

CHAPTER 10 VARIANCES

Sections	10.01 General
	10.02 Authority
	10.03 Criteria for Granting Variance Permits
	10.04 Procedure
	10.05 Notification of Final Action
	10.06 Other Local Regulations

10.01 General

Variations from the application of specific bulk, dimensional or performance standards set forth in this Master Program may be permitted where there are extraordinary or unique circumstances relating to the property. The applicant must show that the strict implementation of the Master Program would impose unnecessary hardship and that compliance with these regulations prohibits any reasonable use of the property. The fact that the applicant might make a greater profit by using the property in a manner contrary to the intent of the Master Program is not sufficient reason for granting a variance permit.

10.02 Authority

1. The Planning Commission is hereby authorized to hear, review and pass consideration on variance permits from the regulations of this Master Program.
2. The Board of County Commissioners is hereby authorized to grant or deny a variance from the regulations of this program after considering the findings and recommendations of the Planning Commission and to hear appeals from variance permit decisions of the Hearing Examiner
3. The Hearing Examiner is hereby authorized to hear, review, grant or deny shoreline variance permit applications, PROVIDED that any decisions rendered by the Examiner may be appealed to the Board of Commissioners by so notifying the Administrator in writing within five (5) days from the date of the Examiner's decision.

10.03 Criteria for Granting Variance Permits

1. Variance permits for development to be located landward of the ordinary high water mark (OHWM), except within areas designated marshes, bogs or swamps

pursuant to Chapter 173-22 WAC, may be granted provided the applicant can meet all the following criteria; the burden of proof shall be on the applicant.

- a. That the strict application of the bulk dimensional or performance standards set forth in this Master Program precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by this Master Program.
 - b. 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 Master Program and not, for example, from deed restrictions or the applicant's own actions.
 - c. 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 designation.
 - d. That the variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the same area and will be the minimum necessary to afford relief.
 - e. That the public interest will suffer no substantial detrimental effect.
2. Variance permits for development to be located either waterward of the ordinary high water mark (OHWM) or within marshes, bogs or swamps as designated pursuant to Chapter 173-22 WAC may be granted provided the applicant can meet all the following criteria; the burden of proof shall be on the applicant.
- a. That the strict application of the bulk, dimensional or performance standards set forth in the Master Program precludes a reasonable use of the property not otherwise prohibited by this Master Program.
 - b. 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 Master Program and not, for example, from deed restrictions or the applicant's own actions.
 - c. 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 designation.

- d. That the requested variance will not constitute a grant of special privilege not enjoyed by the other properties in the area and will be the minimum necessary to afford relief.
 - e. That the public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance.
 - f. That the public interest will suffer no substantial detrimental effect.
3. 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 in the area where similar circumstances exist, the total of the variances should also remain consistent with the policies of RCW 90.58.020 and this Master Program and should not produce substantial adverse effects to the shoreline environment.

10.04 Procedure

Variance permits shall be applied for on forms provided by the Administrator. If a variance request also requires a substantial development and/or conditional use permit, they shall be treated as one application. Fees and notice and review procedures for shoreline variance applications shall be identical to those required for a shoreline substantial development permit application as specified in Chapter 9 of this Master Program.

10.05 Notification of Final Action

Upon approval or denial of said variance permits by the Hearing Examiner or the Board, a copy of the final order and application shall be mailed to the Department of Ecology for their review within eight (8) days of such action. Development may not commence until thirty (30) days have elapsed from date of filing of such material with the Department of Ecology, pursuant to WAC 173-14-090.

10.06 Other Local Regulations

Variations or exemptions granted from the provisions of other local regulations, i.e., county zoning ordinances, shall not be construed to constitute variations from this Master Program's provisions.