict. *Rawson v. Hood River County*, 75 Or LUBA 200 (2017).

31.1.1 Permits – Approval Standards – Generally. A permit approval standard that only requires a city to find that a proposed demolition is supportive of the comprehensive plan goals and policies "on balance," and only suggests six factors that "may" be considered, gives the city significant latitude in applying that approval standard. *Fernandez v. City of Portland*, 73 Or LUBA 107 (2016).

31.1.1 Permits – Approval Standards – Generally. An applicant is not required to demonstrate that a use that is allowed outright in one zone also satisfies conditional use standards applicable in an adjoining zone by virtue of the access to that outright permitted use being located in the adjoining zone. *Del Rio Vineyards, LLC v. Jackson County*, 73 Or LUBA 301 (2016).

31.1.1 Permits – Approval Standards – 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).

31.1.1 Permits – Approval Standards – Generally. A development code that provides that a permit is void if "conditions of a permit or approval" are not substantially or completely satisfied within two years is properly interpreted to refer to conditions of approval in the permit that are enumerated as such, and the development code need not be interpreted to require substantial or complete construction of other aspects of the development approved under the permit that are not reflected in the conditions of permit approval. *Gould v. Deschutes County*, 67 Or LUBA 1 (2013).

31.1.1 Permits – Approval Standards – Generally. Where a development code requires that conditions of permit approval be satisfied within two years after the permit becomes final and provides that the permit approval is void unless the conditions of approval are satisfied "within the time period," a permit opponent's argument that the applicant may not rely on actions that were taken to satisfy the condition before the permit was approved is textually plausible. Nevertheless, where LUBA cannot identify any reason why the enactor of the code would have intended that the actions that satisfied the condition of approval must be duplicated "within the time period," LUBA will not interpret the code to impose such a requirement. *Gould v. Deschutes County*, 67 Or LUBA 1 (2013).

31.1.1 Permits – Approval Standards – Generally. There is no generally applicable requirement that a permit applicant must establish that construction of the use proposed in the permit

application is feasible as proposed. *Gould v. Deschutes County*, 227 Or App 601, 206 P3d 1106 (2009), and *Gould v. Deschutes County*, 216 Or App 150, 171 P3d 1017 (2007), discuss the concept of "feasibility" in the context of a multiple step approval process where there is uncertainty about whether all applicable criteria are satisfied and actions will be required in the future to ensure compliance with all criteria, and neither of those cases is authority for a generally applicable "feasibility" requirement for land use permits. *WKN Chopin LLC v. Umatilla County*, 66 Or LUBA 1 (2012).

31.1.1 Permits – Approval Standards – Generally. Under ORS 215.416(3) and (11), when rendering a statutory land use permit decision, a county must provide a prior public hearing on the application, or provide notice and an opportunity for a de novo appeal after the statutory permit decision is rendered without a public hearing. *Bard v. Lane County*, 63 Or LUBA 1 (2011).

31.1.1 Permits – Approval Standards – Generally. Where there is uncertainty about whether a local appeal is available but the local government advises a petitioner that it will provide a local appeal, that petitioner may safely exhaust that local appeal without fear of being advised later that the deadline for appealing the decision directly to LUBA expired while the petitioner exhausted the appeal that the local government provided but later determined should not have been provided. *Bard v. Lane County*, 63 Or LUBA 1 (2011).

31.1.1 Permits – Approval Standards – Generally. A decision that extends a statutory permit may itself be a statutory permit if the extension decision is governed by standards that require the exercise of discretion. *Bard v. Lane County*, 63 Or LUBA 1 (2011).

31.1.1 Permits – Approval Standards – Generally. A decision that extends a statutory permit may itself be a statutory permit if the extension is a request for "approval of a proposed development of land." *Bard v. Lane County*, 63 Or LUBA 1 (2011).

31.1.1 Permits – Approval Standards – Generally. Where a statutory permit by local law will become void if not acted on within a stated deadline, a decision to extend the permit for an additional term under discretionary criteria is itself a statutory permit. *Bard v. Lane County*, 63 Or LUBA 1 (2011).

31.1.1 Permits – Approval Standards – Generally. Where local law does not require adherence to the notice and hearing or notice and local appeal procedures that apply to statutory permits, a local government does not err by adhering to those statutory notice and hearing or notice and local appeal procedures when it discovers that the decision it is being asked to adopt may qualify as a statutory permit. *Bard v. Lane County*, 63 Or LUBA 1 (2011).

31.1.1 Permits – Approval Standards – Generally. Even if approving a front yard setback reduction would permit constructing a dwelling in a location that would alter the way that dwelling approval criteria will apply, if the decision granting a front yard setback does not also grant approval to construct the dwelling, the dwelling approval criteria need not be applied at the time the front yard setback is approved. *Burton v. City of Cannon Beach*, 63 Or LUBA 300 (2011).

31.1.1 Permits – Approval Standards – Generally. Where a local government decision determines that the issue of whether an application for a permit complies with applicable criteria has been resolved in a prior proceeding on the permit application, the local government decision is not a decision on a "permit" as defined in ORS 215.402, because the decision does not approve development. *Kersey v. Lake County*, 62 Or LUBA 239 (2010).

31.1.1 Permits – Approval Standards – Generally. Under *McKay Creek Valley Assoc. v. Washington County*, 24 Or LUBA 187 (1992), where an approval criterion requires a determination that property is a legal or lawfully created parcel, the relevant question is whether any local government approvals required at the time were obtained, not whether the local government correctly applied the applicable approval criteria to create the property. *Brodersen v. City of Ashland*, 62 Or LUBA 329 (2010).

31.1.1 Permits – Approval Standards – Generally. Under *Maxwell v. Lane County*, 178 Or App 210, 35 P3d 1128 (2001), where the applicable criteria expressly or implicitly require a determination that a unit of land proposed for development is a legal or lawfully created "parcel" under code definitions that set out several ways to create a "parcel," the relevant question is whether the unit of land was in fact created in one of the ways set out in the definition, not whether substantive or procedural errors might have been made in the process of creating the parcel. *Brodersen v. City of Ashland*, 62 Or LUBA 329 (2010).

31.1.1 Permits – Approval Standards – Generally. Under a code provision defining a lot or parcel as (1) a unit of land created by partition or subdivision, or (2) a unit of land under single ownership, which complies with all applicable laws at the time the lot or parcel was created, the phrase "complies with all applicable laws" modifies the immediately preceding phrase, units of land created by means other than partition or subdivision, and does not require a determination that a parcel created by partition complies with all applicable laws at the time it was created. *Brodersen v. City of Ashland*, 62 Or LUBA 329 (2010).

31.1.1 Permits – Approval Standards – Generally. In applying a land use regulation standard that only requires a service provider certification or letter, a decision maker is not obligated to ensure that every representation in a service provider's certification or letter is correct or supported by substantial evidence. *Pete's Mtn. Home Owners Assoc. v. Clackamas County*, 55 Or LUBA 287 (2007).

31.1.1 Permits – Approval Standards – Generally. The general grant of authority in ORS 215.422(1)(c) does not impose a specific limit on local land use appeal fees, but ORS 215.416(11)(b) imposes a specific $250 dollar limit on local appeal fees that counties can charge for local appeal of a permit decision that is rendered initially without a hearing. For such appeals, the $250 dollar limit applies in place of the higher appeal fee that might otherwise be permissible under ORS 215.422(1)(c). *Meadow Neighborhood Assoc. v. Washington County*, 54 Or LUBA 124 (2007).

31.1.1 Permits – Approval Standards – Generally. ORS 215.416(8)(a) simply requires that permit approval standards be included in a county's land use regulations. The ORS 215.416(8)(b)

requirement that permit standards that apply to needed housing be "clear and objective" does not apply to permits for other kinds of development. *Clark v. Coos County*, 53 Or LUBA 325 (2007).

31.1.1 Permits – Approval Standards – Generally. Where a hearings officer finds that a proposed subdivision complies with all approval criteria and imposes a condition of subdivision approval that requires preparation of a habitat enhancement plan at a later date, but says nothing about what procedures will be required to review and approve the habitat enhancement plan, opponent's arguments that a public hearing will be required to review and approve the habitat enhancement plan are premature. *Kyle v. Washington County*, 52 Or LUBA 399 (2006).

31.1.1 Permits – Approval Standards – Generally. The fixed goal posts rule in ORS 215.427(3)(a) only applies where the county's comprehensive plan and land use regulations are acknowledged at the time the permit application is submitted. *Niederhof v. Deschutes County*, 48 Or LUBA 626 (2004).

31.1.1 Permits – Approval Standards – Generally. A local code standard that prohibits development in wetlands does not violate the ORS 197.307(6) requirement for "clear and objective" approval standards for needed housing. Where an applicant seeks a variance to that local code prohibition against development in wetlands, ORS 197.307(6) does not prohibit application of subjective variance approval standards. *Linstromberg v. City of Veneta*, 47 Or LUBA 99 (2004).

31.1.1 Permits – Approval Standards – Generally. A city does not err in refusing to speculate about who might ultimately prevail in a quiet title action in considering whether to approve a subdivision and whether to require provision of access to the disputed property in approving the subdivision. The city may assume that the record owner of the disputed property owns the property. *McFall v. City of Sherwood*, 46 Or LUBA 735 (2004).

31.1.1 Permits – Approval Standards – Generally. Generally, where a civil statute of limitation is changed to shorten the limitation period, the change is applied prospectively only. But where the statute is changed to lengthen the limitation period, the change applies both prospectively and retroactively. Applying that principle to ORS 215.417, forest template dwelling permits with a two-year duration that were issued before ORS 215.417 took effect, but which had not yet expired on the date ORS 215.417 took effect, must be honored for four years. *Butori v. Clatsop County*, 45 Or LUBA 553 (2003).

31.1.1 Permits – Approval Standards – Generally. A county commits no error in applying a zoning code requirement that a conditional use be found to be in harmony with the purpose and intent of the zone as a mandatory approval criterion where the provision expressly requires that determination. The county's identification in its notice of hearing of the chapter in which that zoning code requirement appears is sufficient to give the applicant notice of that approval criterion where the chapter is short and code requirement for a finding concerning that criterion is clear. *Hick v. Marion County*, 43 Or LUBA 483 (2003).

31.1.1 Permits – Approval Standards – Generally. An application to change a unified comprehensive plan and zoning map does not in itself require a "discretionary approval of a

proposed development of land" and is therefore not an application for a "permit" within the meaning of ORS 215.402(4). *Rutigliano v. Jackson County*, 42 Or LUBA 565 (2002).

31.1.1 Permits – Approval Standards – Generally. Remand is necessary where a code provision allows a single-family dwelling as a permitted use in a scenic protection zone "provided the use promotes the purpose of the zone," but the local government's decision neither determines that the proposed dwelling promotes the purpose of the zone nor explains why that requirement does not apply. *Crowley v. City of Bandon*, 41 Or LUBA 87 (2001).

31.1.1 Permits – Approval Standards – Generally. Where a city code provision requires that a "proposal" to adjust development standards be reviewed for compliance with specific criteria, it is reasonable for the city to determine that the scope of the "proposal" is the adjustment proposed by the applicant and therefore that an application for a setback adjustment for a building facade does not require review of the building design as a whole. *Lee v. City of Portland*, 40 Or LUBA 498 (2001).

31.1.1 Permits – Approval Standards – Generally. Under *McKay Creek Valley Assoc. v. Washington County*, 118 Or App 543, 848 P2d 624 (1993), the county need not inquire into the legality of parcels subject to a rezoning application, where the applicable rezoning criteria do not expressly require a "lawfully created parcel" or a "legal parcel," or impose a similar requirement of legality. *Maxwell v. Lane County*, 39 Or LUBA 556 (2001).

31.1.1 Permits – Approval Standards – Generally. An assignment of error that a city erred by approving a floodplain permit in the absence of a valid conditional use permit for the proposed use provides no basis for reversal or remand where petitioner fails to demonstrate that a conditional use permit for the proposed use must be obtained prior to obtaining a floodplain permit. *Willhoft v. City of Gold Beach*, 39 Or LUBA 353 (2001).

31.1.1 Permits – Approval Standards – Generally. Where a site design review criterion requires that, "wherever possible," direct driveway access to arterial streets not be allowed, and the challenged decision approves a site plan with direct driveway access onto an arterial street and a collector street without explaining why it is not possible to limit access to the collector street, the decision must be remanded. *Hubenthal v. City of Woodburn*, 39 Or LUBA 20 (2000).

31.1.1 Permits – Approval Standards – Generally. A permit application may be approved based on adopted standards and criteria that are not yet acknowledged. However, under ORS 197.625(3), if the standards and criteria are not ultimately acknowledged, any improvements that have been made in reliance on a permit issued under the unacknowledged standards and criteria may have to be removed. *Western States v. Multnomah County*, 37 Or LUBA 835 (2000).

31.1.1 Permits – Approval Standards – Generally. ORS 197.625(3)(a) and 215.428(3) (1997) do not require that the county apply a land use regulation that was in effect when the permit application is filed, where the ordinance that adopted the land use regulation is appealed to LUBA and remanded before the county makes a final decision on the permit. *Western States v. Multnomah County*, 37 Or LUBA 835 (2000).

31.1.1 Permits – Approval Standards – Generally. An argument that a local government failed to provide adequate notice of evidence needed to satisfy applicable criteria will fail where the county's staff report interprets the code to require certain evidence and petitioner in fact provides evidence to show that the criterion, as interpreted, is satisfied. *McKenney v. Deschutes County*, 37 Or LUBA 685 (2000).

31.1.1 Permits – Approval Standards – Generally. Where a county prohibits the refiling of a new or substantially similar application until two years after a final decision denying an application; the decision maker determines that a second application, filed less than a year after the first, was "substantially similar" because it involved the same use on the same property and the changes in the facts supporting the application were otherwise insufficient to demonstrate that the application is different; and the decision maker points to evidence in the record to support his conclusions, that decision is supported by substantial evidence. *Munn v. Clackamas County*, 37 Or LUBA 621 (2000).

31.1.1 Permits – Approval Standards – Generally. Where LUBA cannot determine whether the challenged decision is a "zoning classification" decision as described in ORS 227.160(2)(b), or a "permit" decision as defined by ORS 227.160(2), LUBA will remand to allow the city to make that determination. *Davis v. City of Ashland*, 37 Or LUBA 224 (1999).

31.1.1 Permits – Approval Standards – Generally. LUBA will not reject a substantial evidence challenge based on a code informational requirement, where the challenged decision does not interpret the code requirement as being purely informational, but, to the contrary, appears to require that the information submitted under the code provision be the kind of information a reasonable person would rely on. *Baughman v. City of Portland*, 36 Or LUBA 353 (1999).

31.1.1 Permits – Approval Standards – Generally. ORS 227.178(3) provides that the standards and criteria that are in effect when a subdivision application is submitted govern approval of the subdivision application, but ORS 227.178(3) does not limit a local government's authority to adopt construction or development standards that apply after the subdivision is approved. *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

31.1.1 Permits – Approval Standards – Generally. Where a previous, unappealed development is not part of the conditional use approval proposal in question, a local government cannot require a conditional use permit for that development as part of its evaluation of the proposed use. *Tylka v. Clackamas County*, 34 Or LUBA 14 (1998).

31.1.1 Permits – Approval Standards – Generally. The submittal of a land use permit application leads to *one* local review process, including any local appeals, and culminates in *one* final local land use decision appealable to LUBA. Any relevant issues concerning the acceptance, processing and approval or denial of such application may be raised in an appeal to LUBA, subject to the requirements of ORS 197.763(1) and 197.835(2) that such issues have been raised below. *Save Amazon Coalition v. City of Eugene*, 29 Or LUBA 238 (1995).

31.1.1 Permits – Approval Standards – Generally. Where conditional use approval is sought for the construction of a building to serve an existing use, whether that existing use is lawful is relevant to approval of the proposed building. *Penland v. Josephine County*, 29 Or LUBA 213 (1995).

31.1.1 Permits – Approval Standards – Generally. In order to defer determinations of compliance with mandatory approval standards to a later stage where no public hearing is contemplated, the local government must first determine that compliance with those standards is possible. *Welch v. City of Portland*, 28 Or LUBA 439 (1994).

31.1.1 Permits – Approval Standards – Generally. The term "permits," as used in Oregon Laws 1991, chapter 3, section 7, refers to all decisions defined as "permits" when that law was enacted. The subsequent amendment to the ORS 227.160(2) definition of "permit" to exclude limited land use decisions does not apply. *Tri-County Metro. Trans. Dist. v. City of Beaverton*, 28 Or LUBA 78 (1994).

31.1.1 Permits – Approval Standards – Generally. A local government may not defer determinations of compliance with approval standards applicable to partition approval to the building permit approval stage. *Beck v. City of Happy Valley*, 27 Or LUBA 631 (1994).

31.1.1 Permits – Approval Standards – Generally. Where a code approval standard *prohibits* the proposed use *unless* an exception is justified under a second code standard that requires the local government to have a "short term parking strategy," if the local government has not adopted a "short term parking strategy," it cannot make use of the exception provided by the second standard and must deny the application. *BCT Partnership v. City of Portland*, 27 Or LUBA 278 (1994).

31.1.1 Permits – Approval Standards – Generally. The requirement of ORS 197.175(2)(d) that a land use decision or limited land use decision comply with a local government's acknowledged comprehensive plan, does not necessarily mean that all plan provisions apply directly to individual development applications. *Shelter Resources, Inc. v. City of Cannon Beach*, 27 Or LUBA 229 (1994).

31.1.1 Permits – Approval Standards – Generally. ORS 197.195, which establishes minimum procedural requirements for making limited land use decisions, does not require that local governments provide either a public hearing or a local appeal. ORS 227.175(3) and (10) do not apply to limited land use decisions, because they are not "permits," as defined in ORS 227.160(2). *Forest Park Neigh. Assoc. v. City of Portland*, 27 Or LUBA 215 (1994).

31.1.1 Permits – Approval Standards – Generally. The meaning of the term "standards and criteria" in ORS 227.178(3) is a question of state law, and a city's interpretation and application of this term does not bind LUBA. The role of the term "standards and criteria" in ORS 227.178(3) is to assure both proponents and opponents of an application that the substantive factors that are actually applied and that have a meaningful impact on a decision permitting or denying an application will remain constant throughout the proceedings. *Forest Park Neigh. Assoc. v. City of Portland*, 27 Or LUBA 215 (1994).

31.1.1 Permits – Approval Standards – Generally. Where local code language unambiguously requires findings of compliance with certain standards prior to issuance of a permit, the standards are properly viewed as approval standards, rather than performance standards, which only provide a basis for revocation of a permit after it is issued. *Towry v. City of Lincoln City*, 26 Or LUBA 554 (1994).

31.1.1 Permits – Approval Standards – Generally. Where the local government's plan and land use regulations are acknowledged, a local government is under no obligation to establish compliance with Goal 5 or to perform an ESEE consequences analysis in approving an application for a conditional use permit. *City of Barlow v. Clackamas County*, 26 Or LUBA 375 (1994).

31.1.1 Permits – Approval Standards – Generally. ORS 215.130(2) allows cities to adopt contingent plan and zoning designations for property to be annexed in the future, but it does not allow cities to grant contingent permits for property to be annexed in the future. *Recht v. City of Newport*, 26 Or LUBA 316 (1993).

31.1.1 Permits – Approval Standards – Generally. Where a city comprehensive plan expressly recognizes that the county has jurisdiction to issue land use permits prior to annexation of unincorporated areas, the city must annex an unincorporated area before it has jurisdiction to grant land use permits for such unincorporated areas. *Recht v. City of Newport*, 26 Or LUBA 316 (1993).

31.1.1 Permits – Approval Standards – Generally. Under *Clark v. Jackson County*, 313 Or 508, 836 P2d 710 (1992), there can easily be more than one affirmable local government interpretation of a particular code provision. Nevertheless, *Clark* does not allow a local government arbitrarily to vary its interpretation of an approval standard when acting on permit applications. *Friends of Bryant Woods Park v. Lake Oswego*, 26 Or LUBA 185 (1993).

31.1.1 Permits – Approval Standards – Generally. To find compliance with a local code requirement that schools be adequate to meet anticipated demand, a local government must find that existing school facilities are adequate to serve the proposed project or that they can be made adequate by employing available techniques to maximize school facility capacity. *Langford v. City of Eugene*, 26 Or LUBA 60 (1993).

31.1.1 Permits – Approval Standards – Generally. Local code provisions that simply allow increased density for controlled income and rent housing do not eliminate the requirement that such housing comply with other requirements of the local code. *Langford v. City of Eugene*, 26 Or LUBA 60 (1993).

31.1.1 Permits – Approval Standards – Generally. In order to determine compliance with a code permit approval standard requiring that "the proposed use will not alter the character of the surrounding area" in a particular manner, the local government must first identify the "surrounding area" to be considered. *Spiering v. Yamhill County*, 25 Or LUBA 695 (1993).

31.1.1 Permits – Approval Standards – Generally. After acknowledgment, local government permit decisions are governed by the acknowledged plan and regulations, not the statewide planning goals. ORS 197.175(2)(d). *Spiering v. Yamhill County*, 25 Or LUBA 695 (1993).

31.1.1 Permits – Approval Standards – Generally. Because a permit applicant has the burden of demonstrating compliance with each approval criterion, a single supported finding of noncompliance with an approval criterion is sufficient to support a decision denying the permit. *Ball and Associates v. Josephine County*, 25 Or LUBA 525 (1993).

31.1.1 Permits – Approval Standards – Generally. Under ORS 197.175(2)(d), a local government's acknowledged comprehensive plan and land use regulations, not the statewide planning goals, govern permit decisions. *Frankton Neigh. Assoc. v. Hood River County*, 25 Or LUBA 386 (1993).

31.1.1 Permits – Approval Standards – Generally. Where the local code expresses an intent not to duplicate state mobile home park approval standards, LUBA will defer to the local government's interpretation that the state approval standard in ORS 446.100(1)(a) is not part of the "applicable Oregon Law," which the code requires to be considered in making permit decisions. *Frankton Neigh. Assoc. v. Hood River County*, 25 Or LUBA 386 (1993).

31.1.1 Permits – Approval Standards – Generally. Where a city's plan and land use regulations were unacknowledged at the time the subject permit application was initially filed, ORS 227.178(3) does not restrict the applicable standards to those in effect when the application was filed. *Schatz v. City of Jacksonville*, 25 Or LUBA 327 (1993).

31.1.1 Permits – Approval Standards – Generally. A local code may provide a PUD process in which an approved PUD overall development plan, rather than the comprehensive plan standards applied in approving the overall development plan, governs final PUD approval. *Westlake Homeowners Assoc. v. City of Lake Oswego*, 25 Or LUBA 145 (1993).

31.1.1 Permits – Approval Standards – Generally. For purposes of identifying the "standards and criteria" that are "applicable at the time the application was first submitted" under ORS 227.178(3), the *acknowledged* comprehensive plan standards and criteria continue to apply, even after adoption of an ordinance repealing or amending those acknowledged standards and criteria, until the newly adopted plan standards and criteria are themselves deemed acknowledged. *Davenport v. City of Tigard*, 25 Or LUBA 67 (1993).

31.1.1 Permits – Approval Standards – Generally. Once a local government's plan and land use regulations are acknowledged under ORS 197.251, the acknowledged plan and land use regulations, not the statewide planning goals, apply to permit decisions. ORS 197.175(2)(d). *O'Mara v. Douglas County*, 25 Or LUBA 25 (1993).

31.1.1 Permits – Approval Standards – 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).

31.1.1 Permits – Approval Standards – Generally. Following LUBA reversal of a city decision approving a permit application, the choice between whether to allow the permit application to be amended or to require that a new permit application be submitted is within the city's discretion,

provided any local code requirements governing that choice are followed. *Seitz v. City of Ashland*, 24 Or LUBA 311 (1992).

31.1.1 Permits – Approval Standards – Generally. Where a parcel was created by deed, at a time when the local government interpreted its partitioning regulations to be inapplicable to parcels created in that manner, the local government may subsequently determine that a permit application complies with a code requirement that a proposed use be on a "parcel," without reexamining the applicability of its partitioning regulations when the parcel was created. *McKay Creek Valley Assoc. v. Washington County*, 24 Or LUBA 187 (1992).

31.1.1 Permits – Approval Standards – Generally. Where a decision approving a permit application is remanded by LUBA, and the application is thereafter modified to correct the deficiencies identified in LUBA's remand, without changing the nature of the original proposal, the local government does not err by applying on remand approval standards as they existed when the permit application was first submitted. Approval standards, as amended following submittal of the original permit application, need not be applied in such circumstances. ORS 227.178(3). *Wentland v. City of Portland*, 23 Or LUBA 321 (1992).

31.1.1 Permits – Approval Standards – Generally. Amending an acknowledged comprehensive plan and land use regulations to establish a process for case-by-case application of the Goal 5 planning process in conjunction with individual development requests does not comply with Goal 5 and the Goal 5 administrative rule. *Ramsey v. City of Portland*, 23 Or LUBA 291 (1992).

31.1.1 Permits – Approval Standards – Generally. A local code requirement that a home occupation be "operated in" a dwelling or other buildings normally associated with the dwelling is not satisfied by the parking of repossessed vehicles outside of the dwelling until such vehicles are either loaded on trucks for disposal or driven away. *Stevenson v. Douglas County*, 23 Or LUBA 227 (1992).

31.1.1 Permits – Approval Standards – Generally. Where a code approval standard applicable to a permit decision fully incorporates and refines a comprehensive plan policy, the plan policy does not apply directly to the permit decision as an approval criterion. *Avgeris v. Jackson County*, 23 Or LUBA 124 (1992).

31.1.1 Permits – Approval Standards – Generally. Where a city's comprehensive plan and land use regulations were not acknowledged when a permit application was initially filed, ORS 227.178(3) does not restrict the standards applicable to that application to those in effect when the application was filed. *Schatz v. City of Jacksonville*, 23 Or LUBA 40 (1992).

31.1.1 Permits – Approval Standards – Generally. Where a local government held further evidentiary hearings on a permit application after issuance of an LCDC enforcement order, and made its final decision approximately four months after the enforcement order was issued, the local government was required to consider and comply with the enforcement order in adopting its decision. *Schatz v. City of Jacksonville*, 23 Or LUBA 40 (1992).

31.1.1 Permits – Approval Standards – Generally. Where an LCDC limited acknowledgment order issued pursuant to ORS 197.251(9) grants acknowledgment of a local government's comprehensive plan and land use regulations with regard to certain Statewide Planning Goals, it is error for the local government to thereafter apply those goals in making a decision on a permit application. *Schatz v. City of Jacksonville*, 23 Or LUBA 40 (1992).

31.1.1 Permits – Approval Standards – Generally. A local government is required by statute to make land use decisions consistent with the standards established in its acknowledged comprehensive plan and land use regulations, and those standards cannot be replaced or superseded by a written "policy" adopted by the planning director. *Sterling Mine Properties v. Jackson County*, 23 Or LUBA 18 (1992).

31.1.1 Permits – Approval Standards – Generally. After acknowledgment, the local comprehensive plan and land use regulations, not the Statewide Planning Goals, govern a local government's decisions on land development permit applications. *Oregon Worsted Company v. City of Portland*, 22 Or LUBA 452 (1991).

31.1.1 Permits – Approval Standards – Generally. Where a permit approval criterion requires the local government to determine that transportation systems are adequate, the local government may not rely on the fact it found a street to be adequate in an earlier decision approving a similar permit for the same property, particularly in view of the new evidence submitted below and issues raised below with regard to the adequacy of the street. *Broetje-McLaughlin v. Clackamas County*, 22 Or LUBA 198 (1991).

31.1.1 Permits – Approval Standards – Generally. A permit approval criterion that a proposed use "not alter the character of the surrounding area in a manner which substantially [limits] use of surrounding properties for the primary uses [of the zoning district]" requires the adoption of findings describing the character of the surrounding area, as well as findings concerning the impacts of the proposed use on that character. *Broetje-McLaughlin v. Clackamas County*, 22 Or LUBA 198 (1991).

31.1.1 Permits – Approval Standards – Generally. Where the local code clearly and unambiguously states that specific code standards apply only to certain types of development, the local government does not err in declining to apply those standards to a proposed development that does not fit within the listed development types. *Tylka v. Clackamas County*, 22 Or LUBA 166 (1991).

31.1.1 Permits – Approval Standards – Generally. Where existing code and comprehensive plan provisions impose a higher approval standard than the local government believes is appropriate, the appropriate course is to amend the plan and code. *Boldt v. Clackamas County*, 21 Or LUBA 40 (1991).

31.1.1 Permits – Approval Standards – Generally. Whether comprehensive plan goals and policies or zoning ordinance purpose sections are approval standards for conditional use approval in a particular instance, depends upon an examination of the relevant plan and code provisions. *Rowan v. Clackamas County*, 19 Or LUBA 163 (1990).

31.1.1 Permits – Approval Standards – Generally. ORS 215.428(3) does not preclude an applicant from submitting a new permit application, similar or identical to a previous permit application found inconsistent with applicable standards, for the purpose of obtaining review under amended approval standards in effect when the new application is filed. *Eckis v. Linn County*, 19 Or LUBA 15 (1990).