



## SHORELINE VARIANCE SUBMITTAL REQUIREMENTS

The purpose of a Shoreline Variance is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the Shoreline Master Program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the Shoreline Master Program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

### **Per WAC 173-27-170 Review criteria for variance permits are as follows:**

1. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of policy enumerated in RCW 90.58.020. In all instances, the applicant must demonstrate the extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.
2. Variance permits for development and/or uses that will be located landward of the ordinary high-water mark (OHWM), as defined in RCW 90.58.030 (2)(B) and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:
  - a. That the strict application of the bulk, dimensional or performance standards set forth in the Shoreline Master Program precludes, or significantly interferes with, a reasonable use of the property.
  - b. That the hardship described in (a) above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Shoreline Master Program, and not, for example, from deed restrictions or the applicant's own actions.
  - c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and Shoreline Master Program and will not cause adverse impacts to the shoreline environment.
  - d. That the variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the area.
  - e. That the variance requested is the minimum necessary to afford relief.
  - f. That the public interest will suffer no substantial detrimental effect.
3. Variance permits for development and/or uses that will be located waterward of the ordinary high-water mark (OHWM), as defined in RCW 90.58.030 (2)(b) or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:
  - a. That the strict application of the bulk, dimensional or performance standards set forth in the Shoreline Master Program precludes all reasonable use of the property.
  - b. That the proposal is consistent with the criteria established under subsection (2)(b) through (f) of this section.
  - c. That the public rights of navigation and use of the shorelines will not be adversely affected.

4. In the granting of all Variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

5. Variances from the use regulations of the Shoreline Master Program are prohibited.

**Variances must also meet criteria in WAC 173-27-140 which apply to all development.**

**WAC 173-27-140 Review criteria for all development.**

1. No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the master program.

2. No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.

**Submittal Requirements:**

- Planning Permit Master Application form
- Certification and Transfer of Applicant Status form
- 3 Copies** of written narrative addressing the criteria above and any other information relevant to the proposal.
- 3 Copies** of site plan at 1"=20' or 1"=30' scale
- 3 Copies** of a small-scale vicinity map.
- Permit Fee
- Hearing Examiner actual costs

For reference:

**RCW 90.58.020**

Legislative findings -- State policy enunciated -- Use preference.

The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition, it finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.

The legislature declares that the interest of all the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the statewide interest over local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shorelines;
- (6) Increase recreational opportunities for the public in the shoreline;
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks,

marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shore lands of the state shall be recognized by the department. Shorelines and shore lands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shore lands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.

Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

For reference:

**RCW 90.58.030**

Definitions and concepts.

As used in this chapter, unless the context otherwise requires, the following definitions and concepts apply:

(2) Geographical:

(b) "Floodway" means the area, as identified in a master program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying stream ward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state;

(h) "Wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.