

31.3.17 Permits – Particular Uses – Firearms Training Facilities. ORS 197.770, which provides that existing firearms training facilities may continue, is silent regarding the expansion of an existing firearms training facility. Because the statute is silent on expansion, it does not prohibit expansion, if expansion is otherwise authorized and consistent with other applicable law. *H.T. Rea Farming Corp. v. Umatilla County*, 71 Or LUBA 125 (2015).

31.3.17 Permits – Particular Uses – Firearms Training Facilities. Where a local government implements OAR 660-033-0120, Table 1, and OAR 660-033-0130(2)(c), by adopting land use regulations that expressly authorize the expansion of all of the “Parks/Public/Quasi-Public” uses listed in Table 1 except an ORS 197.770 existing firearms training facility in an EFU zone, the unmistakable conclusion is that the local government deliberately chose not to allow expansion of a firearms training facility in the EFU zone. *H.T. Rea Farming Corp. v. Umatilla County*, 71 Or LUBA 125 (2015).

31.3.17 Permits – Particular Uses – Firearms Training Facilities. Where a local government implements OAR 660-033-0130(2)(c) by adopting land use regulations that expressly authorize the expansion of a number of uses in the EFU zone, but did not amend its regulations to provide for expansion of an ORS 197.770 firearms training facility in the EFU zone, the local government must apply its EFU zone regulations as adopted, and cannot directly apply the administrative rule to approve the expansion of an ORS 197.770 firearms training facility that its EFU zone does not authorize. *H.T. Rea Farming Corp. v. Umatilla County*, 71 Or LUBA 125 (2015).

31.3.17 Permits – Particular Uses – Firearms Training Facilities. ORS 197.770 provides that any firearms training facility in existence on September 9, 1995 may continue operating until the facility is no longer used as a firearms training facility. However, the statute is silent as to how to determine when a facility is “no longer used” as a firearms training facility or how long that use may be discontinued before the facility loses the protection of the statute. *Citizens for Responsibility v. Lane County*, 51 Or LUBA 588 (2006).

31.3.17 Permits – Particular Uses – Firearms Training Facilities. A determination that a firearms training facility has not lost the protection of ORS 197.770 requires evaluation of the actual use of the facility following September 9, 1995. Mere intent or capability to use the facility as a qualifying facility is insufficient to prevent loss of the statute’s protection in the absence of actual use. *Citizens for Responsibility v. Lane County*, 51 Or LUBA 588 (2006).

31.3.17 Permits – Particular Uses – Firearms Training Facilities. Like the statutes governing nonconforming uses, ORS 197.770 does not specify what period of discontinued use as a firearms training facility disqualifies a facility from protection under the statute, but instead leaves it to the local government to determine. Where the local government’s regulations provide a period of discontinuance for nonconforming uses but not a specific period for firearms training facilities, LUBA will assume the nonconforming use period of discontinuance applies. *Citizens for Responsibility v. Lane County*, 51 Or LUBA 588 (2006).

31.3.17 Permits – Particular Uses – Firearms Training Facilities. A qualifying firearms training facility under ORS 197.770 must provide courses and certificates required by one of three types of specified organizations. Training and certificates required by other types of organizations do not qualify. *Citizens for Responsibility v. Lane County*, 51 Or LUBA 588 (2006).

31.3.17 Permits – Particular Uses – Firearms Training Facilities. Absent a clear expression of intent to the contrary, LUBA will not infer legislative intent to retroactively legalize uses or structures that were unlawful when first commenced or constructed. Because there is no suggestion in ORS 197.770 that the legislature intended to legalize or protect unlawful or unauthorized “firearms training facilities” that existed on September 9, 1995, such facilities or unlawful expansions to such facilities are not protected by the statute. *Citizens for Responsibility v. Lane County*, 51 Or LUBA 588 (2006).