

27.2.1 LUBA Procedures/Rules – Perfecting an Appeal – Generally. Where a notice of intent to appeal identifies two decisions that were adopted on different dates as the subjects of the appeal, but the notice of intent to appeal is timely filed with regard to only one of the identified decisions, the appeal may proceed with regard to the decision for which the notice of intent to appeal was timely filed. *Lifestyle Ventures v. Clackamas County*, 73 Or LUBA 388 (2016).

27.2.1 LUBA Procedures/Rules – Perfecting an Appeal – Generally. An amending order that merely corrects a property description included in a prior annexation order does not replace the prior order and therefore petitioners did not have to appeal the amending order rather than the prior order. *Miner v. Clatsop County*, 46 Or LUBA 467 (2004).

27.2.1 LUBA Procedures/Rules – Perfecting an Appeal – Generally. When (1) the local government’s record does not clearly show who was mailed written notice of a land use decision; (2) a petitioner asks the local government who was actually mailed written notice of the decision; and (3) the petitioner serves the notice of intent to appeal on the persons the local government states were mailed written notice of the decision, then petitioner has complied with LUBA’s rules and LUBA will not dismiss the appeal. *Copeland Sand & Gravel, Inc. v. Jackson County*, 46 Or LUBA 653 (2004).

27.2.1 LUBA Procedures/Rules – Perfecting an Appeal – Generally. Where ORS 197.830(4) applies it provides a right to appeal directly to LUBA, within certain time limits, notwithstanding that the deadline for filing a local appeal has expired. In such circumstances, there is no local appeal available to be exhausted pursuant to ORS 197.825(2)(a). *Neighbors for Sensible Dev. v. City of Sweet Home*, 39 Or LUBA 766 (2001).

27.2.1 LUBA Procedures/Rules – Perfecting an Appeal – Generally. Where the challenged decision is an intergovernmental agreement that must be signed by representatives of both the county and the city, the decision becomes final under OAR 661-010-0010(3) when it bears the signatures of necessary decision makers. The unilateral signing of the agreement by the county commissioners does not render the decision final until the city’s authorized representatives supply their signatures. *Sparks v. Polk County and City of Monmouth*, 34 Or LUBA 731 (1998).

27.2.1 LUBA Procedures/Rules – Perfecting an Appeal – Generally. For purposes of OAR 661-10-010, a signature is an essential element for finality of a decision only if another statute, rule or ordinance provides that a signature is necessary. *North Park Annex Bus. Trust v. City of Independence*, 33 Or LUBA 695 (1997).

27.2.1 LUBA Procedures/Rules – Perfecting an Appeal – Generally. Petitioner’s failure to serve a timely notice of intent to appeal on other interested and essential parties warrants dismissal of the appeal where a party establishes substantial prejudice from the delay in service. *Winner v. Multnomah County*, 30 Or LUBA 420 (1996).

27.2.1 LUBA Procedures/Rules – Perfecting an Appeal – Generally. Where a local government makes a permit decision without a hearing, pursuant to local procedures implementing ORS 215.416(11) or 227.175(10), the provisions of ORS 197.830(3) allowing a person to appeal a decision to LUBA if the local government does not provide a hearing do not apply, because the

local government did not fail to provide a hearing or the notice of such hearing required by state or local law. *Tarjoto v. Lane County*, 29 Or LUBA 408 (1995).

27.2.1 LUBA Procedures/Rules – Perfecting an Appeal – Generally. Where ORS 197.830(3) applies, it provides a petitioner with a right to appeal directly to LUBA, within the time limits established by ORS 197.830(3)(a) and (b), notwithstanding that the deadline for filing a local appeal may have expired. In such circumstances, there is no local appeal available to be exhausted pursuant to ORS 197.825(2)(a). *Beveled Edge Machines, Inc. v. City of Dallas*, 28 Or LUBA 790 (1995).

27.2.1 LUBA Procedures/Rules – Perfecting an Appeal – Generally. ORS 197.830(3) imposes a requirement that a reasonable person be able to tell from the notice of public hearing that the local government might take the action that the local government ultimately takes. *Kevedy, Inc. v. City of Portland*, 28 Or LUBA 227 (1994).

27.2.1 LUBA Procedures/Rules – Perfecting an Appeal – Generally. While changes in the proposal described in a notice of public hearing can be of such a degree that the notice “did not reasonably describe the local government’s final [decision],” not every change in the proposal described in the notice of public hearing necessarily implicates ORS 197.830(3). *Kevedy, Inc. v. City of Portland*, 28 Or LUBA 227 (1994).