

University of Texas

Austin, TX

TAS Variance Application Guidelines For Qualifying Historic Structures



ARCHITEXAS

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TABLE OF CONTENTS
GUIDELINES FOR SUBMITTING TAS VARIANCES TO TDLR
ON QUALIFYING HISTORIC STRUCTURES

I. Instructions for submitting TAS variances to TDLR

II. Document templates

- *Sample Request Letter for Determination of National Register Eligibility from Owner to THC*
- *Sample Letter of Determination Request to THC*
- *Sample Letter of Support from Owner to THC*
- *Sample Variance Cover Letter to TDLR*

III. Forms

- *Variance Application & Instructions for Completing the Variance Application Form*

IV. Appendix on CD

- *Document Templates in Word format*
- *Variance Application in PDF format*
- *Texas Accessibility Standards in PDF format*

INSTRUCTIONS FOR SUBMITTING TAS VARIANCES TO TDLR

The purpose of these guidelines is to identify and outline the process for obtaining Texas Accessibility Standards (TAS) variances from the Texas Department of Licensing (TDLR) for qualifying historic structures. The below excerpt from TAS Section 4.1.7 outlines the application and procedural requirements established by TAS:

4.1.7 Accessible Buildings: Historic Preservation.

(1) Applicability:

- (a) General Rule. Alterations to a qualified historic building or facility shall comply with 4.1.6 Accessible Buildings: Alterations, the applicable technical specifications of 4.2 through 4.35 and the applicable special application sections 5 through 10 unless it is determined in accordance with the procedures in 4.1.7(2) that compliance with the requirements for accessible routes (exterior and interior), ramps, entrances, or toilets would threaten or destroy the historic significance of the building or facility in which case the minimum requirements in 4.1.7(3) may be used for the feature.*
- (b) Definition. A qualified historic building or facility is a building or facility that is:*
 - (i) Listed in or eligible for listing in the National Register of Historic Places; or*
 - (ii) Designated as a Recorded Texas Historic Landmark or State Archeological Landmark.*

(2) Procedures:

- (a) Alterations to Qualified Historic Buildings and Facilities Subject to Section 106 of the National Historic Preservation Act:*
 - (i) Section 106 Process. Section 106 of the National Historic Preservation Act (16 U.S.C. 470 f) requires that a Federal agency with jurisdiction over a Federal, federally assisted, or federally licensed undertaking consider the effects of the agency's undertaking on buildings and facilities listed in or eligible for listing in the National Register of Historic Places and give the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking prior to approval of the undertaking.*
 - (ii) Application of State Law. Where alterations are undertaken to a qualified historic building or facility that is subject to section 106 of the National Historic Preservation Act, the Federal agency with jurisdiction over the undertaking shall follow the section 106 process. If the State Historic Preservation Officer or Advisory Council on Historic Preservation agrees that compliance with the requirements for accessible routes (exterior and interior), ramps, entrances, or toilets would threaten or destroy the historic significance of the building or facility, the minimum requirements in 4.1.7(3) may be used for the feature.*
- (b) Alterations to Qualified Historic Buildings and Facilities Not Subject to Section 106 of the National Historic Preservation Act. Where alterations are undertaken to a qualified historic building or facility that is not subject to section 106 of the National Historic Preservation Act, if the entity undertaking the alterations believes that the building is a particularly outstanding example of historically significant architecture and believes that compliance with the requirements for accessible routes (exterior and interior), ramps, entrances, or toilets would threaten or destroy the historic significance of the building or facility and that the minimum requirements in 4.1.7(3) should be used for the feature, the entity should consult with the*

INSTRUCTIONS FOR SUBMITTING TAS VARIANCES TO TDLR

State Historic Preservation Officer. If the State Historic Preservation Officer agrees that the building is a particularly outstanding example of historically significant architecture and believes that compliance with the accessibility requirements for accessible routes (exterior and interior), ramps, entrances or toilets would threaten or destroy the historical significance of the building or facility, the minimum requirements in 4.1.7(3) may be used when specifically approved by the commissioner in accordance with the variance procedures contained in Rule 68.31. If it is determined that any of the minimum accessibility requirements would threaten or destroy the historic significance, then compliance shall be achieved to the maximum extent considered by the commissioner to be reasonable and practicable.

4.1.7 Accessible Buildings: Historic Preservation (Cont'd).

(3) Historic Preservation: Minimum Requirements

- (a) At least one accessible route complying with 4.3 from a site access point to an accessible entrance shall be provided.*

EXCEPTION: A ramp with a slope no greater than 1:6 for a run not to exceed 2 ft (610 mm) may be used as part of an accessible route to an entrance platform.

- (b) At least one accessible entrance complying with 4.14 which is used by the public shall be provided.*

EXCEPTION: If it is determined by the commissioner in accordance with the variance procedures contained in Rule 68.31 that no entrance used by the public can comply with 4.14, then access at any entrance not used by the general public but open (unlocked) with directional signage at the primary entrance may be used. The accessible entrance shall also have a notification system. Where security is a problem, remote monitoring may be used.

- (c) If toilets are provided, then at least one toilet facility complying with 4.22 and 4.1.6 shall be provided along an accessible route that complies with 4.3. Such toilet facility may be unisex in design.*
- (d) Accessible routes from an accessible entrance to all publicly used spaces on at least the level of the accessible entrance shall be provided. Access shall be provided to all levels of a building or facility in compliance with 4.1 whenever practical.*
- (e) Displays and written information, documents, etc., should be located where they can be seen by a seated person. Exhibits and signage displayed horizontally (e.g., open books), should be no higher than 44 in (1120 mm) above the floor surface.*

INSTRUCTIONS FOR SUBMITTING TAS VARIANCES TO TDLR

Step 1: Project Eligibility

Determine if the project meets the above criteria or if a prior determination of eligibility has been established by the Texas Historic Commission. If a designation has not been established, but could be considered a candidate for eligibility, request a determination of National Register eligibility from the THC*.

Applicable document(s) to include:

- National Register determination request letter from Owner to THC
Refer to template: *Sample request letter for determination of National Register eligibility from Owner to THC*

Step 2: Project Registration

Register project through TDLR in order to obtain the EAB Project Registration number. This can be done online (<https://www.license.state.tx.us/ABProjectRegistrationOnline/>) or via mail. (Note: projects with an estimated construction cost of less than \$50,000 may not be registered online.)

Step 3: Letter of Determination Request to THC

Submit a letter of determination request to the THC* for the historic features that are not in compliance with the Texas Accessibility Standards (TAS).

Applicable document(s) to include:

- Variance determination request letter from Architect to THC
Refer to template: *Sample letter of determination request to THC*
- Letter of support from Owner to THC
Refer to template: *Sample letter of support from Owner to THC*
- Completed variance form for each primary section of the TAS for which a variance is being applied
Refer to form: *TDLR Variance Application*
- Set of Construction Documents indicating the scope of work
- Photographic documentation of historic elements being preserved

Step 4: Variance Request to TDLR

After the letter of determination has been received from the THC, submit the variance requests to TDLR.

Applicable document(s) to include:

- Variance request letter from Architect to TDLR
Refer to template: *Sample Variance cover letter to TDLR*
- Variance letter of determination from the THC
- Package submitted to the THC in "Step 3".
(If Construction Documents have already been submitted to TDLR for review, then additional documents do not need to be included at this time.)
- Check for total amount required (\$175 per variance application, as of this writing)

* Note: The Texas Historical Commission has a 30 day review period for all requests.

SAMPLE REQUEST LETTER FOR DETERMINATION OF NATIONAL
REGISTER ELIGIBILITY FROM *OWNER* TO *THC*

[*Owner Letterhead*]

[*Date*]

[*Name of reviewer*]

Texas Historical Commission
P. O. Box 12276
Austin, Texas 78711-2276

Re: [*Project name*]
National Register Eligibility Determination

Dear [*Name of reviewer*]:

This letter is a formal request for a letter of determination from the Texas Historical Commission (THC) regarding the eligibility of the [*Project name*] at the University of Texas for listing in the National Register of Historic Places. We are requesting this determination in order to apply for variances through the Texas Department of Regulation and Licensing (TDLR), per TAS Section 4.1.7. This determination of eligibility to the National Register will allow the University to preserve character defining architectural elements and features at the historic UT [*Project name*] that otherwise may have to be modified to meet ADA guidelines. We understand that the THC already has sufficient documentation to make this determination.
→ *Confirm this last statement with the THC prior to requesting the determination; supporting information may need to be submitted.*

We look forward to receiving your response.

Sincerely,

[*Owner Representative's name*]

[*Title*]

SAMPLE LETTER OF DETERMINATION REQUEST TO *THC*

[*Architect Letterhead*]

[*Date*]

[*Name of reviewer*]

Texas Historical Commission
P. O. Box 12276
Austin, Texas 78711-2276

Re: [*Project name*]
Architectural Barriers

Dear [*Name of reviewer*]:

[*Owner name*] is requesting a letter of determination from the Texas Historical Commission for several historic features in the building that are not in compliance with Texas Accessibility Standards (TAS). The [*project name*] is a significant historic building because [*examples: connected to a specific historic event; is a City of Austin Landmark; is eligible for listing in the National Register of Historic Places; has received grants from preservation organizations; etc.*]. Modification or alteration to the historic features listed below would threaten the historical significance of the building:

[*List the primary sections of TAS for which the project is non-conforming. List each applicable sub-section as well as a description of why the item is non-conforming. Examples listed below.*]

4.9 STAIRS

4.9.3 Nosings

The historic cast iron central and spiral stair nosings do not meet requirements.

4.9.4 Handrails

Historic cast iron stairs do not have handrails on both sides of the stairs. A variance has been allowed by the local building official due to the restricted width of these stairs. Historic handrail ends are not rounded or returned smoothly to the floor, wall, or post.

4.13 DOORS

4.13.5 Clear Width

Several existing historic steel vault doors do not meet this requirement.

4.13.6 Maneuvering Clearances at Doors (18" minimum clearance on pull side)

Several existing historic doors do not meet this requirement.

4.13.6 Maneuvering Clearances at Doors (12" minimum clearance on push side)
Several existing historic doors do not meet this requirement.

General Door Note:

Many historic doors are located in original frames and masonry walls that are 1'-10" wide. The depth of these walls does not allow the historic doors in many instances to meet the maneuvering clearance requirement.

4.13.7 Two Doors in Series

Several existing historic doors do not meet this requirement.

4.13.9 Hardware

Historic door hardware typically consists of original round decorative knobs. Where closers are provided, they will be ADA compliant. Historic hardware is scheduled to be restored and is to remain in place. This hardware occurs on the doors listed below:

Basement Level: Doors B.01, B.02, B.03, B.04, and B.05.

First Floor Level: Doors 1.01, 1.04, 1.05, 1.07, 1.08, 1.09, 1.13, 1.14, 1.17, 1.20, 1.23, 1.24, 1.27, 1.28, 1.30, and 1.31.

Second Floor Level: Doors 2.01, 2.03, 2.04, 2.05, 2.06, 2.07, 2.08, 2.12, 2.13, 2.14, 2.15, 2.18, 2.19, 2.23, 2.24, 2.25, 2.30, 2.31, and 2.32.

Third Floor Level: Doors 3.01, 3.02, 3.03, 3.04, 3.05, 3.09, 3.11, 3.13, 3.14, 3.15, 3.16, 3.20, 3.21, and 3.22.

Historic steel vault doors do not have hardware that is compliant. This hardware occurs on the doors listed below:

Historic Vault Doors: B.10, B.14, 1.03, 1.06, 1.11, 1.29, 2.09, 2.10, and 2.11.

Reconstructed historic doors are to have period style round decorative knob hardware provided in areas where they originally existed. These doors are as follows:

Reconstructed Historic Doors: B.09, B.17, B.20, B.21, B.25, and 1.12.

New doors will receive ADA compliant lever handles and closers as scheduled.

4.26 HANDRAILS, GRAB BARS, AND TUB AND SHOWER SEATS

4.26.2 Size and Spacing of Grab Bars and Handrails

Historic handrails at the cast iron stair do not fall within the nominal diameter or shape of gripping surfaces of a handrail. The new exit stair is in full compliance with stair and handrail requirements.

4.27 CONTROLS AND OPERATING MECHANISMS

4.27.3 Height

Conduit and controls will not be surface mounted on the walls. We have integrated as many electrical and communication systems as possible in new partition walls. At these partitions, devices will be mounted at the required heights.

Conduit and devices cannot be concealed throughout the building in the solid masonry walls. This would necessitate removal of original historic baseboards, plaster, masonry, wainscoting, concrete base, and decorative plaster. Therefore, where electrical and communications system receptacles are required at existing historic walls, the conduit will be run under the floor and devices will be floor mounted. Switches and fire alarm control devices will be placed at the accessible height. The Owner will provide extension outlets for persons needing operating mechanisms at elevated heights.

I appreciate your efforts to preserve the historic integrity of this unique historic structure. Please call if you have any questions.

Thank you,

[*Architect's name*]

[*Title*]

encl: Letter from [*Owner's name*]

Variance Application for [*list variances*]

[*Attach a variance application for each primary section of TAS.*]

One Set of Construction Drawings [*as applicable*]

Photographic documentation of historic elements being preserved

cc:

SAMPLE LETTER OF SUPPORT FROM *OWNER* TO *THC*

[*Owner Letterhead*]

[*Date*]

[*Name of reviewer*]

Texas Historical Commission
P. O. Box 12276
Austin, Texas 78711-2276

Re: [*Project name*]

Architectural Barriers

Dear [*Name of reviewer*]:

[*Owner name*] is in agreement with [*Architect's name*]'s letter dated [*date*], requesting a letter of determination from the Texas Historical Commission. [*Owner name*] has strived to bring the [*Project name*] into compliance so that it may be utilized by all citizens; however, the alteration of certain historic features would threaten or destroy the historical significance of the building. This building is a highly significant historic structure in our community and state. We appreciate your efforts to preserve the integrity of this landmark building. If you have any questions, please do not hesitate to call.

Sincerely,

[*Owner Representative's name*]

[*Title*]

SAMPLE VARIANCE COVER LETTER TO *TDLR*

[Architect Letterhead]

[Date]

[Name of reviewer]

Architectural Barriers
Texas Department of Licensing and Regulation
920 Colorado Street, Tenth Floor
Austin, Texas 78711

Re: *[Project name]* – EABPR#: *[#]*
Variance Request

Dear *[Name of reviewer]*:

Attached is a request from the Owner for the following *[insert quantity of variances]* variances in connection with the *[Project name]*:

[List sections of TAS for which a variance is being requested. Coordinate document with 'Letter of Determination Request to THC'. Examples listed below, modify as appropriate for each project.]

1. 4.9 Stairs – Variance for historic stair case.
2. 4.13 Doors – Variance for historic doors and hardware.
3. 4.26 Handrails, Grab Bars, and Tub and Shower Seats – Variance for historic railings.
4. 4.27.3 Controls and Operating Mechanisms – Variance for height.

These variances are being requested in order to preserve the integrity of this significant historic building, which the Texas Historic Commission (THC) has determined to be eligible for the National Register of Historic Places.

Please give me a call if you have any questions.

Sincerely,

[Architect's name]

[Title]

SAMPLE VARIANCE COVER LETTER TO *TDLR*

Encl: [~~#~~] Variance request forms
Letter of Determination from the THC
Letter from [*Architecture firm's name*] to the THC requesting a letter of
determination
Letter of support from [*Owner's name*]
Check for [*\$ amount (\$175/variance)*] to accompany the Variance Applications

Cc:



TEXAS DEPARTMENT OF LICENSING AND REGULATION
COMPLIANCE DIVISION – ARCHITECTURAL BARRIERS

P.O. Box 12157 • Austin, Texas 78711 • (512) 539-5669 • (877) 278-0999 • FAX (512) 539-5690
 architectural.barriers@license.state.tx.us • www.license.state.tx.us

VARIANCE APPLICATION

A separate variance application for each (non-compliant) condition within a single building or facility must be submitted by the owner (or owner's designated agent) and must include a \$175.00 **non-refundable application fee** and if the project has not already been registered and assigned a TDLR project number, an additional \$175.00 **non-refundable registration fee**.

In addition, the application must be accompanied by plans (site and/or architectural) of all affected areas and any supporting documentation that provides adequate proof to the commission that compliance with the specific Texas Accessibility Standard (TAS) is impractical or irrelevant to the nature, use, or function of the building or facility. The department shall issue a decision based on Chapter 469.151 and 469.152 and the information submitted with the application.

****IMPORTANT INFORMATION****

Variance Applications submitted more than 270 calendar days after the date of the inspection report will not be processed. Incomplete applications and applications received without the required fee(s) will not be processed.

FORM MUST BE COMPLETED IN FULL

PLEASE PRINT OR TYPE

1. Has this project been reviewed? <input type="checkbox"/> Yes <input type="checkbox"/> No	2. If yes, name of reviewer:		
3. Has this project been inspected? <input type="checkbox"/> Yes <input type="checkbox"/> No	4. If yes, name of inspector:	5. If yes, date of inspection:	

6. Project Name:			7. EABPRJ#: (If registered.)	
8. Building/Facility Name:				
9. Address:		Suite No. :	City:	Zip Code:

10. Description: Indicate the type of project: <input type="checkbox"/> New Construction <input type="checkbox"/> Addition <input type="checkbox"/> Alteration		11. Scope of Work (Describe the construction activities):		
12. Estimated Project Construction Cost:		13. Original date of construction of this building/facility:		
14. Square Footage of Building:		15. Square Footage Per Floor:		
16. Is this building a qualified historic building? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, a copy of the determination of effect letter from the Texas Historical Commission (THC) must accompany this application.		17. Is this building being considered for a state lease? <input type="checkbox"/> Yes <input type="checkbox"/> No Is a state agency currently located in this building? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, provide the state lease number:		

18. State the TAS reference number for which the variance is requested:	19. State the specific location of the violation within the building or site:
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20. Explain <u>in detail</u> , why compliance with this TAS standard cannot be achieved (attach additional sheets if necessary)				
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21. Intent to Apply: I hereby apply for a variance or waiver from the Texas Accessibility Standards as required for compliance with the Texas Architectural Barriers Act, Government Code, Chapter 469. (Check One) I am the <input type="checkbox"/> Owner <input type="checkbox"/> Owner's Agent				
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22. Name:		23. Company/Firm:		
24. Address:		City:	State:	Zip:
25. Phone::	26. Fax:	27. **Email:		
28. Signature:				29. Date:

INSTRUCTIONS FOR COMPLETING VARIANCE APPLICATION FORM – AB 013

1. **Has this project been reviewed?** – Check yes or no.
2. **If yes, name of reviewer:** Enter the name of the TDLR employee, Registered Accessibility Specialist (RAS), or a Contract Provider that reviewed this project.
3. **Has this project been inspected?** – Check yes or no.
4. **If yes, name of inspector** – Enter the name of the TDLR employee, Registered Accessibility Specialist (RAS) or a Contract Provider that inspected this project.
5. **If yes, date of inspection** – Enter the date of the inspection report issued by the TDLR employee, Registered Accessibility Specialist (RAS) or contract provider.
6. **Project Name** - Enter the name of the project (examples: CLASSROOM ADDITION, TENANT FINISH OUT FOR DR. SMITH)
7. **EABPRJ#** - Enter the TDLR project number for the project if one has been assigned.
8. **Building/Facility Name** – If the project is part of another building or facility, enter the name of the building or facility (examples: **Project Name:** CLASSROOM ADDITION, **Building/Facility:** WASHINGTON HIGH SCHOOL; **Project Name:** JONES & SMITH, INC. OFFICE RENOVATION, **Building/Facility:** MEDICAL OFFICE TOWER). For facilities named after a person, use only the last name (example: WASHINGTON HIGH SCHOOL).
9. **Address**- Enter the physical location, including the street address if available and the suite number if applicable, city and zip. Post office box numbers are not acceptable.
10. **Description: Indicate the type of project: New Construction/Addition/Alteration** – Check one box which represents if this is a new construction, an addition or alteration project.
11. **Scope of Work** – Provide a brief description of the scope of work for this project.
12. **Estimated Project Construction Cost** – Enter the estimated cost of construction.
13. **Original date of construction of this building/facility**– Enter the year of initial construction of this building/facility (Month/Year)
14. **Square Footage of Building** – Enter the total gross square footage of the building for which the variance is being requested.
15. **Square Footage per Floor** - Enter the total gross square footage per floor for which the variance is being requested.
16. **Is this building a qualified historic building?** – Check yes or no. If yes is checked a copy of the determination of effect letter from the Texas Historical Commission (THC) must accompany this application.
17. **Is this building being considered for a state lease?** – Check yes or no. If yes, provide the state lease number.
18. **State the TAS reference number for which the variance is requested** - Enter the TAS reference number (for example: TAS 4.4, 4.5, 4.6, etc.). A separate variance application is required for each non-compliant condition (TAS reference number)
19. **State the specific location of the violation within the building or site:** Enter the location of the violation (for example: 2nd floor break room; accessible parking in northwest parking lot, etc.).
20. **Explain in detail why compliance with the TAS standard cannot be achieved** – Enter the justification(s) for non-compliance. Adequate proof must be provided with the application (for example: if the justification for non-compliance is based on site conditions, the application should be accompanied by a grading plan or other verifiable documentation that demonstrates the limitations of the site). Non-compliance based on cost will not be considered for any new construction projects
21. **Intent to Apply** – Read the “Intent to Comply” statement and indicate whether the applicant is the owner or owner’s agent.
22. **Name** – Enter the name of the Owner or Owner’s Agent by checking box 21 and signing box 28.
23. **Company/Firm** – Enter the name of the company or the firm of the Owner or Owner’s Agent.
24. **Address** – Enter the mailing address of the Owner or Owner’s Agent entered in box 22.
25. **Phone** – Enter the telephone number for the Owner or Owner’s Agent entered in box 22.
26. **Fax** – Enter the fax number for the Owner or Owner’s Agent entered in box 22.
27. **Email** – Enter the e-mail address for the Owner or Owner’s Agent entered in box 22.
28. **Signature** – Signature of the Owner or Owner’s Agent entered in box 22.
29. **Date** – Enter the date this form is signed.

WHAT TO SUBMIT

1. A completed and signed Variance Application Form for each non-compliant condition.
2. \$175.00 non-refundable fee for each application. Submit a check or money order payable to “Texas Department of Licensing and Regulation”: P.O. Box 12157, Austin, Texas 78711.
3. A completed and signed Architectural Barriers Project Registration Form or AB Confirmation Page and the \$175.00 non-refundable registration fee must accompany this application, if the project has not already been assigned a TDLR project number (EABPRJ#). Projects with an estimated construction cost of less than \$50,000 are not required to obtain a plan review or inspection; however, the fees are still required.
4. The applicant must submit documentation to support the request for variance to prove that compliance with a particular standard is impractical. Such documentation may include, but is not limited to, floor plans, site plans, grading plans, photograph(s), and plumbing fixture counts.