

House Bill 2556

Sponsored by Representative MEEK; Representative REARDON (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires delivery of certain land use notices to property owners and to properties within wider geographic range.

A BILL FOR AN ACT

1
2 Relating to delivery of land use notices; amending ORS 197.763, 215.416 and 227.175.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 197.763 is amended to read:

5 197.763. The following procedures shall govern the conduct of quasi-judicial land use hearings
6 conducted before a local governing body, planning commission, hearings body or hearings officer on
7 application for a land use decision and shall be incorporated into the comprehensive plan and land
8 use regulations:

9 (1) An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be
10 raised not later than the close of the record at or following the final evidentiary hearing on the
11 proposal before the local government. Such issues shall be raised and accompanied by statements
12 or evidence sufficient to afford the governing body, planning commission, hearings body or hearings
13 officer, and the parties an adequate opportunity to respond to each issue.

14 (2)(a) Notice of the hearings governed by this section shall be provided to the applicant and to
15 **the property addresses and to** owners of record of property on the most recent property tax as-
16 sessment roll where such property is located:

17 (A) Within [100] **600** feet of the property which is the subject of the notice where the subject
18 property is wholly or in part within an urban growth boundary[;].

19 (B) Within [250] **2,640** feet of the property which is the subject of the notice where the subject
20 property is outside an urban growth boundary [*and not within a farm or forest zone; or*]

21 [*(C) Within 500 feet of the property which is the subject of the notice where the subject property is*
22 *within a farm or forest zone*].

23 (b) Notice shall also be provided to any neighborhood or community organization recognized by
24 the governing body and whose boundaries include the site.

25 (c) At the discretion of the applicant, the local government also shall provide notice to the De-
26 partment of Land Conservation and Development.

27 (3) The notice provided by the jurisdiction shall:

28 (a) Explain the nature of the application and the proposed use or uses which could be author-
29 ized;

30 (b) List the applicable criteria from the ordinance and the plan that apply to the application at
31 issue;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (c) Set forth the street address or other easily understood geographical reference to the subject
 2 property;

3 (d) State the date, time and location of the hearing;

4 (e) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to
 5 provide statements or evidence sufficient to afford the decision maker an opportunity to respond to
 6 the issue precludes appeal to the board based on that issue;

7 (f) Be mailed at least:

8 (A) Twenty days before the evidentiary hearing; or

9 (B) If two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;

10 (g) Include the name of a local government representative to contact and the telephone number
 11 where additional information may be obtained;

12 (h) State that a copy of the application, all documents and evidence submitted by or on behalf
 13 of the applicant and applicable criteria are available for inspection at no cost and will be provided
 14 at reasonable cost;

15 (i) State that a copy of the staff report will be available for inspection at no cost at least seven
 16 days prior to the hearing and will be provided at reasonable cost; and

17 (j) Include a general explanation of the requirements for submission of testimony and the pro-
 18 cedure for conduct of hearings.

19 (4)(a) All documents or evidence relied upon by the applicant shall be submitted to the local
 20 government and be made available to the public.

21 (b) Any staff report used at the hearing shall be available at least seven days prior to the
 22 hearing. If additional documents or evidence are provided by any party, the local government may
 23 allow a continuance or leave the record open to allow the parties a reasonable opportunity to re-
 24 spond. Any continuance or extension of the record requested by an applicant shall result in a cor-
 25 responding extension of the time limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179.

26 (5) At the commencement of a hearing under a comprehensive plan or land use regulation, a
 27 statement shall be made to those in attendance that:

28 (a) Lists the applicable substantive criteria;

29 (b) States that testimony, arguments and evidence must be directed toward the criteria described
 30 in paragraph (a) of this subsection or other criteria in the plan or land use regulation which the
 31 person believes to apply to the decision; and

32 (c) States that failure to raise an issue accompanied by statements or evidence sufficient to af-
 33 ford the decision maker and the parties an opportunity to respond to the issue precludes appeal to
 34 the board based on that issue.

35 (6)(a) Prior to the conclusion of the initial evidentiary hearing, any participant may request an
 36 opportunity to present additional evidence, arguments or testimony regarding the application. The
 37 local hearings authority shall grant such request by continuing the public hearing pursuant to par-
 38 agraph (b) of this subsection or leaving the record open for additional written evidence, arguments
 39 or testimony pursuant to paragraph (c) of this subsection.

40 (b) If the hearings authority grants a continuance, the hearing shall be continued to a date, time
 41 and place certain at least seven days from the date of the initial evidentiary hearing. An opportu-
 42 nity shall be provided at the continued hearing for persons to present and rebut new evidence, ar-
 43 guments or testimony. If new written evidence is submitted at the continued hearing, any person
 44 may request, prior to the conclusion of the continued hearing, that the record be left open for at
 45 least seven days to submit additional written evidence, arguments or testimony for the purpose of

1 responding to the new written evidence.

2 (c) If the hearings authority leaves the record open for additional written evidence, arguments
 3 or testimony, the record shall be left open for at least seven days. Any participant may file a written
 4 request with the local government for an opportunity to respond to new evidence submitted during
 5 the period the record was left open. If such a request is filed, the hearings authority shall reopen
 6 the record pursuant to subsection (7) of this section.

7 (d) A continuance or extension granted pursuant to this section shall be subject to the limita-
 8 tions of ORS 215.427 or 227.178 and ORS 215.429 or 227.179, unless the continuance or extension is
 9 requested or agreed to by the applicant.

10 (e) Unless waived by the applicant, the local government shall allow the applicant at least seven
 11 days after the record is closed to all other parties to submit final written arguments in support of
 12 the application. The applicant's final submittal shall be considered part of the record, but shall not
 13 include any new evidence. This seven-day period shall not be subject to the limitations of ORS
 14 215.427 or 227.178 and ORS 215.429 or 227.179.

15 (7) When a local governing body, planning commission, hearings body or hearings officer reopens
 16 a record to admit new evidence, arguments or testimony, any person may raise new issues which
 17 relate to the new evidence, arguments, testimony or criteria for decision-making which apply to the
 18 matter at issue.

19 (8) The failure of the property owner to receive notice as provided in this section shall not in-
 20 validate such proceedings if the local government can demonstrate by affidavit that such notice was
 21 given. The notice provisions of this section shall not restrict the giving of notice by other means,
 22 including posting, newspaper publication, radio and television.

23 (9) For purposes of this section:

24 (a) "Argument" means assertions and analysis regarding the satisfaction or violation of legal
 25 standards or policy believed relevant by the proponent to a decision. "Argument" does not include
 26 facts.

27 (b) "Evidence" means facts, documents, data or other information offered to demonstrate com-
 28 pliance or noncompliance with the standards believed by the proponent to be relevant to the deci-
 29 sion.

30 **SECTION 2.** ORS 215.416 is amended to read:

31 215.416. (1) When required or authorized by the ordinances, rules and regulations of a county,
 32 an owner of land may apply in writing to such persons as the governing body designates, for a
 33 permit, in the manner prescribed by the governing body. The governing body shall establish fees
 34 charged for processing permits at an amount no more than the actual or average cost of providing
 35 that service.

36 (2) The governing body shall establish a consolidated procedure by which an applicant may ap-
 37 ply at one time for all permits or zone changes needed for a development project. The consolidated
 38 procedure shall be subject to the time limitations set out in ORS 215.427. The consolidated proce-
 39 dure shall be available for use at the option of the applicant no later than the time of the first pe-
 40 riodic review of the comprehensive plan and land use regulations.

41 (3) Except as provided in subsection (11) of this section, the hearings officer shall hold at least
 42 one public hearing on the application.

43 (4)(a) A county may not approve an application if the proposed use of land is found to be in
 44 conflict with the comprehensive plan of the county and other applicable land use regulation or or-
 45 dinance provisions. The approval may include such conditions as are authorized by statute or county

1 legislation.

2 (b)(A) A county may not deny an application for a housing development located within the urban
 3 growth boundary if the development complies with clear and objective standards, including but not
 4 limited to clear and objective design standards contained in the county comprehensive plan or land
 5 use regulations.

6 (B) This paragraph does not apply to:

7 (i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

8 (ii) Applications or permits reviewed under an alternative approval process adopted under ORS
 9 197.307 (6).

10 (c) A county may not condition an application for a housing development on a reduction in
 11 density if:

12 (A) The density applied for is at or below the authorized density level under the local land use
 13 regulations; and

14 (B) At least 75 percent of the floor area applied for is reserved for housing.

15 (d) A county may not condition an application for a housing development on a reduction in
 16 height if:

17 (A) The height applied for is at or below the authorized height level under the local land use
 18 regulations;

19 (B) At least 75 percent of the floor area applied for is reserved for housing; and

20 (C) Reducing the height has the effect of reducing the authorized density level under local land
 21 use regulations.

22 (e) Notwithstanding paragraphs (c) and (d) of this subsection, a county may condition an appli-
 23 cation for a housing development on a reduction in density or height only if the reduction is nec-
 24 cessary to resolve a health, safety or habitability issue or to comply with a protective measure
 25 adopted pursuant to a statewide land use planning goal. Notwithstanding ORS 197.350, the county
 26 must adopt findings supported by substantial evidence demonstrating the necessity of the reduction.

27 (f) As used in this subsection:

28 (A) "Authorized density level" means the maximum number of lots or dwelling units or the
 29 maximum floor area ratio that is permitted under local land use regulations.

30 (B) "Authorized height level" means the maximum height of a structure that is permitted under
 31 local land use regulations.

32 (C) "Habitability" means being in compliance with the applicable provisions of the state building
 33 code under ORS chapter 455 and the rules adopted thereunder.

34 (5) Hearings under this section shall be held only after notice to the applicant and also notice
 35 to other persons as otherwise provided by law and shall otherwise be conducted in conformance
 36 with the provisions of ORS 197.763.

37 (6) Notice of a public hearing on an application submitted under this section shall be provided
 38 to the owner of an airport defined by the Oregon Department of Aviation as a "public use airport"
 39 if:

40 (a) The name and address of the airport owner has been provided by the Oregon Department
 41 of Aviation to the county planning authority; and

42 (b) The property subject to the land use hearing is:

43 (A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon
 44 Department of Aviation to be a "visual airport"; or

45 (B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon

1 Department of Aviation to be an “instrument airport.”

2 (7) Notwithstanding the provisions of subsection (6) of this section, notice of a land use hearing
 3 need not be provided as set forth in subsection (6) of this section if the zoning permit would only
 4 allow a structure less than 35 feet in height and the property is located outside the runway “ap-
 5 proach surface” as defined by the Oregon Department of Aviation.

6 (8)(a) Approval or denial of a permit application shall be based on standards and criteria which
 7 shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county
 8 and which shall relate approval or denial of a permit application to the zoning ordinance and com-
 9 prehensive plan for the area in which the proposed use of land would occur and to the zoning or-
 10 dinance and comprehensive plan for the county as a whole.

11 (b) When an ordinance establishing approval standards is required under ORS 197.307 to provide
 12 only clear and objective standards, the standards must be clear and objective on the face of the
 13 ordinance.

14 (9) Approval or denial of a permit or expedited land division shall be based upon and accompa-
 15 nied by a brief statement that explains the criteria and standards considered relevant to the deci-
 16 sion, states the facts relied upon in rendering the decision and explains the justification for the
 17 decision based on the criteria, standards and facts set forth.

18 (10) Written notice of the approval or denial shall be given to all parties to the proceeding.

19 (11)(a)(A) The hearings officer or such other person as the governing body designates may ap-
 20 prove or deny an application for a permit without a hearing if the hearings officer or other desig-
 21 nated person gives notice of the decision and provides an opportunity for any person who is
 22 adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection,
 23 to file an appeal.

24 (B) Written notice of the decision shall be mailed to those persons described in paragraph (c)
 25 of this subsection.

26 (C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall
 27 describe the nature of the decision. In addition, the notice shall state that any person who is ad-
 28 versely affected or aggrieved or who is entitled to written notice under paragraph (c) of this sub-
 29 section may appeal the decision by filing a written appeal in the manner and within the time period
 30 provided in the county’s land use regulations. A county may not establish an appeal period that is
 31 less than 12 days from the date the written notice of decision required by this subsection was
 32 mailed. The notice shall state that the decision will not become final until the period for filing a
 33 local appeal has expired. The notice also shall state that a person who is mailed written notice of
 34 the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS
 35 197.830.

36 (D) An appeal from a hearings officer’s decision made without hearing under this subsection
 37 shall be to the planning commission or governing body of the county. An appeal from such other
 38 person as the governing body designates shall be to a hearings officer, the planning commission or
 39 the governing body. In either case, the appeal shall be to a de novo hearing.

40 (E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial
 41 evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board
 42 of Appeals. At the de novo hearing:

43 (i) The applicant and other parties shall have the same opportunity to present testimony, argu-
 44 ments and evidence as they would have had in a hearing under subsection (3) of this section before
 45 the decision;

1 (ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised
 2 in a notice of appeal; and

3 (iii) The decision maker shall consider all relevant testimony, arguments and evidence that are
 4 accepted at the hearing.

5 (b) If a local government provides only a notice of the opportunity to request a hearing, the
 6 local government may charge a fee for the initial hearing. The maximum fee for an initial hearing
 7 shall be the cost to the local government of preparing for and conducting the appeal, or \$250,
 8 whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the
 9 initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made
 10 by neighborhood or community organizations recognized by the governing body and whose bounda-
 11 ries include the site.

12 (c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the ap-
 13 plicant and to the **property address and** owners of record of property on the most recent property
 14 tax assessment roll where such property is located:

15 (i) Within [100] **600** feet of the property that is the subject of the notice when the subject
 16 property is wholly or in part within an urban growth boundary[;].

17 (ii) Within [250] **2,640** feet of the property that is the subject of the notice when the subject
 18 property is outside an urban growth boundary [*and not within a farm or forest zone; or*]

19 [*iii*] *Within 750 feet of the property that is the subject of the notice when the subject property is*
 20 *within a farm or forest zone*].

21 (B) Notice shall also be provided to any neighborhood or community organization recognized by
 22 the governing body and whose boundaries include the site.

23 (C) At the discretion of the applicant, the local government also shall provide notice to the
 24 Department of Land Conservation and Development.

25 (12) A decision described in ORS 215.402 (4)(b) shall:

26 (a) Be entered in a registry available to the public setting forth:

27 (A) The street address or other easily understood geographic reference to the subject property;

28 (B) The date of the decision; and

29 (C) A description of the decision made.

30 (b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a
 31 limited land use decision.

32 (c) Be subject to the appeal period described in ORS 197.830 (5)(b).

33 (13) At the option of the applicant, the local government shall provide notice of the decision
 34 described in ORS 215.402 (4)(b) in the manner required by ORS 197.763 (2), in which case an appeal
 35 to the board shall be filed within 21 days of the decision. The notice shall include an explanation
 36 of appeal rights.

37 (14) Notwithstanding the requirements of this section, a limited land use decision shall be sub-
 38 ject to the requirements set forth in ORS 197.195 and 197.828.

39 **SECTION 3.** ORS 227.175 is amended to read:

40 227.175. (1) When required or authorized by a city, an owner of land may apply in writing to the
 41 hearings officer, or such other person as the city council designates, for a permit or zone change,
 42 upon such forms and in such a manner as the city council prescribes. The governing body shall es-
 43 tablish fees charged for processing permits at an amount no more than the actual or average cost
 44 of providing that service.

45 (2) The governing body of the city shall establish a consolidated procedure by which an appli-

1 cant may apply at one time for all permits or zone changes needed for a development project. The
 2 consolidated procedure shall be subject to the time limitations set out in ORS 227.178. The consol-
 3 idated procedure shall be available for use at the option of the applicant no later than the time of
 4 the first periodic review of the comprehensive plan and land use regulations.

5 (3) Except as provided in subsection (10) of this section, the hearings officer shall hold at least
 6 one public hearing on the application.

7 (4)(a) A city may not approve an application unless the proposed development of land would be
 8 in compliance with the comprehensive plan for the city and other applicable land use regulation or
 9 ordinance provisions. The approval may include such conditions as are authorized by ORS 227.215
 10 or any city legislation.

11 (b)(A) A city may not deny an application for a housing development located within the urban
 12 growth boundary if the development complies with clear and objective standards, including clear and
 13 objective design standards contained in the city comprehensive plan or land use regulations.

14 (B) This paragraph does not apply to:

15 (i) Applications or permits for residential development in areas described in ORS 197.307 (5); or

16 (ii) Applications or permits reviewed under an alternative approval process adopted under ORS
 17 197.307 (6).

18 (c) A city may not condition an application for a housing development on a reduction in density
 19 if:

20 (A) The density applied for is at or below the authorized density level under the local land use
 21 regulations; and

22 (B) At least 75 percent of the floor area applied for is reserved for housing.

23 (d) A city may not condition an application for a housing development on a reduction in height
 24 if:

25 (A) The height applied for is at or below the authorized height level under the local land use
 26 regulations;

27 (B) At least 75 percent of the floor area applied for is reserved for housing; and

28 (C) Reducing the height has the effect of reducing the authorized density level under local land
 29 use regulations.

30 (e) Notwithstanding paragraphs (c) and (d) of this subsection, a city may condition an applica-
 31 tion for a housing development on a reduction in density or height only if the reduction is necessary
 32 to resolve a health, safety or habitability issue or to comply with a protective measure adopted
 33 pursuant to a statewide land use planning goal. Notwithstanding ORS 197.350, the city must adopt
 34 findings supported by substantial evidence demonstrating the necessity of the reduction.

35 (f) As used in this subsection:

36 (A) "Authorized density level" means the maximum number of lots or dwelling units or the
 37 maximum floor area ratio that is permitted under local land use regulations.

38 (B) "Authorized height level" means the maximum height of a structure that is permitted under
 39 local land use regulations.

40 (C) "Habitability" means being in compliance with the applicable provisions of the state building
 41 code under ORS chapter 455 and the rules adopted thereunder.

42 (5) Hearings under this section may be held only after notice to the applicant and other inter-
 43 ested persons and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

44 (6) Notice of a public hearing on a zone use application shall be provided to the owner of an
 45 airport, defined by the Oregon Department of Aviation as a "public use airport" if:

1 (a) The name and address of the airport owner has been provided by the Oregon Department
2 of Aviation to the city planning authority; and

3 (b) The property subject to the zone use hearing is:

4 (A) Within 5,000 feet of the side or end of a runway of an airport determined by the Oregon
5 Department of Aviation to be a “visual airport”; or

6 (B) Within 10,000 feet of the side or end of the runway of an airport determined by the Oregon
7 Department of Aviation to be an “instrument airport.”

8 (7) Notwithstanding the provisions of subsection (6) of this section, notice of a zone use hearing
9 need only be provided as set forth in subsection (6) of this section if the permit or zone change
10 would only allow a structure less than 35 feet in height and the property is located outside of the
11 runway “approach surface” as defined by the Oregon Department of Aviation.

12 (8) If an application would change the zone of property that includes all or part of a mobile
13 home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give
14 written notice by first class mail to each existing mailing address for tenants of the mobile home
15 or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first
16 hearing on the application. The governing body may require an applicant for such a zone change to
17 pay the costs of such notice.

18 (9) The failure of a tenant or an airport owner to receive a notice which was mailed shall not
19 invalidate any zone change.

20 (10)(a)(A) The hearings officer or such other person as the governing body designates may ap-
21 prove or deny an application for a permit without a hearing if the hearings officer or other desig-
22 nated person gives notice of the decision and provides an opportunity for any person who is
23 adversely affected or aggrieved, or who is entitled to notice under paragraph (c) of this subsection,
24 to file an appeal.

25 (B) Written notice of the decision shall be mailed to those persons described in paragraph (c)
26 of this subsection.

27 (C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall
28 describe the nature of the decision. In addition, the notice shall state that any person who is ad-
29 versely affected or aggrieved or who is entitled to written notice under paragraph (c) of this sub-
30 section may appeal the decision by filing a written appeal in the manner and within the time period
31 provided in the city’s land use regulations. A city may not establish an appeal period that is less
32 than 12 days from the date the written notice of decision required by this subsection was mailed.
33 The notice shall state that the decision will not become final until the period for filing a local appeal
34 has expired. The notice also shall state that a person who is mailed written notice of the decision
35 cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

36 (D) An appeal from a hearings officer’s decision made without hearing under this subsection
37 shall be to the planning commission or governing body of the city. An appeal from such other person
38 as the governing body designates shall be to a hearings officer, the planning commission or the
39 governing body. In either case, the appeal shall be to a de novo hearing.

40 (E) The de novo hearing required by subparagraph (D) of this paragraph shall be the initial
41 evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board
42 of Appeals. At the de novo hearing:

43 (i) The applicant and other parties shall have the same opportunity to present testimony, argu-
44 ments and evidence as they would have had in a hearing under subsection (3) of this section before
45 the decision;

1 (ii) The presentation of testimony, arguments and evidence shall not be limited to issues raised
 2 in a notice of appeal; and

3 (iii) The decision maker shall consider all relevant testimony, arguments and evidence that are
 4 accepted at the hearing.

5 (b) If a local government provides only a notice of the opportunity to request a hearing, the
 6 local government may charge a fee for the initial hearing. The maximum fee for an initial hearing
 7 shall be the cost to the local government of preparing for and conducting the appeal, or \$250,
 8 whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the
 9 initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made
 10 by neighborhood or community organizations recognized by the governing body and whose bounda-
 11 ries include the site.

12 (c)(A) Notice of a decision under paragraph (a) of this subsection shall be provided to the ap-
 13 plicant and to the owners of record of property on the most recent property tax assessment roll
 14 where such property is located:

15 (i) Within [100] **600** feet of the property that is the subject of the notice when the subject
 16 property is wholly or in part within an urban growth boundary[;].

17 (ii) Within [250] **2,640** feet of the property that is the subject of the notice when the subject
 18 property is outside an urban growth boundary [*and not within a farm or forest zone; or*]

19 [*(iii) Within 750 feet of the property that is the subject of the notice when the subject property is*
 20 *within a farm or forest zone*].

21 (B) Notice shall also be provided to any neighborhood or community organization recognized by
 22 the governing body and whose boundaries include the site.

23 (C) At the discretion of the applicant, the local government also shall provide notice to the
 24 Department of Land Conservation and Development.

25 (11) A decision described in ORS 227.160 (2)(b) shall:

26 (a) Be entered in a registry available to the public setting forth:

27 (A) The street address or other easily understood geographic reference to the subject property;

28 (B) The date of the decision; and

29 (C) A description of the decision made.

30 (b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a
 31 limited land use decision.

32 (c) Be subject to the appeal period described in ORS 197.830 (5)(b).

33 (12) At the option of the applicant, the local government shall provide notice of the decision
 34 described in ORS 227.160 (2)(b) in the manner required by ORS 197.763 (2), in which case an appeal
 35 to the board shall be filed within 21 days of the decision. The notice shall include an explanation
 36 of appeal rights.

37 (13) Notwithstanding other requirements of this section, limited land use decisions shall be
 38 subject to the requirements set forth in ORS 197.195 and 197.828.

39