

VARIANCE LAND USE CHECKLIST

This checklist applies to:

- Zoning Variances
- Shoreline Variances
- Sign Variances
- Reasonable Use Exceptions



These applications may be applied for under the VARIANCE Application Type in the Online Permitting Portal.

The materials listed below must be submitted at the time of your application. **ADDITIONAL MATERIALS MAY BE REQUIRED.** A pre-application meeting is considered standard prior to submitting an application.

Please ensure files are **saved as PDF** and conform to [City of Tukwila electronic submittal standards](#) prior to upload.

******ADDITIONAL PERMITS MAY BE REQUIRED******

ATTACHMENTS REQUIRED		ATTACHMENT FILE NAME
Documents – Required for All Applications		
	1. Notarized affidavit of ownership and hold harmless agreement.	Hold Harmless
	2. A description and dimensioned site plan illustrating the requested variance. See each variance for more information.	Site Plan
	3. Any additional drawings or information requested by the City or needed to explain or support the variance request.	Supplementary Information
Zoning Variance		
Provide additional items listed in this section		
	A written discussion of the variance request's consistency with the review criteria.	Zoning Variance Criteria Response
Shoreline Variance – <u>Landward</u> of the Ordinary High Water Mark or Wetland		
Provide additional items listed in this section		
	A written discussion of the variance request's consistency with the review criteria for landward variances.	Shoreline Variance Criteria Response

ATTACHMENTS REQUIRED		ATTACHMENT FILE NAME
Shoreline Variance – <u>Waterward</u> of the Ordinary High Water Mark or Wetland Provide additional items listed in this section		
	A written discussion of the variance request's consistency with the review criteria for waterward variances.	Shoreline Variance Criteria Response
Sign Variance Provide additional items listed in this section		
	A written discussion of the variance request's consistency with the review criteria per Tukwila Municipal Code (TMC) Section 19.28.030.	Sign Variance Criteria Response
	<ul style="list-style-type: none"> Scaled and dimensioned drawings of the proposed sign or signs with area calculations. Scaled elevation of the building walls where the signs will be located indicating the location and extent of the exposed building face used to calculate the sign area. If freestanding signs are proposed, scaled and dimensioned drawing with height calculations. If projecting signs are proposed, scaled and dimensioned building profile. Method of illumination, if proposed; details for any dynamic portions of the proposed signs. Details for any dynamic portions of the proposed signs. 	Sign Renderings
Reasonable Use Exception* Provide additional items listed in this section		
	A written discussion of the variance request's consistency with the review criteria, per TMC Section 18.45.180(4).	Reasonable Use Criteria Response
	A critical area study, prepared by a person with experience and training in the scientific discipline appropriate for the relevant critical area, per TMC Section 18.45.040.	Critical Area Study

VARIANCE PROCESS

A variance is an exception to a standard in the code, which if granted, allows an applicant to build or develop a project that could not otherwise be legally built. Shoreline Variances are intended to grant relief from specific bulk, dimensional or performance standards set forth in the Shoreline Master Program where there are extraordinary or unique circumstances relating to the physical character or configuration of property.

REQUIREMENTS: The criteria for a Zoning Code, Shoreline, or Sign Variance are located below. The request for the variance must meet all the criteria in order for the Hearing Examiner to approve the request. Variances cannot be requested to allow a use that is not permitted under the applicable zoning.

PROCEDURES: At the time you submit your application you must have all of the items listed on the attached "Complete Application Checklist." You may request a waiver from items on the checklist that are not applicable to your project. Please discuss this waiver request with City staff either at a pre-application meeting or at the time of application submittal.

Within 28 days of receiving your application, City staff will determine if it is complete based on the attached checklist. If not complete, City staff will mail you a letter outlining what additional information is needed. If you do not submit requested materials within 90 days from the City's request for additional information the City may cancel your application.

The Hearing Examiner will hold a Public Hearing before making a decision. A project's hearing date is determined when all application materials have been submitted and the application is determined to be complete. Staff will review the application, meet with the applicant as needed, and formulate a recommendation to the Hearing Examiner. The Hearing Examiner will approve, deny or conditionally approve the variance request based on review criteria presented in the application packet. In the case of a shoreline variance, the Washington State Department of Ecology must review the City's decision and approve, condition or deny the variance. Ecology has thirty (30) days to review the shoreline variance request and reach a decision.

A variance shall automatically expire one year from the date it is approved, unless a building permit is obtained. The Hearing Examiner may grant a maximum 1 year extension if there has been no change to the relevant surrounding conditions.

REVIEW CRITERIA

The Hearing Examiner will base a decision on the specific Zoning Code variance, Shoreline Master Program variance, Sign Code variance, or Reasonable Use Exception criteria shown below. Please respond to these criteria on a separate sheet.

ZONING CODE VARIANCE CRITERIA (TMC 18.72.020)

1. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and in the zone in which the property on behalf of which the application was filed is located;
2. The variance is necessary because of special circumstances relating to the size, shape, topography, location or surrounding of the subject property in order to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located;

3. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and in the zone in which the subject property is situated;
4. The authorization of such variance will not adversely affect the implementation of the Comprehensive Land Use Policy Plan;
5. The granting of such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same zone or vicinity.
6. The need for the variance is not the result of deliberate actions of the applicant or property owner.

In authorizing the variance, the Hearing Examiner may attach thereto such conditions that it deems to be necessary or desirable in order to carry out the intent and purposes of this chapter and in the public interest. A variance so authorized shall become void after the expiration of one year or a longer period as specified at the time of the Hearing Examiner action, if no building permit has been issued in accordance with the plans for which such variance was authorized, except that the Hearing Examiner may extend the period of variance authorization without a public hearing for a period not to exceed twelve months upon a finding that there has been no basic change in pertinent conditions surrounding the property since the time of the original approval.

Under no circumstances shall the Hearing Examiner grant a variance to permit a use not generally or conditionally permitted in the zone involved, or any use expressly or by implication prohibited by the terms of this title in said zone.

SHORELINE MASTER PROGRAM VARIANCE CRITERIA (TMC 18.44.110 F.4, 5)

The purpose of a Shoreline Variance Permit is strictly limited to granting relief from specific bulk, dimensional, or performance standards set forth in this chapter where there are extraordinary or unique circumstances relating to the physical character or configuration of property such that the strict implementation of this chapter will impose unnecessary hardships on the applicant or thwart the Shoreline Management Act policies as stated in RCW 90.58.020. Reasonable use requests that are located in the shoreline must be processed as a variance, until such time as the Shoreline Management Act is amended to establish a process for reasonable uses. Variances from the use regulations of this chapter are prohibited.

Applicants must meet all requirements for a Type 3 permit application and approvals indicated in TMC Chapter 18.104.

Shoreline Variance Permits should be granted in circumstances where denial of a permit would result in inconsistencies with the policies of the Shoreline Management Act (RCW 90.58.020). In all instances, the applicant must demonstrate that extraordinary circumstances exist and the public interest will suffer no substantial detrimental effect

Shoreline Variance Permits Landward of OHWM and Landward of Wetlands

A Shoreline Variance Permit for a use, activity or development that will be located landward of the ordinary high water mark and/or landward of any wetland may be authorized provided the applicant can demonstrate all of the following:

1. The strict application of the bulk, dimensional, or performance standards set forth in this chapter preclude or significantly interfere with a reasonable use of the property not otherwise prohibited by this chapter.

2. The hardship for which the applicant is seeking the variance 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 chapter, and not from the owner's own actions or deed restrictions; and that the variance is necessary because of these conditions in order to provide the owner with use rights and privileges permitted to other properties in the vicinity and zone in which the property is situated.
3. The design of the project will be compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and SMP and will not cause adverse impacts to adjacent properties or the shoreline environment.
4. The variance will not constitute a grant of special privilege not enjoyed by other properties in the area.
5. The variance is the minimum necessary to afford relief.
6. The public interest will suffer no substantial detrimental effect.
7. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area such that the total of the variances would remain consistent with RCW 90.58.020 and not cause substantial adverse effects to the shoreline environment.

Shoreline Variance Permits Waterward of OHWM or Within Critical Areas

Shoreline Variance Permits for development and/or uses that will be located either waterward of the ordinary high water mark or within any critical area may be authorized only if the applicant can demonstrate all of the following: The strict application of the bulk, dimensional or performance standards set forth in the Master Program preclude all reasonable permitted use of the property; and

1. The strict application of the bulk, dimensional or performance standards set forth in this Master Program preclude all reasonable permitted use of the property;
2. The proposal is consistent with the criteria established under TMC Section 18.44.110.F.4., "Approval Criteria;" and
3. The public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance.

Please note: in the granting of all shoreline variance permits, consideration must be given to the cumulative impact of additional requests for like actions in the area such that the total of the variances would remain consistent with RCW 90.58.020 and not cause substantial adverse effects to the shoreline environment.

SIGN VARIANCE CRITERIA (TMC 19.28.030)

The Hearing Examiner may grant a variance to the requirements of this code only when the applicant demonstrates compliance with the following:

1. The variance as approved shall not constitute a grant of special privilege, which is inconsistent with the intent of this Sign Code.

2. The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located.
3. Granting of the variance will not be materially detrimental to the public welfare or injurious to property, improvements or environment in the vicinity and in the zone in which the subject property is located.
4. The special conditions and circumstances prompting the variance request do not result from the actions of the applicant.
5. The variance as granted represents the least amount of deviation from the prescribed regulations necessary to accomplish the purpose for which the variance is sought and which is consistent with the stated intent of this code.
6. The variance request is not inconsistent with any other adopted City plan or policy, including the Zoning Code, Walk and Roll Plan and/or Shoreline Master Program.
7. Granting of the variance shall result in greater convenience to the public in identifying the business location for which a Sign Code variance is sought.

In no case shall the Hearing Examiner permit a variance to be issued for a sign type that is prohibited under this code.

REASONABLE USE EXCEPTIONS (18.45.180)*

If application of TMC Chapter 18.45 would deny all reasonable use of the property containing designated critical areas or their buffers, the property owner or the proponent of a development proposal may apply for a reasonable use exception.

Applications for a reasonable use exception shall be a Type 3 decision and shall be processed pursuant to TMC Chapter 18.104.

If the applicant demonstrates to the satisfaction of the Hearing Examiner that application of the provisions of TMC Chapter 18.45 would deny all reasonable use of the property, development may be allowed that is consistent with the general purposes of TMC Chapter 18.45 and the public interest.

Please provide a response to the following criteria. The Hearing Examiner, in granting approval of the reasonable use exception, must determine that:

1. There is no feasible on-site alternative to the proposed activities, including reduction in size or density, modifications of setbacks, buffers or other land use restrictions or requirements, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning that would allow a reasonable economic use with fewer adverse impacts to the critical area.
2. As a result of the proposed development there will be no unreasonable threat to the public health, safety or welfare on or off the development proposal site.
3. Alterations permitted shall be the minimum necessary to allow for reasonable use of the property.

4. The proposed development is compatible in design, scale and use with other development with similar site constraints in the immediate vicinity of the subject property if such similar sites exist.
5. Disturbance of critical areas and their buffers has been minimized to the greatest extent possible.
6. All unavoidable impacts are fully mitigated.
7. The inability to derive reasonable use of the property is not the result of:
 - a. a segregation or division of a larger parcel on which a reasonable use was permissible after the effective date of Sensitive Areas Ordinance No. 1599, June 10, 1991;
 - b. actions by the owner of the property (or the owner's agents, contractors or others under the owner's control) that occurred after the effective date of the critical areas ordinance provisions that prevents or interferes with the reasonable use of the property; or
 - c. a violation of the critical areas ordinance.
8. The Hearing Examiner, when approving a reasonable use exception, may impose conditions, including but not limited to a requirement for submission and implementation of an approved mitigation plan designed to ensure that the development:
 - a. complies with the standards and policies of this chapter to the extent feasible; and
 - b. does not create a risk of damage to other property or to the public health, safety and welfare.
9. Approval of a reasonable use exception shall not eliminate the need for any other permit or approval otherwise required for a project, including but not limited to design review.

*Reasonable use requests that are located in the shoreline must be processed as a variance, until such time as the Shoreline Management Act is amended to establish a process for reasonable uses. Variances from the use regulations of TMC 18.44 are prohibited.