

14.24.140 Variances.

- (1) If the strict application of this Chapter is found to deprive the subject property of rights and privileges enjoyed by other properties in the vicinity, due to special circumstances applicable to the subject property, including size, shape, and topography, a critical areas variance may be authorized as provided in Chapter 14.10 SCC; provided however, that those surrounding properties that have been developed under regulations in effect prior to the effective date of the ordinance codified in this Chapter shall not be the sole basis for the granting of the variance.
- (a) Standard buffer widths may be reduced by more than 25% but not more than 50% through an administrative variance. The administrative variance shall be processed as a Level I application pursuant to SCC 14.06.110.
- (b) Standard buffer widths may be reduced by more than 50% through a Hearing Examiner variance. The Hearing Examiner variance shall be processed as a Level II application pursuant to SCC 14.06.120.
- (2) The Approving Authority shall ensure the opportunity for public comment, including that from appropriate Federal, State, and Tribal natural resource agencies, to ensure the use of best available science before deciding on variance requests and shall develop and maintain a public record on each variance request which includes all findings, assessments and public comments. Such record shall be made available to the public before the variance decision is made.
- (3) Variances to the setback and buffer requirements of this Chapter may only be issued by the Approving Authority following review of the requirements listed in Subsections (3)(a) through (h) of this Section. The Approving Authority shall make a finding for each of the requirements.
- (a) The issuance of a zoning variance by itself will not provide sufficient relief to avoid the need for a variance to the dimensional setback and other requirements for the critical areas regulated by this Chapter; and
- (b) Preparation of a site assessment and mitigation plan by a qualified professional pursuant to the requirements of SCC 14.24.080 and all other applicable sections of this Chapter. The site assessment and mitigation plan shall be prepared utilizing best available science; and
- (c) The conclusions of the site assessment must utilize best available science to support a modification of the dimensional requirements of this Chapter; and
- (d) The site assessment and mitigation plan demonstrate that the proposed project allows for development of the subject parcel with the least impact on critical areas while providing a reasonable use of the property; and
- (e) The reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; and

(f) The granting of the variance will be consistent with the general purpose and intent of this Chapter, and will not create significant adverse impacts to the associated critical areas or otherwise be detrimental to the public welfare; provided, that if the proposal is within the special flood hazard area (SFHA), the applicant must demonstrate that the proposal is not likely to adversely affect species protected under the Endangered Species Act, or their habitat; and

(g) The inability of the applicant to meet the dimensional standards is not the result of actions by the current or previous owner in subdividing the property or adjusting a boundary line after the effective date of the ordinance codified in this Chapter; and

(h) The granting of the variance is justified to cure a special circumstance and not simply for the economic convenience of the applicant.

(4) In granting any variance, the Approving Authority shall prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts and to ensure that impacts to critical areas or their buffers are mitigated to the extent feasible utilizing best available science. The Approving Authority shall consider and incorporate, as appropriate, recommendations from Federal, State and Tribal resource agencies.

(5) The Approving Authority shall maintain a record of all decisions made on requests for variances. Such record shall include the basis and rationale for any such decision as well as any comments provided by Federal, State or Tribal natural resource agencies. Such record shall be made available to the public upon request.

(6) A variance shall expire if the use or activity for which it is granted is not commenced within three years of final approval by the Approving Authority. Knowledge of the expiration date is the responsibility of the applicant.

(7) Appeals of the Approving Authority decisions on variance requests shall be made pursuant to the provisions of Chapter 14.06 SCC. (Ord. O20110008 (part); Ord. O20080014 (part))

14.24.150 Reasonable use exception