



Shoreline Variances

Shoreline Management Program

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Shoreline Variances

A shoreline variance is required if the activity does not meet the minimum standards (such as setbacks) for a specific type of development, as outlined in the Whatcom County Shoreline Management Program. This type of permit may be issued by the Whatcom County Hearings Examiner if the application meets certain criteria, and must also be reviewed and approved by the Washington State Department of Ecology.

The purpose of a shoreline variance is to grant relief from specific bulk or dimensional requirements where there are extraordinary or unique circumstances relating to the property, such that the strict implementation of this program would impose unnecessary hardships on the applicant or thwart the policies set forth in the Shoreline Management Act RCW 90.58.020. Use restrictions may not be varied.

Evaluation criteria

The Whatcom County Shorelines Administrator evaluates proposed shoreline developments to ensure that they are consistent with the policies of the Shoreline Management Act of 1971, as amended, and the more specific requirements set forth in the Whatcom County Shoreline Management Program.

Shoreline variances for development that will be located landward of the Ordinary High Water Mark (OHWM) and wetlands may be

authorized, provided the applicant can demonstrate all of the following:

1. That the strict application of the bulk or dimensional criteria set forth in this program precludes or significantly interferes with a reasonable permitted use of the property;
2. That the hardship described 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 this program, and not, for example, from deed restrictions or the applicant's own actions.
3. That the design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment.
4. That the variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the area, and will be the minimum to afford relief; and
5. That the public interest will suffer no substantial detrimental effect.

Shoreline Variances for development that will be located waterward of the OHWM or within wetlands may be authorized provided that the applicant can demonstrate the following:

- That the strict application of the bulk or dimensional criteria in this Program precludes a reasonable permitted use of the property;

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- That the proposed variance will satisfy criteria 2-5 (previous page); and
 - That the public rights of navigation and use of the shorelines will not be materially interfered with by the granting of the variance.

In the granting of all variances, consideration shall be given to the cumulative environmental impacts of additional requests for like actions in the area. For example, if variances were granted for other developments in the area where similar circumstances exist, the total of the variances and their impacts also remain consistent with the policies of the Shoreline Management Act RCW 90.58.020 and should not produce a significant adverse effect to the shoreline environment.

Other evaluation factors include, but are not limited to the requirements of the Whatcom County Zoning Ordinance, the Whatcom County Critical Areas Ordinance, and the substantive requirements of the State Environmental Policy Act (SEPA). Proposals are also review for compliance with the requirements of other agencies within Whatcom County with jurisdiction over the project, including but not limited to, the Building Services Division, Health Department, the Flood Division, Engineering, and Long-Range Planning. Additionally, comments on the project submitted by other parties, including but not limited to: other government agencies and the general public are considered during the review process.

Other permits required

None of the shoreline permits may take the place of any other required permit. A project or development may also require, among others, a shoreline substantial development permit, shoreline conditional use permit, shoreline statement of exemption, building permit, clearing or grading permit, a zoning variance or conditional use permit,

a State Department of Ecology Water Quality Certification, a State Department of Fish and Wildlife Hydraulic Project Approval, a lease from the State Department of Natural Resources or a federal Army Corps of Engineers permit for work in navigable waters of the United States.

What should I do before applying?

LUSD strongly encourages applicants to have a pre-submittal conference with the Whatcom County Shorelines Administrator prior to making application for a Shoreline Variance. Staff members can assist and advise applicants on shoreline regulations at any stage of a project's development; however, consultation early in project planning most often will result in smoother processing of an application. Call (360) 676-6907 to arrange a pre-submittal conference with the Whatcom County Shorelines Administrator.

Additional information required

Most developments requiring a permit under the Shoreline Management Program will also require review for compliance with the State Environmental Policy Act (SEPA). The Whatcom County SEPA Administrator staff can advise applicants whether a SEPA checklist will be required. If the checklist is required, it must be submitted at the same time as the shoreline permit application.

If the application does not provide sufficient information to determine the environmental impacts of the proposal, the applicant will be asked to provide additional information as required by SEPA guidelines.

The County may also require applicants to provide additional information or plans to correct deficiencies in the application or to assist in the evaluation of the application. An application may be cancelled if the applicant has failed, without

justification, to supply required information or data within 180 days after the County has requested it in writing.

Appeals

Application for appeal from a decision regarding approval or denial of a permit under the Shoreline Management Program may be obtained from Whatcom County Planning and Development Services. Such an appeal shall be filed during the local appeal period—within ten (10) calendar days of the issuance of a shoreline permit.

Following the expiration of the local appeal period, the application is forwarded to the Washington State Department of Ecology for review and comment. Once the Washington State Department of Ecology has commented on the application, the decisions to approve or deny the shoreline permit may also be appealed to the Washington State Shorelines Hearings Board within twenty-one (21) calendar days following the expiration of the local appeal period.

Application Fees

Fees are due at the time you submit your application. Please refer to the current Whatcom County Unified Fee Schedule. Information on fees and procedural requirements is available by calling (360) 676-6907.

Information

Due to the administrative complexity of these regulations, it is usually best to visit with our Natural Resource Staff to answer any additional questions.

Planning and Development Services
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Staff Contact: Natural Resource Staff
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