



## **REQUIRED SHORELINE REVIEW DECISION CRITERIA**

### **Variance, Conditional Use, Administrative Conditional Use, Substantial Development, Exemption to a Substantial Development**

Refer to Section 18S.60.070, [Permits and Approvals](#), Pierce County Development Policies and Regulations – Shorelines, for a complete description of review types.

#### **Shoreline Variance (18S.60.070)**

An application for a shoreline variance must demonstrate the following:

**Decision Criteria – General.** A Shoreline Variance shall not be granted unless the applicant demonstrates that denial of the permit would result in a thwarting of the policy enumerated in the Act due to extraordinary circumstances, and the public interest would suffer no substantial detrimental effect.

**Decision Criteria – Development Landward of Ordinary High-Water Mark (OHWM).** In addition to the General Decision Criteria above, Shoreline Variances for development landward of the OHWM or landward of any wetland may be authorized provided the applicant can demonstrate all of the following:

1. The strict application of the bulk or dimensional standards precludes or significantly interferes with reasonable use of the property.
2. The hardship described in 1, 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 [Title 18S PCC](#) and not, for example, from deed restrictions or the applicant's own actions.
3. The design of the project is compatible with other authorized development within the area and with development planned for the area under the comprehensive plan and [Title 18S PCC](#) and will not cause adverse impacts to the shoreline environment.
4. The Shoreline Variance will not constitute a grant of special privilege not enjoyed by the other properties in the area.
5. The Shoreline Variance requested is the minimum necessary to afford relief.

**Decision Criteria – Development Waterward of OHWM.** In addition to the General Decision Criteria above, Shoreline Variances for development that will be located waterward of the OHWM or within any wetland may be authorized provided the applicant can demonstrate all of the following:

1. That the strict application of the dimensional standards found in [Title 18S PCC](#) precludes all reasonable use of the property;
2. That the proposal is consistent with the criteria established under PCC 18S.60.070 E.2.-5.; and
3. That the public rights of navigation and use of the shorelines will not be adversely affected.

**Decision Criteria – Wetland Buffer.** Where the shoreline variance request includes a reduction to a wetland buffer, the applicant shall demonstrate the following:

1. Approval of the variance results in an overall increase in the function of the wetland.
2. Approval of the variance results in the preservation or enhancement within the project area of other Habitats of Local Importance discussed in [PCC 18E.40.020 D.](#)
3. The proposal avoids impacts and provides mitigation, pursuant to [PCC 18E.30.050](#) to the maximum practical extent.

**Decision Criteria – Fish and Wildlife Habitat Buffer.** Where the shoreline variance request includes a reduction to a fish and wildlife habitat area buffer, the applicant shall demonstrate the following:

1. Approval of the variance will not adversely impact receiving water quality or quantity.
2. Approval of the variance will not adversely impact any functional attribute of the habitat area.
3. Approval of the variance will not jeopardize the continued existence of species listed by the Federal government or the State as endangered, threatened, sensitive, or documented priority species or priority habitats.
4. The proposal avoids impacts and provides mitigation, pursuant to [PCC 18E.40.050](#) to the maximum practical extent.

**Decision Criteria – Cumulative Impact.** In the granting of all Shoreline Variances, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Shoreline Variances were granted to other development in the area where similar circumstances exist, the total of the Shoreline Variances shall also remain consistent with the policies of RCW [90.58.020](#) and shall not cause substantial adverse effects to the shoreline environment.

Variance applications must also be consistent with **[Washington Administrative Code Section 173-27-170\(2\)](#)**: The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW [90.58.020](#).

- (1) Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW [90.58.020](#). In all instances the applicant must demonstrate that 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)(c), 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 applicable master program precludes, or significantly interferes with, reasonable use of the property;
  - (b) That the hardship described in (a) of this subsection 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 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 will 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; and
  - (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)(c), 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 applicable 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; and
  - (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 master program are prohibited.

#### **Administrative Conditional Use/Conditional Use (18S.60.050/18S.60.060)**

A Conditional Use Permit may be authorized provided that the applicant demonstrates all of the following:

1. That the proposed use is consistent with the policies of the Act and the Master Program;
2. That the proposed use will not interfere with the normal public use of public shorelines, nor use of waters under the Public Trust Doctrine;
3. That the proposed use of the site and 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 the Master Program;
4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located;
5. That the public interest suffers no substantial detrimental effect; and
6. The proposed use is consistent with all applicable development regulations

**Washington Administrative Code Section 173-27-160(1)** – Conditional Use applications must also demonstrate:

- (a) That the proposed use is consistent with the policies of RCW [90.58.020](#) and the master program;
- (b) That the proposed use will not interfere with the normal public use of public shorelines;
- (c) That the proposed use of the site and 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;
- (d) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
- (e) That the public interest suffers no substantial detrimental effect.

## **Shoreline Substantial Development (18S.60.040)**

Applications for Shoreline Substantial Development shall be reviewed in accordance with the following decision criteria:

1. The proposal is consistent with the policies and procedures of the Act.
2. The proposal is consistent with the [Title 18S PCC](#) policies and regulations including, at a minimum, the following:
  - a. Policies and regulations of the shoreline environment designation (SED) in which the proposal is located;
  - b. Policies and regulations for Shorelines of Statewide Significance if the proposal is within such area;
  - c. Policies and regulations within the applicable General Policies and Regulations found in Chapter 18S.30 PCC; and
  - d. Policies and regulations within the applicable Use and Development Policies and Regulations found in Chapter 18S.40 PCC.
3. The proposal is consistent with the applicable provisions of [Title 18E PCC](#).
4. The proposal is consistent with the applicable policies of the Comprehensive Plan and any applicable Community Plan.
5. The proposal is consistent with all applicable development regulations including, but not limited to [Title 18A PCC](#), Development Regulations – Zoning.

## **Exemption to a Substantial Development Permit (18S.60.020)**

**Decision Criteria.** SD Exemptions shall be reviewed subject to the following criteria:

1. The proposal meets one or more of the SD Exemptions listed in PCC 18S.60.020 C.1.-17. Each SD Exemption shall be narrowly construed and the precise requirements shall be met.
2. The proposal is consistent with the policies and procedures of the Act.
3. The proposal is consistent with the [Title 18S PCC](#) policies and regulations including, at a minimum, the following:
  - a. Policies and regulations of the Shoreline Environment Designation (SED) in which the proposal is located;
  - b. Policies and regulations for Shorelines of Statewide Significance, if the proposal is within such area;
  - c. Policies and regulations within the applicable General Development Policies and Regulations found in Chapter 18S.30 PCC; and
  - d. Policies and regulations within the applicable Development Policies and Regulations found in Chapter 18S.40 PCC.
4. The proposal is consistent with the applicable provisions of [Title 18E PCC](#).
5. The proposal is consistent with the applicable policies of the Comprehensive Plan and any applicable Community Plan.
6. The proposal is consistent with all applicable development regulations.