



## COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division  
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Albany, OR 97321  
Phone 541-917-7550  
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# Variance

## Checklist & Review Criteria

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### INFORMATION AND INSTRUCTIONS:

- See fee schedule for filing fees (*subject to change every July 1*): staff will contact you for payment after submittal.
  - First, or individual, variance to a Code section
  - Each additional concurrent variance to a Code section
  - If Natural Resource Impact Review is required
  - If Mitigation is required
  - If the staff's decision is appealed and a public hearing is scheduled
- All plans and drawings must be to scale, and review criteria responses should be provided as specified in this checklist.
- Email all materials to [eplans@cityofalbany.net](mailto:eplans@cityofalbany.net). Please call 541-917-7550 if you need assistance.
- Depending on the complexity of the project, paper copies of the application may be required.
- Before submitting your application, please check the following list to verify you are not missing essential information. An incomplete application will delay the review process.

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### VARIANCE SUBMITTAL CHECKLIST

**PLANNING APPLICATION FORM WITH AUTHORIZING SIGNATURES**

**REVIEW CRITERIA AND DEVELOPMENT STANDARDS RESPONSES**

On a separate sheet of paper, prepare detailed written responses, using factual statements (called findings of fact), to explain how the Variance complies with the following review criteria from Development Code Section 2.690. Each criterion must have at least one finding of fact and conclusion statement.

- (1) The property has unique or peculiar physical circumstances or conditions such as, irregular shape, width or depth; or exceptional natural or physical conditions such as topography, trees, native vegetation, wetlands, riparian areas, wildlife habitat, or drainage ways.

- (2) The proposal will be consistent with the purpose, overview, and description for the zone in which the property is located, and with the purpose of the Significant Natural Resource Districts, if applicable; and
- (3) If more than one variance is requested, the cumulative effect of the variances results in a project that is still consistent with the purpose, overview and description of the zone; and
- (4) The requested variance is the minimum necessary to address the peculiar or unusual conditions of the site; and
- (5) Any impacts resulting from the variance are mitigated to the extent practical; **OR**
- (6) Application of the regulation in question would preclude all reasonable economic use of the site.

**SITE PLAN.** To determine if the proposed Variance complies with Albany Development Code standards, staff will need an accurate site plan, drawn to scale. NOTE: If the variance is being requested in conjunction with another land use application that requires a site plan, ensure that the required information is included on the site plan.

The Site Plan must be labeled as such and include the following information. If any listed item below is not provided, please include a written explanation why it should not be applicable to this development.

- Address of the property
- Assessor's map and tax lot number
- Scale of drawing, north arrow, name of drafter of the map. (Typical scale is 1 inch = 20 feet.) The plan must be clear, measurable and fully dimensioned.
- Property dimensions and total property area
- Location of all existing and proposed structures, including minimum distances to property lines
- Location of all existing or proposed improvements, including driveways, sidewalks, and patios
- Lot Coverage: Percent lot coverage allowed:
  - Net land area of the development site: \_\_\_\_\_
  - Square footage of all building footprints: \_\_\_\_\_
  - Square footage of all parking/access areas: \_\_\_\_\_
  - Proposed percentage of total lot coverage: \_\_\_\_\_
- Adjacent zoning designations and land uses, including approximate location of buildings
- If applicable, location of any Significant Natural Resource Overlay Districts (/SW, /RC, /HA per Article 6)
- If applicable, location of the 100 year Floodplain
- If applicable, location of any natural features or unique features of the property, including any native vegetation (species, size)
- If applicable, location and species of trees larger than 25 inches in circumference measured 4½ feet above mean ground level from the base of the trunk
- Contour lines at two-foot intervals
- Natural drainage patterns

- Label and name all abutting streets, both public and private.
  - Locations, dimensions, and nature of all easements
  - CONCEPTUAL LANDSCAPE AND IRRIGATION PLANS.** The Site Plan may show locations where landscaping will be provided. Before occupancy or final inspection of the development, a final landscape plan must be submitted for review and approval. That plan must include a legend that indicates the number, size, spacing, and botanical and common names of all proposed plants.
  - ELEVATION DRAWINGS.** (If applicable) Submit drawings of each elevation of each applicable building. Include building heights and materials, and colors to be used.
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## OTHER PLANS, PERMITS, APPLICATIONS OR INFO THAT MAY BE REQUIRED

- Floor Plans.** Submit one full-size set (18 x 24-inch or larger) and one reduced set (8½ x 11 or 11 x 17 inches) of each. Floor plans shall include dimensions and square footages.
  - Hillside Development Overlay.** If any of the property is within this Hillside Development (/HD) overlay, refer to Development Code Sections 6.170-6.230 to determine if the /HD standards apply. If applicable, attach written findings of fact that demonstrate how this project meets these standards and provide a geotechnical report on the site.
  - Floodplain Overlay (/FP).** If any of the property is within the Floodplain Development (/FP) overlay, refer to Development Code Sections 6.070-6.125 to determine if the Floodplain Development standards apply and if a Floodplain Development Permit is required.
  - Natural Resource Overlay.** If any of the property is within one of Albany's Significant Natural Resource (/SW, /RC, /HA) overlay districts, refer to Development Code Sections 6.290-6.470 to determine if a Natural Resource Impact Review may be required.
  - Mitigation Plan.** If the project is proposed within any of Albany's Significant Natural Resources overlay districts (/SW, /RC, /HA), a mitigation plan may be required. See ADC Sections 6.400 and 6.410 or Mitigation Supplement.
  - Historic Review.** If any property is within a Historic Overlay District or contains a Local Historic Inventory Resource, please refer to Article 7 to determine if historic review is required.
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## SUPPLEMENTAL APPLICATION INFORMATION

- Submit answers to the following proposal questions (separately or submit this sheet):

List the Article of the Development Code from which you are requesting the Variance, (Note: a separate application is needed for each additional request to vary from a Development Code Article.)

[Example: ADC Section 3.190, Table 1].

Briefly explain the requested variance request. (Example: To allow a 13-foot front yard setback when 15 feet is the standard.)

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Will any existing structures be removed or affected by the variance? \_\_\_\_\_

(NOTE: Before you demolish or remove any structure, you must obtain a demolition/moving permit from the City of Albany Building Division.)

Does the site contain any historic structures or historically significant features as identified on the City's Historic Inventory? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, historic review maybe required per Article 7. Please describe any impact or alterations to any historic structures or features.

\_\_\_\_\_  
\_\_\_\_\_

Existing uses and zoning of properties adjacent to the site (including across the street, if applicable):

	Current Uses	Zoning
North	_____	_____
South	_____	_____
East	_____	_____
West	_____	_____

**Note:** Some properties may have covenants or restrictions, which are private contracts between neighboring landowners. These frequently relate to density, minimum setbacks, or size and heights of structures. While these covenants and restrictions do not constitute a criterion for a City land use decision, they may raise a significant issue with regard to the City's land use criteria. It is the responsibility of the applicant to investigate private covenants or restrictions.

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## VARIANCE – PURPOSE AND PROCEDURE

Purpose. When a practical difficulty, unusual hardship, or the literal interpretation of a provision of this Code results in rendering a property incapable of reasonable economic use or causes specific hardships unintended by the Comprehensive Plan or this Code, a variance may be granted.

Variances are prohibited for the following items:

- (a) To allow a primary or accessory use that is not allowed by the regulations
- (b) As an exception to any restrictions on uses or development that contain the word "prohibited."
- (c) As an exception to going through a review process or meeting standards required by a review process in this Code, such as minimum lot size
- (d) As an exception to a definition or classification
- (e) As an exception to the steps of a procedure or to change assigned procedures

The City may designate conditions of approval to ensure conformance with the Albany Development Code. The City may require guarantees and evidence of compliance with such Conditions.

Variance requests within one any of Albany's Significant Natural Resources overlay districts (/SW, /RC, /HA), may require mitigation per ADC Sections 6.400 and 6.410.

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## EXAMPLE OF FINDINGS OF FACT

### CRITERIA FOR FINDINGS OF FACT:

Variance approval will be granted if the approval authority finds the application conforms with the criteria found in Article 2.690 of the ADC, and to applicable development standards. Before the reviewing authority can approve an application, the applicant must submit information that adequately supports the application. If the applicant submits insufficient or unclear information, the application will be denied or delayed.

### FORMAT FOR FINDINGS OF FACT:

Statements addressing individual criteria must be in a “finding of fact” format. A finding of fact consists of two parts:

1. Factual information such as the distance between buildings, the width and type of streets, the particular operating characteristics of a proposed use, etc. Facts should reference their source: on-site inspection, a plot plan, City plans, etc.
2. An explanation of how those facts result in a conclusion supporting the criterion.

### EXAMPLE:

**Criterion:** The property has unique or peculiar physical circumstances or conditions such as, irregular shape, width or depth; or exceptional natural or physical conditions such as topography, trees, native vegetation, wetlands, riparian areas, wildlife habitat, or drainage ways.

**Facts:** The Variance request is to allow a 4.5-foot Special Noise Corridor Setback instead of a 10-foot setback in order to construct an enclosed porch for an existing single-family residence on site. The subject property has an irregular rear property line shaped like a triangle that renders strict compliance with the Special Noise Corridor standards infeasible.

**Conclusion:** The proposed use will be compatible with the existing uses in the area.