



## LAND MANAGEMENT DIVISION

# TYPE II APPROVAL

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This guide explains the procedures for applying for Type II land use applications that are reviewed at the Planning Director level. It is not to be considered a substitute for the specific language of Lane Code.

### WHAT'S A "TYPE II APPROVAL"?

The Type II procedure involves the Director's interpretation and exercise of discretion when evaluating approval standards and criteria. Uses or development evaluated through this process are uses that are conditionally permitted or allowed after Director review that may require the imposition of conditions of approval to ensure compliance with development standards and approval criteria. Type II decisions are made by the Director, in some cases after notice of application and opportunity to comment. Type II decisions may be appealed. The Type II procedure applies to a variety of applications including, but not limited to review of applications for: permitted uses subject to standards, conditional use permits, and tentative partition and subdivision applications made pursuant to LC Chapter 13.

### WHAT'S A TYPE II USE?

The Type II procedure involves the Director's interpretation and exercise of discretion when evaluating approval standards and criteria. There are two types of Type II uses: allowed and conditional. A Type II allowed use will be allowed if it complies with specific standards. A Type II conditional use may be allowed if it complies with conditional use criteria and other criteria of Lane Code. The applicant must prepare an application and submit evidence that shows compliance with the criteria.

### WHO'S THE PLANNING DIRECTOR?

"Planning Director" means the Director of the Planning Program of Lane County Land Management Division. It also refers to a staff person of the Division who has been designated by the Director to process an application and who is accountable to the Director.

### WHAT'S THE BASIC PROCEDURE?

Staff has prepared a [Flowchart](#) (see attached page) that shows the review and appeal process for a Planning Director land use application.

A Director Approval has three basic steps:

1. You, as the applicant, present the Director with facts supporting your proposal in the form of a land use application.
2. The Director investigates the facts and, based on criteria in the Lane County zoning code, makes a decision about your proposal.
3. You and other affected parties are notified of the decision. Any person entitled to notice or adversely affected or aggrieved may appeal the decision.

### WHAT'S THE LEGAL AUTHORITY FOR THIS DECISION PROCEDURE?

Lane Code Chapter 14 specifies the procedures and submittal requirements for the Type II land use application and appeals.

### HOW YOUR APPLICATION IS PROCESSED

The process is described in detail below. Also, refer to [Flowchart](#) (see attached page) for review and appeal process.

**1. Application reviewed for completeness.** A planner will be assigned to your application and will review the application to determine if all required materials have been submitted within 30 days from submittal. If the application is not complete, you will be notified in writing as to what information, forms, or fees are missing. Within 180 days of application submittal, the applicant may provide some or none of the missing materials and request that the Director proceed with application review or provide all missing materials in order to complete the application. If the application remains incomplete on the 181st day from submittal, it will become void. Planning Director application forms, fees, and the required criteria can be found on our website, [www.lanecounty.org/Planning](http://www.lanecounty.org/Planning), or call the 24-hour Planning information voicemail line at 541-682-3577.

**2. Notice of Application.** The Director may send an initial public notice (or Notice of Application) to public agencies (County, State, Federal, and local districts such as schools), other interested public or semi-public organizations, and the owners of nearby properties are notified for the purpose of gathering initial information. Per LC 14.060, Notice of Application is required for certain applications and is optional for others.

**3. The Director conducts an investigation and prepares a Staff Report.** The case planner will determine the application has met applicable standards and approval criteria. Staff will prepare a report informing the Planning Director's decision that:

- a. Identifies the applicant, the property, and the request;
- b. Describes the property, services to it, and land use restrictions on it and the area around it;
- c. Gives the responses of agencies who reviewed the request;
- d. Recites the Type II application criteria and discusses how the application does or does not comply with them;
- e. States whether the request is approved or denied, and why;
- f. Lists facts which support the decision and identifies documents to become a part of the file (or "record") in the event of future Appeal.

**4. The Director prepares a Notice of Decision.** When a decision is made, the case planner prepares a Notice document which identifies the applicant, the property, the land use application request, the applicable standards and criteria, the Director's decision and any Conditions of Approval, the time and date when the decision will become final (see 6. below), and where a copy of it is available.

**5. The Notice of Decision is mailed** to you as the applicant and to any co-applicants and property owners. All persons listed in County tax records as owning land within a certain distance of the property involved in the request also receive the Notice. If your property is zoned for farm or forest use, notice is sent to properties within 750 feet of yours. For other areas outside UGBs, notice is mailed to owners within 250 feet and within a UGB, notice is mailed to owners within 100 feet. These distances are measured from the perimeter of your total ownership - not the perimeter of the individual tax lot or legal lot that comprises the subject property. Anyone else submitting written materials into the file record or requesting Notice of the decision is entitled to receive it, even if they are not adjacent property owners.

**6. An Appeal period begins with the Notice.** The decision mailed by the Director is not actually "final" until the time and date indicated in the Notice provided it is not appealed. This time and date is 4 P.M. on the 12<sup>th</sup> day from the date the decision was mailed by the Director. The decision may be appealed by any party entitled to receive notice of decision and any adversely affected or aggrieved person. If an Appeal is filed before the 12<sup>th</sup> day deadline, the decision does not become final until the Appeal is resolved.

**7. Conditions of Approval must be satisfied.** Conditions to be fulfilled within a period of time stated in the decision must be met. Conditions that effect how the land use activity operates must be met as long as the activity is in use. Failure to meet Conditions of Approval may invalidate the approval action.

## Type II Planning Director Application Review and Appeal Process

