

**CITY OF TONKA BAY
VARIANCE APPLICATION**
Phone: (952) 474-7994 Fax: (952) 474-6538
www.cityoftonkabay.net

Application fee: \$150.00

The application fee is used to cover publication costs, County recording fees, postage and other supplies.

Escrow fee: \$1,150.00

The escrow fee is charged to cover staff expenses, engineering, planning and attorney expenses (as billed) which may be incurred because of your application. All staff time is billed at the regular employee rate plus 30% for overhead costs, which includes benefits, buildings, lights, heat, etc.

Any remaining funds, after expenses, are returned to the applicant. Expenses incurred over \$1100 will be billed to the applicant.

APPLICATION DATE _____

SITE ADDRESS (or legal description) _____

PID NUMBER _____

NAME OF PROPERTY OWNER(S) _____

MAILING ADDRESS _____

Street Address City State Zip

PHONE _____ E-MAIL _____

NAME OF APPLICANT(S) (if different from above) _____

MAILING ADDRESS _____

Street Address City State Zip

PHONE _____ E-MAIL _____

Initial where indicated that you have read and understand the requirement(s):

- _____ **A. All property owners must sign as co-applicants.**
- _____ **B. The property corners and proposed construction must be flagged/staked at the time of the application and maintained until the council makes a determination.**
- _____ **C. Survey Requirements:**

1. **Initial Survey**

Every application for building permit (excluding interior remodels, re-roofs, re-siding and general maintenance) shall be accompanied by a certified survey at a scale and in quantities deemed necessary by the City of Tonka Bay unless waived in accordance with the City's survey exemption policy (attached). Because the survey will be used to determine an application's conformance with City Code, it shall be the responsibility of the applicant to ensure information provided on the survey corresponds to submitted building plans (including existing and proposed topography). An issued building permit shall only authorize those land alterations identified on the associated survey. Surveys shall include all information as deemed necessary by the City to provide for the enforcement of city code. See below for more details in the "Submit with Application" section, Item 1.

2. **Foundation Survey**

Applications for new structures shall require that an as-built foundation survey be submitted by a time specified by the City (general prior to completing a foundation inspection) unless waived in accordance with the City's survey exemption policy. The as-built foundation survey shall certify both the final setbacks of the structure being built, and the elevations at which the new structure exists. Failure to provide the foundation survey is in direct violation of this ordinance and expenditures incurred beyond the construction of the foundation will not be considered in determining the actions required to bring the building back into conformance if not built to approved plans.

3. **As-Built Survey**

Applications for new structures shall require that an as-built survey be submitted upon completion of work unless waived in accordance with the City's survey exemption policy. The as-built survey shall certify the final topography of the site, verify the drainage patterns existing upon completion of work, and the distance from average ground level to the highest roof peak. Any additional information needed by the city to ensure compliance with code can also be required. The city reserves the right to withhold the certificate of occupancy for dwelling units until final grading addresses all problems that may be detrimental to adjacent properties.

D. The applicant or representative thereof shall appear before the City Council to answer questions concerning the proposed conditional use permit. See attached public hearing information sheet.

Submit with Application:

1. Eleven (11) to scale copies and Eleven (11) reduced (8-1/2" x 11" or 11" x 17") copies of a certified survey of the property. The survey shall include all information necessary to enforce applicable zoning regulations. Such information may include but is not limited to:
- Location and Floor Area of existing and proposed structures
 - Lot Lines
 - Parcel size in acres and square feet
 - Building setbacks (closest point of building to each property line)

- Low floor elevations of existing and proposed structures
 - Water features (lakeshore, wetlands, etc.)
 - Existing and proposed topography – including ground elevations at corners of existing and proposed structures.
 - General location of vegetation
 - Location of structures on adjacent lots
 - Easements
 - Existing and proposed impervious surface calculations.
 - Location of public and private sewer lines or wells.
2. Hardcover calculation – current and proposed
 3. Floor area ratio – current and proposed
 4. Landscape plan and grading and drainage plan (current and proposed)
 5. Payment

Additional Information

- A.** The request for variances shall be placed on the agenda of the first City Council meeting occurring at least thirty (30) days from the date of official submission unless waived by the Zoning Administrator. Upon receipt of a completed application, the Zoning Administrator shall set a public hearing for a regular meeting of the City Council. The City Council shall conduct the hearing.
- B.** Notice of said hearing shall be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all property owners within three hundred fifty (350) feet of the boundary of the property in question.
- C.** For properties within the Shoreland, Floodway or Flood Fringe Overlay District, the City will submit to the Commissioner of Natural Resources a copy of the application for proposed variances so that the Commissioner will receive at least ten (10) days notice of the hearing.
- D.** The applicant or representative thereof shall appear before the City Council to answer questions concerning the proposed variance.
- E.** A variance of the Ordinance shall be by four-fifths (4/5) vote of the entire City Council.
- F.** If approved, the variance shall become null and void twelve (12) months after the date of approval, unless the property owner or applicant has substantially started the construction of any building, structure, addition or alteration, or use requested as part of the permit.
- G.** Prior to approving an application for a variance, the City shall verify ownership, and that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the permit application relates.
- H.** By state statute, there are three definitive criteria that all variances must address. The three criteria are as follows:
 1. Is the variance request reasonable? The hardship requirement does not mean that a property owner must show the land cannot be put to any reasonable use without the variance. Rather, the property owners must show that they would like to use their property in a reasonable manner that is prohibited by the ordinance.
 2. Does the application present unique circumstances?
 3. If approved, would the variance alter the essential character of the locality?

1004.02 GENERAL PROVISIONS AND STANDARDS

Subd. 3. Review Criteria. In considering all requests for a variance and in taking subsequent action, the City Council shall make a finding of fact that the proposed action will not:

- a. Impair an adequate supply of light and air to adjacent property.
- b. Unreasonably increase the congestion in the public street.
- c. Increase the danger of fire or endanger the public safety.
- d. Unreasonably diminish or impair established property values within the neighborhood, or in any way be contrary to the intent of this Ordinance.
- e. Violate the intent and purpose of the Comprehensive Plan.
- f. Violate any of the terms or conditions of Subd. 4., below.

Subd. 4. Conditions. A variance from the terms of this Ordinance shall not be granted unless it can be demonstrated that:

- a. Undue hardship will result if the variance is denied due to the existence of special conditions and circumstances which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district.
 - 1. Special conditions may include exceptional topographic or water conditions or, in the case of an existing lot or parcel of record, narrowness, shallowness, insufficient area or shape of the property.
 - 2. Undue hardship caused by the special conditions and circumstances may not be solely economic in nature, if a reasonable use of the property exists under the terms of this Chapter.
- b. Literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance or deny the applicant the ability to put the property in question to a reasonable use.
- c. The special conditions and circumstances causing the undue hardship do not result from the actions of the applicant.
- d. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district under the same conditions.

Signature of Applicant

Signature of Property Owner

Signature of Applicant

Signature of Property Owner

This Section Completed by Staff			
FEE	FOR	DATE PAID	STAFF INITIALS
\$150.00	Application Fee		
\$1,150.00	Escrow Fee*		

CITY OF TONKA BAY SURVEY EXEMPTION POLICY

Adopted 9/25/07

Objective:

It is the objective of this policy to establish criteria defining the circumstances in which a survey (or surveys) will be required as a condition of a building permit. The City recognizes that each required survey adds additional cost for residents, and that staff should strive to only require information necessary to ensure compliance with City Code.

Proposed Construction:

By code, every application for a building permit shall be accompanied by an up-to-date certified site survey with the following exceptions:

- Interior remodels
- Re-roofs
- Re-siding

The following two conditional exceptions will also be made:

- General maintenance projects (defined as the repair or replacement of an existing structure where no expansion is proposed) can be excluded from the updated survey requirement provided an old survey showing the structure being replaced/repared is provided. A scaled site plan for general maintenance projects may be permissible if approved by the zoning administrator provided the site plan can verify conformance to code requirements.
- Permits for fences can also be issued provided the fence location is hand drawn to-scale on an old survey that identifies the lot lines and the location of the primary structure. A scaled site plan will not be accepted for fence permits.

Foundation Survey Criteria:

Applications for new structures will be required to provide an as-built **foundation** survey if one of the following criteria apply:

- The proposed new construction will be within five (5) or less feet of any applicable structural setback requirement;
- The proposed new construction will be within ten (10) or less feet of any existing/proposed well or septic system;
- The proposed new accessory structure or addition will be within five (5) or less feet of any private or public sewer line;
- The proposed new construction is required to be reviewed for its lowest floor opening;

As-Built Survey Criteria:

Applications for new structures will be required to provide an as-built survey if one of the following criteria apply:

- The new construction includes proposed contours that will significantly alter the drainage patterns on the property such that adjacent properties or structures on the subject property are threatened;
- The new construction will be within ten (10) or less feet of any lot line;
- The new construction is proposed to be within two (2) or less feet of the maximum height requirement.
- The proposed new construction is being built in conjunction with a variance or conditional use permit subject to specific grading or screening requirements.

Modification of Policy:

This policy may be amended from time-to-time by the City Council.