



APPEAL OF A TYPE III HEARINGS OFFICIAL DECISION

PUBLIC WORKS DEPARTMENT 3050 NORTH DELTA HIGHWAY, EUGENE OR 97408
 PLANNING: 541-682-3577 BUILDING: 541-682-4651 SANITATION: 541-682-3754

For Office Use Only: FILE # _____	FEE: _____
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Appellant: _____

Mailing address: _____

Phone: _____ Email: _____

Signature: _____ Date: _____

Appellant's Representative: _____

Mailing address: _____

Phone: _____ Email: _____

Signature: _____ Date: _____

LOCATION (subject property)

Township – Range – Section - Taxlot	Subdivision/partition	lot/parcel
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This form is required for appeal of a Type III Hearings Official decision or a Hearings Official decision on an appeal of a Type II Director decision. Please note that your appeal application will be rejected if it does not meet all the requirements of Lane Code 14.080(1) except LC 14.080(1)(c)(vi) (see below for appeal submittal requirements). A notice of appeal must be filed with the Director prior to 4 p.m. Pacific Time 12 days after the date the notice of decision is mailed (see deadline specified on the decision). You have one of two appeal options. Indicate whether you are requesting review through Option 1 or Option 2.

Option 1 The appellant requests Hearings Official Reconsideration OR Board of Commissioner Review in a Hearing; or

Option 2 The appellant requests that the Board not conduct a hearing on the appeal and deem the Hearings Official decision the final decision of the County.

Required Option 1 submittals:

- Option 1 (a) The appellant requests Hearings Official Reconsideration OR
 (b) Board of Commissioner Review in a Hearing.

1. Fee is \$3,712 appeal fee, payable to Lane County. (*See the page 3 for important fee information*)
2. A copy of the decision being appealed, with the Department file number. File # _____ and the date of the decision _____
3. Indicate the deadline to submit the appeal. (*Found in the Hearing Official's Decision*) _____
4. Check one of the items below demonstrating how the person filing the appeal is a party as that term is defined in LC 14.015(22) with the right to appeal the Hearings Official's decision:
 - I am the owner or contract purchaser of the subject property;
 - I am the applicant for the subject application;
 - Prior to the decision, I provided testimony before the Hearings Official;
 - I am not one of the persons mentioned above, but wish to appeal the Hearings Official's decision and my appeal submittal identifies how I qualify as a party.
5. A letter that addresses each of the following standards:
 - a. The reason(s) why the decision of the Hearings Official was made in error **or** why the Hearings Official should reconsider the decision;
 - b. Provide an explanation with detailed support specifying one or more of the following assignments of error, or request for reconsideration:
 - The Hearings Official exceeded his or her authority;
 - The Hearings Official failed to follow the procedure applicable to the matter;
 - The Hearings Official rendered a decision that is unconstitutional;
 - The Hearings Official misinterpreted the Lane Code, Lane Manual, State Law, or other applicable criteria; or
 - Reconsideration of the decision is requested in order to submit additional evidence not available in the record at the hearing and addressing compliance with relevant standards and criteria.
 - c. The position of the appellant indicating the issue raised in this appeal to the Board was raised before the close of the record at or following the final evidentiary hearing and whether the appellant wishes the application to be approved, denied or conditionally approved.
 - d. State whether the appellant requests that the Board conduct an on-the-record hearing.
 - e. Any additional information in support of your appeal.
6. A Timeline Waiver for Hearings Official reconsideration request by the Applicant. Per Lane Code 14.080(4)(c), in the event a decision of the Hearings Official is being appealed by the applicant for the same application to be reconsidered by the Hearings Official, then to receive reconsideration by the Hearings Official, the applicant must first agree to a waiver of any statutory application timelines, and such a waiver shall be in addition to any other waivers already given.

EXPLANATION OF THE APPEAL PROCESS UNDER OPTION 1

There are 3 steps involved in an appeal of a Hearings Official decision. Each requires a fee for services.

Step 1

When the appeal is submitted, the Hearings Official has the option to reconsider the decision (Refer to LC 14.080(4)(c)). If the Hearings Official reconsiders the decision, the fee is \$1,152.

Step 2

If the Hearings Official elects not to reconsider the decision, the appeal is forwarded to the Board of County Commissioners. The fee is \$1,484.80. The Board then decides whether or not to hear the appeal (Refer to LC 14.080(4)(d)).

Step 3

If the Commissioners elect to hear the appeal, the fee for the Board hearing is \$2,227.20. If the Board does not elect to hear the appeal, the parties of record may appeal the decision to the Land Use Board of Appeals (LUBA). If the Commissioners do not hear the appeal, \$150 of the \$1,484.80 fee (Step 2 above) will be refunded, in addition to the \$2,227.20, for a total refund of \$2,377.20.

Explanation of the Appeal Fee under Option 1

The total due when submitting the appeal is \$3,712. You will get a refund if the Hearings Official reconsiders the decision, or the County Commissioners elect not to hear the appeal.

If the Hearings Official reconsiders the decision, the refund is \$2,560.

If the County Commissioners elect not to hear the appeal, the refund is \$2,377.20.

If the Board elects to hear the appeal, there is no refund.

Required Option 2 submittals:

Option 2 The appellant requests that the Board not conduct a hearing on the appeal and deem the Hearings Official decision the final decision of the County.

1. Fee is a non-refundable \$950 appeal fee, payable to Lane County.
2. A copy of the decision being appealed, with the department file number. File # _____ and the date of the decision _____
3. Indicate the deadline to submit the appeal. (*Found in the Hearings Official's Decision*) _____
4. Check one of the items below demonstrating how the person filing the appeal is a party as that term is defined in LC 14.015(22) with the right to appeal the Hearings Official's decision
 - I am the owner or contract purchaser of the subject property;
 - I am the applicant for the subject application;
 - Prior to the decision, I provided testimony before the Hearings Official;
 - I am not one of the persons mentioned above, but wish to appeal the Hearings Official's decision and my appeal submittal identifies how I qualify as a party.

5. A letter that addresses each of the following standards:

- a. The reason(s) why the decision of the Hearings Official was made in error;
- b. An identification of one or more of the following general reasons for the appeal:
 - The Hearings Official exceeded his or her authority;
 - The Hearings Official failed to follow the procedure applicable to the matter;
 - The Hearings Official rendered a decision that is unconstitutional; or
 - The Hearings Official misinterpreted the Lane Code, Lane Manual, State Law, or other applicable criteria.
- c. Statement that reconsideration of the decision is NOT requested pursuant to LC 14.080(1)(c)(vii)(ee).
- d. Explain the specific issues being raised on appeal with sufficient specificity.
- e. The position of the appellant indicating the issue raised in this appeal to the Board was raised before the close of the record at or following the final evidentiary hearing and whether the appellant wishes the application to be approved, denied, or conditionally approved.
- f. Provide a written request that the Board not conduct an on the record hearing on the appeal and deem the Hearings Official decision the final decision of the County pursuant to LC 14.080(4)(d).
- g. Any additional information in support of your appeal.

EXPLANATION OF THE APPEAL PROCESS UNDER OPTION 2

Please note that the Hearings Official has full discretion to affirm, modify or reverse his or her initial decision pursuant to LC 14.080(4)(c), and the Board may still elect to hear the appeal pursuant to LC 14.080(4)(d). LMD Staff will prepare a memorandum (with an Order) for the Board to review the appeal during their regular public meetings as an item under the Public Works section. The parties of record will be notified of the tentative meeting date on which the Board will review the appeal. There may be no separate discussion of this item. Typically, Board review through the "Elect Not to Hear" option occurs through the consent calendar. If Board discussion is desired, that item will be considered separately in an Elect to Hear appeal hearing conducted pursuant to LC 14.080(4)(d)(vii). If the Board approves an Order and elects to not conduct a hearing, the final County land use decision may be appealed to Land Use Board of Appeals.