



**Clatsop County**  
 Community Development  
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## NOTICE OF APPEAL

Attached is the "Procedure for Appeal" from the Clatsop County Land and Water Development and Use Ordinance #80-14. Please read the attached information completely and follow the instructions. Also, note there is a fee that must accompany this form. If the fee is not included, the appeal is incomplete and cannot be considered. The form below is provided for your convenience.

**Appellant Name:** \_\_\_\_\_ **Email:** \_\_\_\_\_  
**Mail Address:** \_\_\_\_\_ **City/State/Zip** \_\_\_\_\_  
**Phone:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

### Section 2.240. Requirements of Notice of Appeal

**1. An identification of the decision sought to be reviewed, including the date of decision:**

**File Number:** \_\_\_\_\_ **Date of Decision:** \_\_\_\_\_

**2. A statement of the standing of the person seeking review:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**3. The specific grounds relied upon for review (attach additional pages if necessary):**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in 2.255 (1) (attach additional pages if necessary):**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

Procedures for Appeal  
(Clatsop County LWDUO #80-14)

Initial Decision	Appeal Procedure	Fee
Type I & Type II	Director to Hearings Officer/ Planning Commission	\$250 <small>(Refunded if appellant prevails)</small>
Type IIa	Hearings Officer/Planning Commission to Board of Commissioners	\$3,160
Type III	Planning Commission to Board of Commissioners	\$3,160

No issue may be raised on appeal unless that issue was raised during the original proceedings. An issue is considered to have been raised only if the issue has been specifically identified and accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue.

Your notice of appeal must identify the decision sought to be reviewed and must set forth the specific grounds relied upon for review. The Hearings Officer or Board of Commissioners will only consider your notice of appeal in deciding to grant review and the type of review it will conduct.

Section 2.230. Request for Review/Appeal.

1. The Hearings Officer shall hear appeals from Type I and Type II decisions of the Director.
2. The Board of Commissioners shall hear appeals of decisions of the Hearings Officer (Type IIa) and Planning Commission (Type III).
3. The affected party shall file an appeal with the Director within twelve (12) days of a final decision. At the Community Development Director's discretion, and for good cause, an additional five days after filing an appeal may be granted to submit additional justification for the appeal. The actual appeal, however, must be filed within the twelve-day limit.
4. At its discretion, the reviewing body may, after considering the application and appeal, and finding that the facts therein stated do not warrant further hearing, summarily affirm the action and deny the appeal. The Board of Commissioners, if it believes the matter warrants review, may limit an appeal or review to a review of the record and a hearing for receipt of oral arguments regarding the record, or may accept new evidence and testimony. If new evidence is to be received, a hearing shall be conducted pursuant to this article.
5. A final decision of the Board of Commissioners may be appealed to the Land Use Board of Appeals, pursuant to ORS 197.829.

2.240. Requirements of Notice of Appeal

A notice of appeal shall contain:

1. An identification of the decision sought to be reviewed, including the date of the decision.
2. A statement of the standing of the person seeking review.
3. The specific grounds relied upon for review.
4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Section 2.255(1).

Section 2.245. Review. The Board of Commissioners shall issue an order stating the scope of review to be one of the following:

1. Denying review.
2. Restricting review to the record made by the hearing body.
3. Limit review to such issues as the County Commissioners determines necessary for a proper resolution of the matter.
4. De novo hearing on the merits.

Section 2.250. Review on the Record.

Unless otherwise provided for by the Board of Commissioners, review of the decision on appeal shall be confined to the record of the proceeding as specified in this section. The record shall include:

1. A factual report prepared by the Transportation & Development Services Director.
2. All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review.
3. The transcript of the hearing, if previously prepared; otherwise, a detailed summary of the evidence, but the details need not be set forth verbatim.

Section 2.255. Review Consisting of Additional Evidence or De Novo Review.

1. The reviewing body may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing if it is satisfied that the additional testimony or other evidence could not reasonably have been presented at the prior hearing. The reviewing body shall consider all of the following in making such a decision.
  - a. Prejudice to the parties.
  - b. Convenience or availability of evidence at the time of the initial hearing.
  - c. Surprise to opposing parties.
  - d. The competency, relevancy and materiality of the proposed testimony or other evidence.
2. "De novo hearing" shall mean a hearing by the reviewing body as if the action had not been previously heard and as if no decision has been rendered, except that all testimony, evidence and other material from the record of the previous consideration shall be included in the record of the review.

Section 2.260. Review Body Decision.

1. Upon review, the review body may by order affirm, reverse or modify in whole or part a determination or requirement of the decision that is under review. When the review body modifies or renders a decision that reverses a decision of the hearing body, the review body, in its order, shall set forth its findings and state its reasons for taking the action encompassed in the order. When the review body elects to remand the matter back to the hearing body for such further consideration as it deems necessary, it shall include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify such.
2. Action by the review body shall be decided by a majority vote of its members present at the meeting at which review was made and shall be taken either at that or any subsequent meeting. The review body shall render its decision no later than sixty (60) days after the filing of the request for review and shall file that decision with the County Clerk within ten (10) days after its is rendered.
3. The Director shall by written notice send certified return receipt mail the decision arrived at by the Director or hearing body to the applicant and/or parties requesting information pertaining to a final decision on the application.