



Shoreline Master Program Update

Chapter 13.05 – Land Use Permit Procedures
Proposed Amendments

Note – These amendments show all of the changes to the *existing* land use regulations. The sections included are only those portions of the code that are associated with these amendments. New text is underlined and text that is deleted is shown in ~~strikethrough~~.

Chapter 13.05
LAND USE PERMIT PROCEDURES

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13.05.010 Application requirements for land use permits.

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H. Limitations on Refiling of Application.

1. Applications for a land use permit pursuant to Title 13 on a specific site shall not be accepted if a similar permit has been denied on the site within the 12 months prior to the date of submittal of the application. The date of denial shall be considered the date the decision was made on an appeal, if an appeal was filed, or the date of the original decision if no appeal was filed.

2. The 12-month time period may be waived or modified if the Land Use Administrator finds that special circumstances warrant earlier reapplication. The Land Use Administrator shall consider the following in determining whether an application for permit is similar to, or substantially the same as, a previously denied application:

- a. An application for a permit shall be deemed similar if the proposed use of the property is the same, or substantially the same, as that which was considered and disallowed in the earlier decision;
- b. An application for a permit shall be deemed similar if the proposed application form and site plan (i.e., building layout, lot configuration, dimensions) are the same, or substantially the same, as that which was considered and disallowed in the earlier decision; and
- c. An application for a variance ~~or waiver~~ shall be deemed similar if the special circumstances which the applicant alleges as a basis for the request are the same, or substantially the same, as those considered and rejected in the earlier decision.

In every instance, the burden of proving that an application is not similar shall be upon the applicant.

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13.05.020 Notice process.

- A. Purpose. The purpose of this section is to provide notice requirements for land use applications.
- B. Process I – Minor Land Use Decisions.

1. A notice of application shall be provided within 14 days following a notice of complete application being issued to the applicant as identified in Section 13.05.010.E. ~~A variance is an e~~Examples of ~~a~~ minor land use decisions ~~s-are~~ ~~waivers and variances~~.

2. Notice of application shall be mailed by first-class mail to the applicant; property owner (if different than the applicant); neighborhood councils in the vicinity where the proposal is located; qualified neighborhood or community organizations; the Tacoma Landmarks Commission (for proposals located within a historic district or affecting a designated landmark); the Puyallup Indian Tribe for “substantial action” as defined in the “Agreement Between the Puyallup Tribe of Indians, Local Governments in Pierce County, the State of Washington, the United States of America, and Certain Private Property Owners,” dated August 27, 1988; and to owners of property and/or taxpayers of record, as indicated by the records of the Pierce County Assessor/Treasurer, within the distances identified in Section 13.05.020.G.

3. Parties receiving notice of application shall be given 14 days from the date of mailing (including the day of mailing) to provide any comments on the proposed project to the Department. The notice shall indicate that a copy of the decision taken upon such application will be provided to any person who submits written comments on the application within 14 days of the mailing of such notice, or who requests receipt of a copy of the decision.

4. Decisions of the Land Use Administrator shall be mailed to the applicant and the property owner, if different than the applicant, by first class mail. Decisions of the Administrator requiring environmental review pursuant to the State Environmental Policy Act, WAC 197-11, and the provisions of TMC Chapter 13.12, shall also include a Threshold Determination by the Responsible Official for the Department. A decision shall be mailed by first-class mail to: owners of property and/or taxpayers of record as indicated by the Pierce County Assessor/Treasurer’s records within the distance identified in Section 13.05.020.G; neighborhood councils in the vicinity where the proposal is located; qualified neighborhood or community organizations; and the Puyallup Indian Tribe for “substantial action” as defined in the “Agreement Between the Puyallup Tribe of Indians, Local Governments in Pierce County, the State of Washington, the United States of America, and Certain Private Property Owners,” dated August 27, 1988.

5. A neighborhood or community organization shall be qualified to receive notice under this section upon a finding that the organization:

(a) has filed a request for a notification with the City Clerk in the form prescribed by rule, specifying the names and addresses of its representatives for the receipt of notice and its officers and directors;

(b) includes within its boundaries land within the jurisdiction of the permit authority;

(c) allows full participating membership to allow property owners/residents within its boundaries;

6. More than one neighborhood or community organization may represent the same area.

7. It shall be the duty of the neighborhood group to advise the City Clerk’s office in writing of changes in its boundaries, or changes in the names and addresses of the officers and representatives for receipt of notice.

8. A public information sign (or signs), provided by the Department for applications noted in Table G (Section 13.05.020.G), indicating that a land use permit application for a proposal has been submitted, shall be erected on the site by the applicant, in a location specified by the Department, within seven calendar days of the date on which a notice of complete application is issued to the applicant. The sign shall remain on the site until the date of final decision, at which time the sign shall be removed by the applicant. The sign shall contain, at a minimum, the following information: type of application, name of applicant, description and location of proposal, and where additional information can be obtained.

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G. Notice and Comment Period for Specified Permit Applications. Table G specifies how to notify, the distance required, the comment period allowed, expiration of permits, and who has authority for the decision to be made on the application.

Table G – Notice, Comment and Expiration for Land Use Permits

Permit Type	Preapplication Meeting	Notice: Distance	Notice: Newspaper	Notice: Post Site	Comment Period	Decision	Hearing Required	City Council	Expiration of Permit
Interpretation/determination of code	Recommended	100 feet for site specific	For general application	Yes	14 days	LUA	No	No	None
Uses not specifically classified	Recommended	400 feet	Yes	Yes	30 days	LUA	No	No	None
Boundary line adjustment	Required	No	No	No	No	LUA	No	No	5 years***
Binding site plan	Required	No	No	No	No	LUA	No	No	5 years***
Environmental SEPA DNS/EIS	Optional	Same as case type	Yes if no hearing required	Yes for EIS	Same as case type	Dept. Director	No	No	None
Variance , height of main structure	Required	400 feet	No	Yes	30 days	LUA	No*	No	5 years
Open space classification	Required	400 feet	No	Yes	**	Hearing Examiner	Yes	Yes	None
Plats 10+ lots	Required	400 feet	Yes	Yes	21 days SEPA**	Hearing Examiner	Yes	Final Plat	5 years***
Plats 5-9 lots	Required	400 feet	Yes	Yes	20 days	LUA	No*	Final Plat	5 years***
Rezones	Required	400 feet	No	Yes	21 days SEPA**	Hearing Examiner	Yes	Yes	None
Shoreline/CUP/ variance	Required	400 feet	No	Yes	30 days*** **	LUA	No*	No	2 years/ maximum 6
Short plat	Required	No	No	No	No	LUA	No	No	5 years***
Site approval	Optional	400 feet	No	Yes	30 days*** **	LUA	No*	No	5 years
Conditional use	Required	400 feet	No	Yes	30 days*** **	LUA	No*	No	5 years****
Variance	Optional	100 feet	No	Yes	14 days	LUA	No*	No	5 years
Waiver	Optional	100 feet	No	Yes	14 days	LUA	No*	No	Condition of permit
Wetland/Stream/ FWHCA development permits	Required	400 feet	No	Yes	30 days	LUA	No*	No	5 years
Wetland/stream/ FWHCA assessment	Required	400 feet	No	Yes	14 days	LUA	No	No	5 years
Wetland delineation verification	Required	400 feet	No	Yes	30 days	LUA	No	No	5 years

INFORMATION IN THIS TABLE IS FOR REFERENCE PURPOSE ONLY.

- * When an open record hearing is required, all other land use permit applications for a specific site or project shall be considered concurrently by the Hearing Examiner (refer to Section 13.05.040.E).
- ** Comment on land use permit proposal allowed from date of notice to hearing.
- *** Must be recorded with the Pierce County Auditor within five years.
- **** Special use permits for wireless communication facilities, including towers, are limited to two years from the effective date of the Land Use Administrator’s decision.
- ***** If a public meeting is held, the public comment period shall be extended 7 days beyond and including the date of the public meeting.

13.05.030 Land Use Administrator – Creation and purpose – Appointment – Authority.

A. Creation and Purpose. The position of Land Use Administrator is hereby created. The Land Use Administrator shall act upon land use regulatory permits as specified in this chapter. In order to ensure that the Land Use Administrator is free from improper influence, no individual, City employee, and member of the City Council, or other City board, commission or committee shall interfere with the exercise of the Land Use Administrator's duties and responsibilities set forth herein.

B. Appointment. The Land Use Administrator shall be appointed by the Director of the Community and Economic Development Department, upon advice of the Director of Public Works and the City Attorney. The Director of the Community and Economic Development Department may also designate an Acting Land Use Administrator who shall, in the event of the absence or the inability of the Land Use Administrator to act, have all the duties and powers of the Land Use Administrator.

C. Authority. The Land Use Administrator shall have the authority to act upon the following matters:

1. Interpretation, enforcement, and administration of the City's land use regulatory codes as prescribed in this title;

2. Applications for conditional use permits;

3. Applications for site plan approvals;

4. Applications for variances;

~~5. Applications for waivers;~~

~~56.~~ Applications for preliminary and final plats as outlined in Chapter 13.04, Platting;

~~67.~~ Applications for Wetland/Stream/FWHCA Development Permits, Wetland Delineation Verifications, Wetland/Stream/FWHCA Assessments as outlined in Chapter 13.11;

~~78.~~ Applications for Shoreline Management Substantial Development Permits/conditional use/ variances as outlined in Chapter 13.10;

~~89.~~ Modifications or revisions to any of the above approvals;

~~940.~~ Approval of landscape plans;

~~104.~~ Extension of time limitations;

~~112.~~ Application for permitted use classification for those uses not specifically classified.

~~123.~~ Boundary line adjustments, binding site plans, and short plats;

~~134.~~ Approval of building or development permits requiring Land Use Code and Environmental Code compliance.

D. Interpretation and Application of Land Use Regulatory Code. In interpreting and applying the provisions of the Land Use Regulatory Code, the provisions shall be held to be the minimum requirements for the promotion of the public safety, health, morals or general welfare. It is not intended by this code to interfere with or abrogate or annul any easements, covenants or agreements between parties. Where this code imposes a greater restriction upon the use of buildings or premises or upon the heights of buildings or requires larger yards or setbacks and open spaces than are required in other ordinances, codes, regulations, easements, covenants or agreements, the provisions of this code shall govern. An interpretation shall be utilized where the factual basis to make a determination is unusually complex or there is some problem with the veracity of the facts; where the applicable code provision(s) is ambiguous or its application to the facts unclear; or in those instances where a person applying for a license or permit disagrees with a staff determination made on the application. Requests for interpretation of the provisions of the Land Use Regulatory Code shall be processed in accordance with the requirements of Section 13.05.040.

E. Permitted Uses – Uses Not Specifically Classified. In addition to the authorized permitted uses for the districts as set forth in this title, any other use not elsewhere specifically classified may be permitted upon a finding by the Land Use Administrator that such use will be in conformity with the authorized permitted uses of the district in which the use is requested. Notification of the decision shall be made by publication in a newspaper of general circulation.

F. Reasonable Accommodation. Any person claiming to have a handicap, or someone acting on his or her behalf, who wishes to be excused from an otherwise applicable requirement of this Land Use Code under the Fair Housing

Amendments Act of 1988, 42 USC § 3604(f)(3)(b), or the Washington Law Against Discrimination, Chapter 49.60 RCW, must provide the Land Use Administrator with verifiable documentation of handicap eligibility and need for accommodation. The Administrator shall act promptly on the request for accommodation. If handicap eligibility and need for accommodation are demonstrated, the Administrator shall approve an accommodation, which may include granting an exception to the provisions of this Code. The City shall not charge any fee for responding to such a request.

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13.05.050 Appeals of administrative decisions.

A. Purpose. The purpose of this section is to cross-reference the procedures for appealing administrative decisions on land use proposals.

B. Applicability. The provisions of this section shall apply to any order, requirement, permit, decision, or determination on land use proposals made by the Land Use Administrator. These may include, but are not limited to, variances, ~~shoreline~~, short plat, wetland/stream development, site approval, and conditional use permits, modifications to permits, interpretations of land use regulatory codes, and decisions for the imposition of fines. ~~These provisions do not apply to decisions of the Land Use Administrator for revised shoreline permits (refer to Section 13.10.200)–Appeals of shoreline permit decisions shall be subject to the appeals process in the Shoreline Master Program and TMC Chapter 13.10.~~ These provisions also do not apply to exemptions under TMC Chapter 13.11.

C. Appeal to the Hearing Examiner. The Examiner shall have the authority to hear and decide appeals from any written order, requirement, permit, decision, or determination on land use proposals, except for appeals of decisions identified in Chapter 13.04, made by the Land Use Administrator. The Examiner shall consider the appeal in accordance with procedures set forth in Chapter 1.23 and the Hearing Examiner’s rules of procedure.

D. Who May Appeal. Any decision or ruling of the Land Use Administrator may be appealed by any aggrieved person or entity having standing under the ordinance of the Land Use Administrator’s written order. In this context, an “aggrieved person” shall be defined as a person who is suffering from an infringement or denial of legal rights or claims. An aggrieved person has “standing” when it is determined that the person or entity can demonstrate that such person or entity is within the zone of interest to be protected or regulated by the City law and will suffer direct and substantial impacts by the governmental action of which the complaint is made, different from that which would be experienced by the public in general.

E. Time Limit for Appealing. Appeals from decisions or rulings of the Land Use Administrator shall be made within 14 calendar days of the date of the written order or within seven calendar days of the date of issuance of the decision on a request for reconsideration, not counting the day of issuance of the decision. If the last day for filing an appeal falls on a weekend day or a holiday, the last day for filing shall be the next working day.

F. Form of Appeal. An appeal of the Land Use Administrator shall take the form of a written statement of the alleged reason(s) the decision was in error, or specifying the grounds for appeal. The following information, accompanied by an appeal fee as specified in Section 2.09.500, of the Tacoma Municipal Code, shall be submitted:

1. An indication of facts that establish the appellant’s right to appeal.
2. An identification of explicit exceptions and objections to the decision being appealed, or an identification of specific errors in fact or conclusion.
3. The requested relief from the decision being appealed.
4. Any other information reasonably necessary to make a decision on the appeal.

NOTE: Failure to set forth specific errors or grounds for appeal shall result in summary dismissal of the appeal.

G. Where to Appeal. The Office of the Hearing Examiner.

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13.05.070 Expiration of permits.

(Refer to Table G in Section 13.05.020).

A. Expiration Schedule. The following schedule indicates the expiration provisions for land use permits within the City of Tacoma.

	Type of Permit	Maximum Duration
1.	Conditional Use Permit	5 years
2.	Variance	5 years
3.	Site Approval	5 years
4.	Waiver	5 years
4 5.	Wetland/Stream/FWHCA Development Permits and Wetland/Stream/FWHCA Assessments	5 years
5 6.	Wetland Delineation Verifications	5 years
6 7.	Preliminary Plats, Binding Site Plans, Short Plats, Boundary Line Adjustments	5 years to record with Pierce County Auditor
7 8.	Shoreline Permits	2 years to commence construction; 5 years maximum, possible one- year extension

Conditional use permits for wireless communication facilities, including towers, are limited to two years from the effective date of the Land Use Administrator's decision.

The Hearing Examiner or Land Use Administrator may, when issuing a decision, require a shorter expiration period than that indicated in subsection A of this section. However, in limiting the term of a permit, the Hearing Examiner or Land Use Administrator shall find that the nature of the specific development is such that the normal expiration period is unreasonable or would adversely affect the health, safety, or general welfare of people working or residing in the area of the proposal. The Land Use Administrator may adopt appropriate time limits as a part of action on shoreline permits, in accordance with WAC 173-27-090.

B. Commencement of Permit Term. The term for a permit shall commence on the date of the Hearing Examiner's or Land Use Administrator's decision; provided, that in the event the decision is appealed, the effective date shall be the date of decision on appeal. The term for a shoreline permit shall commence on the effective date of the permit as defined in WAC 173-27-090.

C. When Permit Expired. A permit under this chapter shall expire if, on the date the permit expires, the project sponsor has not submitted a complete application for building permit or the building permit has expired.

D. Extension of Shoreline Permits. In accordance with WAC 173-27-090, the Land Use Administrator may authorize a single extension before the end of the time limit for up to one year if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology. The extension must be based on reasonable factors.

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