



WAC 248-98 VARIANCE REQUEST PROCEDURE

The following procedural guidelines and process information are provided for variance requests for WAC 246-260-201.

PROCEDURE

1. A request for variance from the rules and regulations for water recreation facilities (WAC 246-260) must be submitted in writing to the Water Recreation Facility (WRF) Coordinator, Division of Environmental Health, Snohomish Health District (SHD). The following information must be provided:
 - a. **RESPONSIBLE PERSON AND FACILITY:**
 - (1) Name, address and phone number of the legal owner of the property in question where the variance request is being made.
 - (2) Name of facility for which the variance request is being made.
 - (3) Name of person to contact regarding the variance request.
 - (4) Description of the water recreation facility (drawings/plans should be provided).
 - b. **SECTION OR SECTIONS OF REGULATIONS FOR WHICH VARIANCE IS REQUESTED.**
 - c. **JUSTIFICATION FOR NON-COMPLIANCE.**
 - d. **DATA AND/OR RESEARCH THAT ENSURES THE INTENT OF THE REGULATIONS ARE MET IF VARIANCE IS GRANTED.**
 - e. **CONDITIONS OR ACTIONS THAT WILL BE IMPLEMENTED TO ALLEVIATE ANY HEALTH OR SAFETY CONCERNS SO THAT PUBLIC HEALTH IS NOT COMPROMISED BY GRANTING THE VARIANCE.**
2. SHD shall recognize the receipt of the above information within fourteen (14) days.
3. Upon receipt of the variance request, the program coordinator will review the request, consulting other local, state, and/or national expertise as necessary.
4. A recommendation regarding the variance will be submitted to the Director of Environmental Health and the Health Officer of SHD for review and concurrence.
5. The prosecuting attorney or private counsel will be contacted for legal opinions as necessary.

6. A written copy of the variance decision will be sent to the person requesting the variance within ninety (90) days of the receipt of the variance. If data submitted is insufficient, a time delay may occur.
7. When submitting a variance request, it is important to provide sufficient detail in sections (d) and (e) to allow the department to make an informed decision. Sufficient evidence must be provided that the facility adequately protects public health and safety, as well as water quality. Failure to provide this evidence may necessitate a resubmittal.
8. Conditions may be placed on any variance approved. These conditions may include, but may not be limited to, limitation of pool usage, periodic review, a limitation on the time for which the variance will be allowed, and review at change of ownership.
9. Failure to comply with a variance decision may result in appropriate legal action by the agency, which may include closing the facility, revocation of permit, injunctive or civil penalty actions, and/or filing a criminal complaint.

REVIEW CRITERIA

The following criteria will be considered in the determination of approval/disapproval of a variance request:

1. What is the quality/quantity of data submitted to justify the request?
2. Is there any data/research that refutes what was submitted? Is there any indication that a public health or safety problem could result?
3. Will the variance reduce, control or eliminate an existing public health hazard?
4. What is the size of the facility?
5. Where is the facility located?
6. What population could be exposed to the facility and how often (e.g., use numbers, school youngsters, adults, etc.)?
7. What is the duration of the variance?
8. What is the approval/denial history of similar variance requests?
9. What is the past injury and operational history of the facility?
10. Would variance approval conflict with other policies, codes, regulations and legislation?