

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** Where petitioner alleges a local government failed to meet its obligations under ORS 227.186 to provide notice of a comprehensive plan amendment, a zone change, or a change in a land use regulation that may affect the permissible uses of property to be mailed to the owner of each lot or parcel that the ordinance proposes to rezone or that would be affected by a change in the permissible uses of the property, petitioner fails to allege a basis for reversal or remand when petitioner fails to allege the “procedural error” prejudiced petitioner’s “substantial rights.” *Deumling v. City of Salem*, 76 Or LUBA 99 (2017).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** A county fails to comply with ORS 215.060, which requires “the governing body” to (1) conduct at least one hearing; and (2) conduct those hearings after at least 10 days advance notice of “each of the hearings” is published in a newspaper of general circulation, where the county fails to publish in a newspaper of general circulation the notice of the public hearing before the board of county commissioners regarding proposed text amendments to a comprehensive plan. *Oregon Coast Alliance v. Clatsop County*, 75 Or LUBA 277 (2017).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** An initial notice of a proposed post-acknowledgment amendment submitted to DLCDC pursuant to ORS 197.610(1) and OAR 660-018-0020(1) that does not include the “text” of the proposed amendment as defined by OAR 660-018-0020(2) is inadequate to perform the notice function required by ORS 197.610(1). *No Tram to OHSU v. City of Portland*, 44 Or LUBA 647 (2003).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** An initial notice of a proposed post-acknowledgment amendment submitted to DLCDC pursuant to ORS 197.610(1) and OAR 660-018-0020(1) that includes the text of the proposed amendment as that term is defined in OAR 660-018-0020(2), but was submitted approximately 23 days prior to the city’s initial evidentiary hearing is adequate to perform the notice function required by ORS 197.610(1). *No Tram to OHSU v. City of Portland*, 44 Or LUBA 647 (2003).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** Where a city has a process requiring that proposed amendments to a comprehensive plan and zoning code be subject to hearing and review by the planning commission and proposed design review guidelines be subject to hearing and review by the design commission, a notice of proposed amendment regarding the matters before the planning commission is not sufficient to apprise DLCDC or others who receive notice pursuant to ORS 197.610(2) of the design review proceedings. *No Tram to OHSU v. City of Portland*, 44 Or LUBA 647 (2003).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** An initial notice of a proposed post-acknowledgment amendment submitted to DLCDC pursuant to ORS 197.610(1) and OAR 660-018-0020(1) that erroneously states that the initial evidentiary hearing had been held and does not indicate whether further opportunities to provide evidence are available is not adequate to satisfy ORS 197.610(1), which requires

that notice of proposed post-acknowledgement land use amendments be submitted to DLCD at least 45 days prior to the initial evidentiary proceedings on those amendments. *No Tram to OHSU v. City of Portland*, 44 Or LUBA 647 (2003).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** Although a complete failure to provide advanced published notice pursuant to ORS 215.060 renders an ordinance of “no legal effect,” if published notice is provided, challenges to the adequacy of that notice are analyzed as procedural errors and provide a basis for reversal or remand if such errors prejudice a petitioner’s substantial rights. *Ramsey v. Multnomah County*, 44 Or LUBA 722 (2003).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** ORS 215.503 (2003) requires a county to provide mailed written notice of the first hearing on an ordinance to property owners whose property could be rezoned due to a comprehensive plan amendment, but it does not require additional public notice every time LUBA remands an ordinance. *Ramsey v. Multnomah County*, 44 Or LUBA 722 (2003).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** Because ORS 215.060 specifically provides that a county’s failure to provide notice of an action regarding its plan as required by the statute shall result in the county’s action having “no legal effect,” LUBA may not overlook a county’s failure to provide the notice required by ORS 215.060, notwithstanding that the lack of notice did not prejudice petitioner’s substantial rights. *Ramsey v. Multnomah County*, 43 Or LUBA 25 (2002).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** Mailing individual notice of a proposed comprehensive plan amendment to affected property owners is not sufficient to meet the requirement under ORS 215.060 that a county publish notice of such action in a “newspaper of general circulation” or “in the territory \* \* \* concerned.” *Ramsey v. Multnomah County*, 43 Or LUBA 25 (2002).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** ORS 216.060 provides that a county may give notice of a plan amendment by mail, radio, television or other means *in addition to* publishing notice in a “newspaper of general circulation,” but the statute does not allow a county to provide notice by such other means *instead of* by publication in a newspaper. *Ramsey v. Multnomah County*, 43 Or LUBA 25 (2002).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** OAR 660-018-0010(11) and 660-018-0010(13), read together, exempt small tract zoning map amendments from the requirement, at OAR 660-018-0020 and ORS 197.610, that DLCD be notified of proposed plan or land use regulation amendments. *Neighbors for Sensible Dev. v. City of Sweet Home*, 40 Or LUBA 21 (2001).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** Because a local government’s proceedings on remand from LUBA are a continuation of its original proceedings and not a new proceeding, a local government that has sent notice of a proposed post-acknowledgment plan amendment to DLCD as required by ORS 197.610 is

not required under the statute or rules implementing the statute to send additional notice of the proposed amendment during the remand proceedings. *Northwest Aggregates Co. v. City of Scappoose*, 38 Or LUBA 291 (2000).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** A *pro forma* declaration of "emergency circumstances," unaccompanied by stated reasons directed at the necessity for expedited review, is insufficient to satisfy ORS 197.610. Cited concerns about unregulated development in the floodplain constitute a sufficient declaration of emergency under ORS 197.610 to allow expedited adoption proceedings. *Barnard Perkins Corp. v. City of Rivergrove*, 34 Or LUBA 660 (1998).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** ORS 215.060, which requires notice and public hearings prior to action by the governing body of a county "regarding the plan," does not apply to a statement on a notice of adoption to DLCD that the Statewide Planning Goals do not apply to a newly adopted land use regulation. *Petersen v. Columbia County*, 33 Or LUBA 253 (1997).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** 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).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** The city's failure to comply with ORS 197.610(1) in not submitting proposed comprehensive plan amendments to LCDC or DLCD is a substantive error that requires remand. *Concerned Citizens v. Jackson County*, 33 Or LUBA 70 (1997).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** An unrecorded meeting between DLCD staff and intervenors' representative is insufficient to notify DLCD that a proposal submitted under ORS 197.610 has been modified. *DLCD v. Yamhill County*, 31 Or LUBA 488 (1996).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** Where petitioners allege the planning commission denied them an opportunity to submit evidence relevant to a proposed comprehensive plan amendment, but petitioners were able to submit the evidence during a *de novo* hearing on the proposed plan amendment before the governing body, the alleged error in the planning commission proceedings was cured by the governing body's *de novo* review. *O'Rourke v. Union County*, 29 Or LUBA 303 (1995).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** Where the local code requires the governing body to review the planning commission's recommendation on a proposed comprehensive plan amendment, but does not limit the governing body's authority to adopt a plan amendment to instances where the planning commission recommendation is free from error, that there was an error in the procedures

by which the planning commission arrived at its recommendation does not deprive the governing body of jurisdiction over the proposed plan amendment. *O'Rourke v. Union County*, 29 Or LUBA 303 (1995).

**29.2.2 Comprehensive Plans – Amendment – Text Amendment: Procedure.** If the local governing body's interpretation of its comprehensive plan as not already designating the subject property as a 1B aggregate resources site, or providing a method of doing so without amending the acknowledged plan, is not clearly wrong, LUBA will defer to the governing body's interpretation. *O'Rourke v. Union County*, 29 Or LUBA 303 (1995).