25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. A county's failure to give written notice to a party is not rendered harmless error simply because the governing body is given discretion under the code not to allow that party to participate at the hearing. *ODFW v. Crook County*, 72 Or LUBA 316 (2015).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where a party would have had at least 10 days to prepare for a hearing, giving that party the right to share 30 minutes with two other persons to present evidence at the end of the hearing is not sufficient to avoid prejudice to the party's substantial rights. *ODFW v. Crook County*, 72 Or LUBA 316 (2015).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. A city's failure to provide a party who is entitled to notice under the city's code with notice of (1) a hearings officer's decision and (2) an appeal hearing on another party's appeal of the hearings officer's decision prejudices the party's right to participate in the planning commission appeal hearing and remand is required. *Oakleigh-McClure Neighbors v. City of Eugene*, 71 Or LUBA 317 (2015).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. ORS 197.763(3)(b) requires a local government's notice of quasi-judicial land use hearing "[l]ist the applicable criteria from the ordinance and the plan that apply to the application at issue." The transportation planning rule (TPR) is not part of a local government's "ordinance" or "plan" and a local government's failure to list the TPR in its notice of hearing does not excuse petitioner's failure to preserve her issue concerning the TPR for LUBA review by raising it before the local government. *Savage v. City of Astoria*, 68 Or LUBA 225 (2013).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. If a planning commission relies on a comprehensive plan policy as a separate and independent basis for its decision to deny a permit application, and the permit applicant fails to challenge the planning commission's reliance on the comprehensive plan policy in its notice of local appeal, the board of county commissioners could affirm the planning commission's decision based on that failure alone, without regard to the merits of the permit applicant's challenge to other bases for the planning commission's decision. *WKN Chopin LLC v. Umatilla County*, 66 Or LUBA 1 (2012).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where a zoning ordinance requires that a notice of local appeal "include" "a clear and distinct identification of the specific grounds" for appeal and that compliance with that requirement is "jurisdictional," a local government may insist on strict compliance with the zoning ordinance requirements of a local notice of appeal. It is not inconsistent with the text of the zoning ordinance to conclude that a local appeal should be dismissed where the notice of intent to appeal includes no grounds for appeal and instead attempts to incorporate by reference legal issues stated in a different

document that was created for a different reason, without attaching a copy of that document. *Lang v. City of Ashland*, 64 Or LUBA 250 (2011).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. A person filing a notice of local appeal to seek a local appeal of a land use decision may not shift to the local government the burden for ensuring that a local appeal fully complies with all jurisdictional requirements. *Lang v. City of Ashland*, 64 Or LUBA 250 (2011).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where a local government is uncertain whether its decision to dismiss a local appeal for failure to comply with zoning ordinance requirements for filing a local notice of appeal will be affirmed by LUBA, it may adopt alternative decisions to dismiss the appeal and to proceed with the appeal. In doing so, a local government does not waive its right to argue at LUBA that the local government correctly dismissed the local appeal. *Lang v. City of Ashland*, 64 Or LUBA 250 (2011).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. The procedure a city is bound to follow in its land use public hearings is dictated in part by the notice of hearing that it gives. Where the notice of hearing represents that written evidence may be submitted for the first time at the hearing and makes no mention of the city council's general rules and guidelines that state written evidence may not be considered if not submitted at least ten days before the public hearing, it is error for the city to rely on the general rules and guidelines to refuse to accept written testimony that is submitted for the first time at the public hearing. *Friends of Yamhill County v. City of Newberg*, 62 Or LUBA 5 (2010).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Although ORS 197.835(4) provides an exception to the "raise it or waive it" rule, it only allows a petitioner to raise new issues based upon applicable criteria that were omitted from the notice. A local provision that tentative approval will expire if not completed and the ORS 227.178(5) limit on the number of days an applicant may extend the deadline for a local government to make a final decision on an application are not "applicable criteria." Therefore, a petitioner may not raise issues concerning the statutes and local provision for the first time at LUBA, even though they were not listed in the notice. *Oh v. City of Gold Beach*, 60 Or LUBA 356 (2010).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where a petitioner is only entitled to notice of a hearing under local provisions, and is not entitled to such notice under state statutes, under *Orenco Neighborhood v. City of Hillsboro*, 135 Or App 428, 899 P2d 720 (1995), any failure to provide notice of a hearing does not toll the 21-day appeal deadline under ORS 197.830(9), pursuant to ORS 197.830(3). *Plaid Pantries, Inc. v. City of Tigard*, 60 Or LUBA 441 (2010).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. *Fasano v. Washington County*, 264 Or 574, 507 P2d 23 (1973), does not give a party an independent constitutional right to notice of a hearing in addition to a statutory or local code right to notice of a hearing. *Plaid Pantries, Inc. v. City of Tigard*, 60 Or LUBA 441 (2010).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where the applicable process for review of an application requires notice and an opportunity for a hearing, the local government fails to provide such notice and provides no opportunity for a hearing, and those failures prejudice a party's substantial rights, including the right to participate in the decision, those failures constitute a procedural error that provides a basis for remand. *Johnson v. Jackson County*, 59 Or LUBA 94 (2009).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. ORS 197.835(4) allows a petitioner at LUBA to raise issues that were not raised below and that a petitioner would otherwise be precluded from raising under ORS 197.763(1) regarding applicable criteria that were omitted from the notice. A mere allegation that the notice omitted applicable criteria does not, in itself, provide a basis to reverse or remand a decision absent an allegation that the failure to list all applicable criteria in the notice resulted in prejudice to the petitioner's substantial rights. *Knapp v. City of Corvallis*, 59 Or LUBA 285 (2009).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where the underlying approval that is being extended is a permit, the extension of that permit is also a permit. *Thalman v. Marion County*, 58 Or LUBA 23 (2008).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. ORS 197.830(5) gives additional appeal rights to parties where a local government makes a decision that is different from the proposal described in the notice. That statute does not require notice of a change to an application. *Welch v. Yamhill County*, 56 Or LUBA 166 (2008).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. When local approval criteria are amended after an application is filed and the local ordinance requires that the notice state the applicable criteria, it is not a procedural error for the local government to list the older approval criteria that are applicable to the application rather than the amended approval criteria that are not applicable. *Painter v. City of Redmond*, 56 Or LUBA 264 (2008).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. There is no prejudice to a party's substantial rights when a notice of a hearing does not list the applicable criteria if the staff report that was available before the hearing lists the applicable criteria, the party was aware of the applicable criteria, and

the party had an adequate opportunity to address the applicable criteria. *Painter v. City of Redmond*, 56 Or LUBA 264 (2008).

25.4.3 Local Government Procedures - Compliance with Local Ordinances/Regs - Notice Requirements. Where written notice is given 12 days in advance of a rezoning hearing, instead of 20 days before the hearing as required by local law, but the local government continues the initial hearing to a date 25 days after the initial notice, and provides a second notice of that continued hearing, neither notice technically complies with the 20-days prior notice requirement. However, where petitioners make no attempt to challenge the adequacy of the two notices other than to challenge their timing, the local government's action to continue the initial hearing until a date 25 days after the initial notice was sufficient to avoid any prejudice, and the timing of those notices provides no basis for reversal or remand. *Citizens Against Annexation v. City of Florence*, 55 Or LUBA 407 (2007).

25.4.3 Local Government Procedures - Compliance with Local Ordinances/Regs - Notice Requirements. A local government does not err in interpreting a local requirement that a notice of land use hearing be published three times in the newspaper to be satisfied where the notice was published twice in one newspaper and once in a second newspaper. *Citizens Against Annexation v. City of Florence*, 55 Or LUBA 407 (2007).

25.4.3 Local Government Procedures - Compliance with Local Ordinances/Regs - Notice Requirements. Assuming a local government is legally obligated to provide participants in a quasi-judicial land use hearing notice of the date and time of the meeting at which it will adopt its decision in a quasi-judicial land use matter, where the local government provides such notice orally immediately after the conclusion of the final evidentiary hearing it satisfies that legal requirement. *Burgess v. City of Corvallis*, 55 Or LUBA 482 (2008).

25.4.3 Local Government Procedures - Compliance with Local Ordinances/Regs - Notice Requirements. A county's procedural error in providing a permit opponent notice of a planning commission decision on the permit rather than a copy of the permit decision itself could result in prejudice to the opponent's substantial rights, where it prevented the opponent from being able to file a timely appeal to the board of county commissioners. However, where the opponent was nevertheless able to file a timely local appeal, there was no prejudice to the opponent's substantial rights, and the county's failure provides no basis for reversal or remand at LUBA. *Womble v. Wasco County*, 54 Or LUBA 68 (2007).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Local governments are generally required to provide notice of proceedings on remand to the parties before LUBA, even if those parties would not otherwise be entitled to notice under the code. However, such notice is not necessarily required where, following remand, the local government elects to proceed on what is essentially a new and different application involving the same property, under code procedures that do not require notice. *Sullivan v. Polk County*, 51 Or LUBA 107 (2006).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. A city's failure to make a staff report available 15 days prior to a hearing as required by the local code prejudices a petitioner's substantial rights where the staff report is made available only 7 days before the hearing and the application is particularly complex. *Hammons v. City of Happy Valley*, 49 Or LUBA 38 (2005).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. A code provision requiring that where the applicant is not the owner of the subject property the owner be provided a copy of the application prior to approval is satisfied, where there are only two potential owners and both are notified of the application. *Moreland v. City of Depoe Bay*, 48 Or LUBA 136 (2004).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Absent a local code requirement to the contrary, ORS 197.763 does not require that every hearing notice given by a local government must provide an overview of local appeal procedures and how those procedures may affect an appeal at LUBA, as long as the notices inform participants of their obligation to raise issues regarding compliance with applicable criteria at the earliest opportunity. *Scheyer v. City of Hood River*, 43 Or LUBA 112 (2002).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. ORS 197.830(4) comprehensively addresses the situation where a local government makes a permit decision without a hearing pursuant to ORS 215.416(11) or 227.175(10). *Warf v. Coos County*, 42 Or LUBA 84.

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where petitioner argues the city erred by approving an expedited annexation while failing to "(1) publish public notice, (2) notify adjacent property owners, (3) post a notice on the properties, (4) notify property owners within created 'service islands,' or (5) notify the community in time for this issue to be included on public agendas to be discussed," but petitioner identifies no legal requirement for any of these kinds of notice, petitioner fails to provide a basis for reversal or remand. *Cape v. City of Beaverton*, 41 Or LUBA 515 (2002).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. A county's error in providing notice of a planning commission hearing to property owners within 500 feet of the subject property, rather than to those within 750 feet of the subject property as required by local legislation, is a procedural error and provides no basis for reversal or remand unless petitioner's substantial rights are violated by the error. Where petitioner received notice of the planning commission hearing and the proper notice was given prior to a subsequent hearing by the board of county commissioners, there was no prejudice to petitioner's substantial rights. *Donnell v. Union County*, 39 Or LUBA 419 (2001).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. ORS 197.763(3)'s requirement that a notice of hearing shall

provide "a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings" does not require that the notice of hearing include notice of a contingent right under a city's code to conduct cross-examination of witnesses. *Mitchell v. Washington County*, 39 Or LUBA 240 (2000).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. A newspaper insert that describes a proposed legislative plan amendment, sets out a timetable for future proceedings and instructs citizens how to obtain more information is sufficient to satisfy the citizen involvement element of the city's plan, which grants the city considerable discretion to determine whether and how to notify the public of proposed legislation. *OTCNA v. City of Cornelius*, 39 Or LUBA 62 (2000).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. A county's notice of a permit revocation hearing was adequate to comply with a code requirement that the notice be "reasonably calculated to give notice of [the property's] actual location" notwithstanding the notice's reference to the wrong tax lot, where the correct tax lot adjoined the tax lot listed in the notice and both tax lots were owned by the permit holder. *Woods v. Grant County*, 36 Or LUBA 456 (1999).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. A county's failure to explain in its notice of hearing that all evidence and the staff report would be available for review seven days before the hearing provides no basis for reversal or remand, where petitioner did not object to the adequacy of the notice, does not claim he was surprised by anything in the staff report and does not explain how his substantial rights were violated by the inadequate notice. *Woods v. Grant County*, 36 Or LUBA 456 (1999).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where the county's notice of hearing failed to include notice of the procedures to be followed at the hearing, but petitioner did not object below to the inadequate notice and does not explain how his substantial rights were violated by the defective notice, the notice defect provides no basis for reversal or remand. *Woods v. Grant County*, 36 Or LUBA 456 (1999).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. A petitioner does not waive his right to object to the county's failure to list the applicable criteria governing permit revocation in the notice of hearing by failing to object below, where it was not clear until the end of the hearing what criteria would be applied or that the decision makers intended to revoke petitioner's permit. *Woods v. Grant County*, 36 Or LUBA 456 (1999).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where petitioner was provided a local appeal and hearing before the county governing body, the failure of the planning commission to give notice before its hearing of the criteria that it intended to apply or that it intended to revoke petitioner's permit provides no basis for reversal or remand, where petitioner does not explain why

the appeal to the governing body was inadequate to avoid any prejudice to his substantial rights. *Woods v. Grant County*, 36 Or LUBA 456 (1999).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where the county followed the wrong local procedure under its code in approving a proposed forest template dwelling and failed to provide required notice of the decision to an adjoining landowner, the county's action resulted in prejudice to the adjoining landowner's substantial rights. *Krieger v. Wallowa County*, 35 Or LUBA 305 (1998).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. A local government fails to comply with a local code provision requiring that notice of decision be provided to persons commenting on the application where it sends notice directly to a tribal government, rather than to its registered agent who commented on the application. *Confederated Tribes v. Jefferson County*, 34 Or LUBA 565 (1998).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. The city's failure to provide any notice of the hearing at which the challenged ordinance was adopted was procedural error that prejudiced petitioners' substantial rights to participate in the process, notwithstanding that petitioners had participated in earlier proceedings leading to the challenged decision. *Casey Jones Well Drilling, Inc. v. City of Lowell*, 34 Or LUBA 263 (1998).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. The failure of the notices of the city and county planning commission hearings to include a listing of applicable review criteria from the city and county zoning ordinances and plans is not an error justifying remand where the criteria were listed in the staff report, the parties were provided an opportunity to comment on the staff report at the hearing at which it was presented, the parties were provided almost two weeks to submit written comments on the staff report and petitioners have not demonstrated substantial prejudice. *Concerned Citizens v. Jackson County,* 33 Or LUBA 70 (1997).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where the city code requires public hearings before the planning commission and the city council prior to the adoption of a legislative amendment to the city's comprehensive plan, the failure to hold any hearings is a substantive violation of the city code which affects the rights of anyone who might have appeared and commented. *Concerned Citizens v. Jackson County,* 33 Or LUBA 70 (1997).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. A party cannot claim an exception to the appearance requirement of ORS 197.830(2)(b) when that party is not entitled to notice of a decision, even where the local decision maker has sent to that party notice of related previous decisions. *DLCD v. Polk County,* 33 Or LUBA 30 (1997).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. If a notice of hearing does not mention a potentially applicable code provision and the participants below were therefore unaware of its existence or possible applicability, petitioners may raise new issues associated with that provision before LUBA. *DeBates v. Yamhill County*, 32 Or LUBA 276 (1997).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where the notice provided by the city of a proposed partition provides a complete street address, and includes an illustration of the property subject to the partition, that notice is not rendered inadequate by a failure to specify that the partition will involve two parcels. *Thierolf v. City of Ashland*, 32 Or LUBA 182 (1996).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where the challenged decision includes a separate sheet providing detailed information regarding how to appeal an administrative decision to the planning commission, the county has satisfied a local ordinance requiring that the notice of decision must inform interested persons that they "may appeal the decision." *Fletcher v. Douglas County*, 31 Or LUBA 204 (1996).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. The county has made a "good faith attempt" to provide notice where it provides the requisite notice to the petitioners, but inadvertently neglects to mail the notice to the petitioners' attorney as requested. *Fletcher v. Douglas County*, 31 Or LUBA 204 (1996).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. The essence of a "good faith" requirement in a county's notice provisions is the requirement for honesty. *Fletcher v. Douglas County*, 31 Or LUBA 204 (1996).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. If statutory and local code requirements are satisfied, the failure of certain affected persons to receive notice of a zoning ordinance amendment does not make notice of the amendment legally inadequate. *Waite v. City of La Grande*, 31 Or LUBA 77 (1996).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where a local ordinance specifies that board of commissioner hearings are conducted on the record, and where petitioners establish no violation of any statutory notice requirement, petitioners establish no basis for relief in alleging that they relied on various notices, which appeared to petitioners to be contradictory, to conclude they were not required to present all evidence before the planning commission, but would be able to present their case *de novo* before the board of commissioners. *Canfield v. Yamhill County*, 31 Or LUBA 25 (1996).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. LUBA may reverse or remand a local decision based on a local government's failure to comply with applicable notice requirements only if the defect prejudices a petitioner's substantial rights. *Thomas v. Wasco County*, 30 Or LUBA 142 (1995).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. A decision of the city planning commission has no legal effect where the city failed to provide notice of the public proceeding, did not reduce the decision to writing, and did not provide notice of the decision as required by local ordinance. *Sparks v. City of Bandon*, 30 Or LUBA 69 (1995).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Petitioners fail to demonstrate prejudice to their substantial rights arising out of an inaccurate notice published by the city when the mayor correctly stated the applicable criteria prior to the hearing. *Sparks v. City of Bandon*, 30 Or LUBA 69 (1995).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. When the mailed notice of a local government decision expressly, but erroneously, stated the deadline for filing a local appeal and also provided a formula that could be used to calculate the correct deadline, the local government acted properly in processing a local appeal that was filed by the date expressly stated. *Gensman v. City of Tigard*, 29 Or LUBA 505 (1995).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Under ORS 197.835(7)(a)(B), LUBA may reverse or remand a challenged decision because the decision maker failed to follow applicable procedural requirements, including notice requirements, only if that failure prejudiced the substantial rights of the *petitioner*. *Moore v. Clackamas County*, 29 Or LUBA 372 (1995).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. A local government's failure to provide notice of its hearings to persons other than petitioners is a procedural error that does not prejudice petitioners' substantial rights if petitioners received notice of the local government hearings and participated in them. *Skrepetos v. Jackson County*, 29 Or LUBA 193 (1995).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. If a local government fails to give a person an individual written notice of hearing to which that person is entitled under state or local law, the local government fails to provide a hearing with regard to that person, within the meaning of ORS 197.830(3). *Orenco Neighborhood v. City of Hillsboro*, 29 Or LUBA 186 (1995).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where an ordinance amends the text of a zoning ordinance by adding a temporary overlay district, identifies a map showing where the overlay district

applies an "attachment to" the zoning map and does not purport to amend the section of the zoning ordinance under which the zoning map is adopted, it is reasonable and correct to interpret a code notice of hearing provision governing amendments to the text of the zoning ordinance, rather than another provision governing amendments to the "zoning map," as applicable. *Orenco Neighborhood v. City of Hillsboro*, 29 Or LUBA 186 (1995).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where petitioner alleges the local government's notice of public hearing violates local code requirements, but petitioner fails to provide LUBA with the local code requirements allegedly violated, LUBA will deny the assignment of error. *Andrews v. City of Prineville*, 28 Or LUBA 653 (1995).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where a code provision governing notice of decisions on a certain type of land use action does not expressly provide it applies only to a decision by the planning director, LUBA will defer to a local government's interpretation that the code provision also applies to a decision by the hearings officer on appeal from a decision by the planning director. *Reusser v. Washington County*, 25 Or LUBA 252 (1993).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Even though a local code requirement for publication of notice 10 days prior to hearing is mandatory, it is a procedural requirement, and any error in failing to provide the required notice provides a basis for reversal or remand only if petitioner's substantial rights were prejudiced by the error. *West Amazon Basin Landowners v. Lane County*, 24 Or LUBA 508 (1993).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where the petitioner is a neighborhood association that did not come into existence until after the local government committed an alleged procedural error, and petitioner and its members participated in hearings held after the alleged procedural error, the error did not prejudice petitioner's substantial rights and provides no basis for reversal or remand. *West Amazon Basin Landowners v. Lane County*, 24 Or LUBA 508 (1993).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where a local code requirement for notice of hearing on plan and land use regulation amendments makes no distinction between legislative and quasi-judicial land use decisions, the code notice of hearing requirements apply to all plan and land use regulation amendments, without regard to whether they are legislative or quasi-judicial. *Leonard v. Union County*, 24 Or LUBA 362 (1992).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. A local government's failure to provide a person with a required individual written notice of hearing is not sufficient, by itself, to entitle that person to be given individual written notice of the decision or to toll the 21 day deadline for filing a

notice of intent to appeal with LUBA until individual written notice of the decision is provided. *Leonard v. Union County*, 24 Or LUBA 362 (1992).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where a local government fails to give a person an individual written notice of hearing to which the person is entitled, the local government fails to provide a hearing with regard to that person, within the meaning of ORS 197.830(3). *Leonard v. Union County*, 24 Or LUBA 362 (1992).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Under ORS 197.830(3), where a local government renders a decision without providing a hearing, an appeal to LUBA must be filed within 21 days of actual notice of the decision, where notice of the decision is required, or within 21 days of the date a person knew or should have known of the decision, where no notice of the decision is required. *Leonard v. Union County*, 24 Or LUBA 362 (1992).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where the local code requires that the decision maker give an oral statement at the beginning of a local hearing to the effect that any party may request that the record remain open for a period of seven days, and where such oral statement is not given, petitioners' substantial right to submit their case is thereby prejudiced and this error provides a basis for remanding the challenged decision. *Adler v. City of Portland*, 24 Or LUBA 1 (1992).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. A local government satisfies plan coordination requirements where it provides notice of proposed plan amendments to affected governmental units, the applicant contacts those governments by telephone shortly before the plan amendment hearing and the affected governmental units either express support or show no interest in participating in the proceedings. *Davenport v. City of Tigard*, 23 Or LUBA 565 (1992).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Petitioners' allegation that the local government failed to provide required notice of local proceedings following LUBA's remand of a land use decision provides no basis for remand, where petitioners do not contend they were in any way prejudiced by the alleged failure to provide the required notice of the local proceedings. *Wentland v. City of Portland*, 23 Or LUBA 321 (1992).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Where adoption of the challenged decision required the exercise of factual and legal judgment, the decision required the exercise of discretion and, consequently, approves a "permit." Under these circumstances, it is error for the local government to fail to provide petitioner with notice and opportunity for hearing, where at least some of petitioner's members were entitled to notice if a public hearing had been scheduled. *Tuality Lands Coalition v. Washington County*, 22 Or LUBA 319 (1991).

25.4.3 Local Government Procedures – Compliance with Local Ordinances/Regs – Notice Requirements. Although the party initiating a challenged zoning ordinance amendment was not clearly identified on the application and notices of local public hearings as required by the local code, such procedural errors provide no basis for reversal or remand where petitioners' substantial rights were not prejudiced. *Parmenter v. Wallowa County*, 21 Or LUBA 490 (1991).