

Section 4

Review Procedures

4-1 Application

(A) Any person who proposes activity or work outlined in Section 3-4 of these regulations shall submit a completed application for a lakeshore construction permit. The application along with appropriate review fees along with a bid from a contractor. If a homeowner is doing the work themselves they shall submit a cost of materials bid from their materials resource **and an approx. bid for labor.** All information required shall be submitted to the Lake County Planning Department for processing.

Commented [JF1]: Minor changes, now includes bid for labor

(B) Review Fees

Review fees are based on the cost of the project and determined using a sliding scale as ~~shown on page 1 of the Lakeshore Construction Permit Application.~~ **set forth in the Lake County Planning Department fee schedule.**

Commented [JF2]: Section has been replaced with the amendment approved on August 30th. Propose to now modify to the Lake County Planning Department's fee schedule.

4-2 Lakeshore Construction Permit

(A) The permit issued under the authority of these regulations is valid for one (1) calendar year from the date of issuance. The approval period may be extended for a period not to exceed one (1) calendar year, provided the applicant requests an extension of time from the governing body before the original permit expires and the governing body agrees to the extension of time. Only one such extension may be granted. Once the approval period lapses, the permit becomes null and void. A new application must be submitted for review and a new permit obtained before the project may proceed.

Commented [JF3]: Previously Section 4-6 Moved up in the section to help explain what the permit is for and why you need one

(B) The permit issued pursuant to these regulations strictly limits construction to authorized plans on file with the governing body, to all "General Construction Requirements" of Section 5-2 and to all "Conditions of Approval" attached to the permit.

(C) The permit issued pursuant to these regulations shall signify that the proposed project is in compliance with the "Policy Criteria for Issuance of a Permit" contained in Section 5-1 of these regulations. The issuance of a permit shall not be construed as insurance that the project is structurally sound, that the project will withstand environmental forces acting upon it, or that the project will accomplish its intended purpose.

(D) The permit issued pursuant to these regulations shall grant authorization to begin construction of an approved project within the riparian boundaries of the applicant's property. The issuance of a permit shall not be construed as verification that the approved project is within such riparian boundaries; it is the applicant's responsibility to ascertain that the approved project is situated within the riparian boundaries of the subject property.

- (E) The permit issued pursuant to these regulations shall be publicly displayed within twenty feet (20') of the project site during the construction period.

Commented [JF4]: Removed, with conditions of approval

4-3 Summary of Review Procedures

- (A) The planning staff shall review the application to determine whether or not the proposed project complies with these regulations.

Commented [JF5]: Previously 4-2

- (B) Review of an application for a lakeshore construction permit and its approval, conditional approval or **denial** shall take place within a ninety (90) day period unless the applicant **provides a written request for** an extension of the review period. The time period shall commence to run the day the application is submitted for review, provided all required information and review fees have been properly submitted.

Commented [JF6]: Simplified to just state, these regulations

- (C) If an application is inadequate for review purposes in that all the required information or review fees have not been submitted, the planning staff shall notify the applicant of such within five (5) working days of the **determination being made** and the review period shall not commence until the application is suitable for review.

Commented [JF7]: Modified this 5-day requirement from date received to date determined, more realistic

Commented [JF8]: Moved from section 4-5
Section 4-5 deleted
Slightly modified, see bold

- (D) If the project is in conformance with the construction requirements and design standards or if the applicant agrees to design changes and necessary "Conditions of Approval" in order to bring the project into compliance with such requirements and standards, the planning staff shall so notify the governing body, and the governing body may issue a permit.

- (E) If the project is not in compliance with the construction requirements and design standards, the planning staff shall review the project to determine whether or not a variance could be granted pursuant to the requirements of these regulations.

- (1) If the conditions for granting a **minor** variance pursuant to Section **4-4(A)** are met, the staff shall so notify the governing body, and a permit may be issued.
- (2) If the conditions for granting a **minor** variance pursuant to Section **4-4(A)** may possibly not be met, the planning staff shall schedule the project for review by the planning board (**see Section 4-5 for procedures**) and so notify the applicant of the same.

- (F) If a proposed project requires a variance to the standards contained herein, **or planning board review**, the applicant shall:

Commented [JF9]: Moved from original 4-6(F)

- (1) waive the 90-day review time frame for the permit application,
- (2) pay the necessary additional fees for a variance, and
- (3) submit **a request** for the variance(s).

Commented [JF10]: No specific lakeshore variance application, applicant submits a narrative request along with an application for lakeshore construction
Adjusted accordingly

- (G) If a **lakeshore construction permit** application is denied, the applicant may initiate review of the application pursuant to Section **4-4(B)** of these

Commented [JF11]: This was formerly section 4-4

regulations by entering into a contract with the governing body and providing assignable security of not less than **seven hundred and fifty dollars (\$750.00)** to cover costs incurred by the county to draft the impact statement, reproduce and distribute the impact statement, hold a public hearing for which notice has been published, and draft final findings and recommendations to the governing body.

Commented [JF12]: Increased from \$500 to \$750

The applicant shall reimburse the county for all costs incurred in reviewing a request for a variance from the "Policy Criteria for Issuance of a Permit" (Section 5-1). The contract, the security provided and the amount of security provided shall be expressly subject to acceptance by the governing body.

4-4 Variances

If it is determined that a project is not in compliance with these regulations, the governing body may grant a variance as follows:

Commented [JF13]: New comment

(A) The governing body may grant reasonable **variances (minor)** from the construction requirements and design standards contained in Sections 5-2 and 5-3, **as well as Section 5-4** of these regulations when the governing body determines that:

Commented [JF14]: Flip flopped section A and B. It makes more sense to talk about minor variances and then major variances in the event that the project doesn't qualify for a minor.

- (1) **due to** unusual circumstances a strict enforcement of such requirements and standards would result in undue hardship,
- (2) that no reasonable alternatives exist which do meet the standards contained herein, and
- (3) that granting of the variance will not be adverse to the "Policy Criteria for Issuance of a Permit" as outlined in Section 5-1 of these regulations.

Commented [JF15]: Broke these out into individual sentences and numbered

(B) The governing body may grant a **variance (major)** from the "Policy Criteria for Issuance of a Permit" (Section 5-1) only after preparing an environmental impact assessment, at the expense of the applicant, which conforms to the requirements of this section, **and after obtaining a recommendation from the planning board and** holding a public hearing, as specified in **Section 4-5** and this section **respectively**.

Commented [JF16]: See above

(1) The environmental impact assessment shall contain the following information:

- (a) description of the proposed project,
- (b) description of the variance being considered,
- (c) description of existing conditions,
- (d) description of known environmental effects,
- (e) probable environmental effects, and
- (f) any unavoidable environmental effects, and
- (g) alternatives to the proposed project.

(2) After the governing body has prepared and distributed the

environmental impact assessment, a public hearing shall be held. Notice of the time and place of the public hearing shall be given by publication in a newspaper of general circulation in the county not less than fifteen (15) days prior to the date of the hearing. The applicant and all adjoining landowners shall be sent notice of the time and place of the hearing and one (1) copy of the environmental impact assessment by certified mail not less than fifteen (15) days prior to the date of the hearing.

- (3) Following the public hearing, the governing body may grant the variance, deny the variance or continue the hearing to provide for the input of additional information. If a variance is granted, the governing body may attach "Conditions of Approval".

Variances (**major**) from design standards which would be adverse to the "Policy Criteria for Issuance of a Permit" must be reviewed under the provisions of Section **4-5** of these regulations.

- (C) Variance requests require additional staff and board review. Therefore, the project is subject to supplemental fees as outlined in Section 4-1 (B). All fees shall be paid at the time of application for variance. These fees are non-refundable.

4-5 Planning Board Review Procedures

- (A) At a regular meeting of the planning board, the planning staff shall present its findings to the planning board in regards to the site investigation; the applicant may meet with the planning board in order to discuss the variance request.
- (B) After review of the planning staff's report and related discussion and inquiry, the planning board shall make a finding as to whether or not the proposed project is in compliance with the "Policy Criteria for Issuance of a Permit" (Section 5-1).
 - (1) If the planning board finds the project to be in compliance with the "Policy Criteria for Issuance of a Permit" (Section 5-1), the board may recommend to the governing body that the variance request be granted, provided that "Conditions of Approval" may be attached to the permit.
 - (2) If the planning board finds the project to be adverse to the "Policy Criteria for Issuance of a Permit" (Section 5-1), the board shall recommend to the governing body that the variance request be denied; such a recommendation shall include reasons for disapproval.
- (C) The findings of the planning board shall constitute a recommendation to the governing body. After receiving the recommendations of the planning

board, the governing body shall review the variance request and the findings of the planning board in order to determine whether or not the project is in compliance with the "Policy Criteria for Issuance of a Permit" (Section 5-1).

- (1) If the governing body determines that the project will comply with the "Policy Criteria for Issuance of a Permit" (Section 5-1), the governing body may issue a permit.
- (2) If the governing body determines that the project can be brought into compliance with the "Policy Criteria for Issuance of a Permit" (Section 5-1) through minor changes in design or construction plans, the governing body may issue a conditional permit and list the specific "Conditions of Approval."
- (3) If the governing body determines that the project will be adverse to the "Policy Criteria for Issuance of a Permit" (Section 5-1), the governing body shall deny the variance request and no permit shall be issued.
- (4) **The applicant may then choose to abandon the project, modify the project to comply, or appeal to the district court.**

Commented [JF17]: Added as a final step in the process