



## Skagit County Planning & Development Services

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### Variance Information Sheet

Pursuant to Skagit County Code Chapter 14.10

Visit: [www.skagitcounty.net](http://www.skagitcounty.net) for detailed information

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#### TYPES OF VARIANCES AND APPROVAL/DENIAL PROCESS

Variance review processes (Levels I–III) are outlined in Skagit County Code 14.06.

**Level I Variances:** Administrative variances to the Agricultural siting criteria of 14.16.400 and 14.16.860 and technical deviations from SCC 14.32, Drainage shall be decided by the Planning and Development Services.

**Level II Variances:** Other requirements of the AG-NRL zone found in 14.16.400 or to the Agricultural Land Preservation, SCC 14.16.860 shall be processed as a Level II HE recommendation by the Hearing Examiner and final decision by the Board of County Commissioners.

**Level III Variances.** All other variance requests to any of the provisions of SCC Title 14 shall be processed as a Level II Hearing Examiner Decision.

**Other Variances:** Shoreline variances follow the procedures outlined in the Shoreline Management Master Program. Alternatives to the Public Works standards of SCC 14.36 shall be decided by the Public Works Department.

#### WHAT IS A ZONING VARIANCE?

The Skagit County Zoning Ordinance includes standards relating to development such as residential setbacks. A variance is a zoning adjustment, which permits minor changes to district requirements where individual properties are both harshly and uniquely burdened by the strict application of the ordinance. The approval of a variance is limited to the minimum adjustment necessary to remedy the specific burdens of the site. A variance recognizes that the same district requirements do not affect all properties equally.

#### WHAT CANNOT BE DONE WITH A ZONING VARIANCE?

Use variations are specifically prohibited. A variance does not include the substitution of uses assigned to other districts. Applications regarding minimum lot sizes which increase density beyond that permitted by the Comprehensive Plan are discouraged. Since zoning regulates land and not people, the following conditions cannot be considered pertinent to the application: (a) proof that a variation would increase the financial return from the land, (b) personal hardship, (c) self-imposed hardship. Recognition of conditions created by the applicant (or predecessor in title) would encourage and condone violation of the zoning ordinance.

#### Variance Application Submittal

A variance from the requirements of SCC Title 14 shall be submitted on forms provided by the Planning and Development Services, or, in the case of a request for an alternative from the Public Works Standards, on forms provided by the Public Works Department. The application

form requires that a narrative address all applicable criteria outlined on the variance criteria information sheet. Please review the criteria section carefully.

### **VARIANCE REVIEW PROCESS**

Once you submit your application, planning staff will circulate the application for comments from other departments and agencies. The comments will be reviewed and a staff report will be prepared, setting forth specific findings. A staff recommendation for approval or denial will be prepared based on the variance criteria. If your variance process includes a public hearing, the staff report will be presented to the Hearing Examiner. You should plan to attend this hearing with any information you wish to present in support of your case.

### **WHAT HAPPENS AT A PUBLIC HEARING?**

At the hearing, the Hearing Examiner will review the application, the staff report and recommendation, and public testimony. Following the completion of the public hearing, the Hearing Examiner will render a decision, or elect to issue a written decision at a later date. If the variance is granted, there may be certain conditions imposed. These conditions are binding and will be enforced as part of the variance.



### **FINDINGS OF VARIANCE**

The Approving Authority shall make findings whether:

- The reasons set forth in the application justify the granting of the variance, including findings relating to compliance with any relevant variance criteria found in other sections of Skagit County Code.
- The variance is the minimum variance that will make possible the reasonable use of land, building or structure.
- The granting of the variance will be in harmony with the general purpose and intent of this Title and other applicable provisions of the Skagit County Code, and will not be injurious to the neighborhood, or otherwise detrimental to public welfare.

### **VARIANCES MAY BE CONDITIONED**

In granting any variance, the Approving Authority may prescribe such conditions and safeguards as are necessary to secure adequate protection for the locality in which the use is to be permitted.

### **RECORDING OF VARIANCES**

All variance decisions of the County shall be recorded with the Auditor. If they contain conditions to be imposed on the property even after it has been sold, the recorded notice shall include the Owner's name, parcel number, property address, complete legal description, and conditions to be imposed on the property.



**PLANNING & DEVELOPMENT SERVICES**  
**SPECIFIC VARIANCE CRITERIA**

**PURSUANT TO SKAGIT COUNTY CODE CHAPTER 14.10 AND OTHER CHAPTERS AS STATED**

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Please state and restate any of the following applicable criteria and submit as item 12 under the Variance package submittal requirements.

**VARIANCE FROM AGRICULTURAL SITING CRITERIA, PURSUANT TO 14.16.400(6)**

Applications from the Agricultural Siting Criteria must provide an explanation of how the structure will be placed to minimize the potential impacts on agricultural activities. The agricultural siting criteria are:

- Siting of all structures in the Agricultural - Natural Resource Lands district shall minimize potential impacts on agricultural activities.
- Structures shall be located at the edge of the property, either adjacent to the road or next to an interior lot line.
- When structures exist on adjacent properties, siting of new structures shall comply with the following prioritized techniques:
- Locate new structures(s) in the same ownership adjacent to an existing compatible structure(s), sharing a common access road.
- When the provisions of Subsection (c)(i) above are not practical, locate adjacent to an existing structure.
- When the provisions of Subsection (c)(i) or (ii) above are not practical, site to achieve minimum distance between structures.

Applicant's that wish to vary from the agricultural siting criteria must answer the following questions to explain why they cannot meet the following criteria:

- Why is it necessary to request a variance?
- What conditions do you find that make it impossible to meet the Agricultural siting criteria?
- Do the conditions that justify the variance request result from the actions by the applicant?
- Could other portions of the property be utilized that would not require a variance from the siting requirements? Please explain.

**CRITERIA FOR VARIANCES FROM CRITICAL AREAS PURSUANT TO SCC 14.24.140**

- Applicant's proposing to vary from the dimensional setbacks of SCC 14.32 must submit a site assessment prepared by a qualified professional that supports a modification of the dimensional requirements. Such a conclusion must also include all necessary mitigation measures. Please attach to the variance application three copies of this report.
- Please demonstrate in writing that 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 critical areas regulated by Chapter 14.32.

- Please describe how the site assessment and mitigation plan demonstrates that the proposed project allows for development of the subject parcel with the least impact on critical areas while providing reasonable use of the property, and full mitigation of project impacts.

### **RESPONSIBILITIES OF THE HEARING EXAMINER DURING CAO VARIANCE REVIEW**

- The Hearing Examiner will ensure the opportunity for public comment, including that from the Washington Departments of Ecology, Fish and Wildlife and Natural Resources, and affected Indian tribes, 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 available to the public before the variance decision is made.
- If the Hearing Examiner decides to grant the variance, the Hearing Examiner shall make a further finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure and allows the minimum impact to critical areas necessary to allow such reasonable use.
- If the Hearing Examiner decides to grant the variance, the Hearing Examiner shall make a further finding that 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.

### **PLACEMENT OF CONDITIONS ON CAO VARIANCES**

In granting any variance to Chapter 14.32, the Hearing Examiner 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 fully mitigated. The Hearing Examiner shall consider and incorporate as appropriate recommendations from Federal, State or Tribal resource agencies.

### **RECORDS OF CAO VARIANCES**

The Hearing Examiner shall maintain a record of all decisions made on requests for variances on Chapter 14.32. Such record shall include the basis and rationale for any such decision as well as any comments provided by Federal, State or Tribal agencies or members of a Technical Team. Such record shall be made available to the public upon request.

### **VARIANCES FROM FLOOD DAMAGE PREVENTION PURSUANT TO SCC14.34,130**

Variations to Chapter 14.34 are limited to elevation requirements for first floor construction, elevation requirements for flood-proofing, and the type and extent of required flood proofing.

### **CRITERIA FOR VARIANCES FROM CHAPTER 14.34 FLOOD DAMAGE PREVENTION ORDINANCE**

Applicant's requesting a variance from Chapter 14.34 shall explain in their application narrative how the granting of any variance shall not result in:

- Increased flood heights;
- Additional threats to public safety;
- Extraordinary public expense;
- Creation of nuisances;
- Fraud on or victimization of the public;

- Conflicts with other existing local laws or ordinances.

**NOTIFICATION REQUIREMENT OF CHAPTER 14.34**

All applicant's granted a variance from Chapter 14.34 shall be notified that the issuance of a variance may result in increased premium rates for flood insurance and that construction below base flood elevation increases risks to life and property.

**TECHNICAL DEVIATIONS FROM SCC DRAINAGE PURSUANT TO SCC 14.32.**

Technical deviations from this Chapter and the Stormwater Design Manual may be granted prior to permit approval and construction at the discretion of the Administrative Official only after a determination has been made providing all the following criteria are met:

- The deviation provides equivalent protection and is in the overriding public interest; and that the objectives of safety, function, environmental protection, and facility maintenance, based upon sound engineering, are fully met;
- That there are special physical circumstances or conditions impacting the property such that the strict application of these provisions would deprive the Applicant of all reasonable use of the parcel of land in question;
- Every reasonable effort to find creative ways to meet the intent of the minimum standards has been made;
- That the granting of the deviation will not be detrimental to the public health and welfare, nor injurious to other properties in the vicinity and/or downstream, and to the quality of the waters of the State; and
- The deviation is the least possible exception that could be granted to comply with the intent of the Minimum Requirements.

**LIFE OF A TECHNICAL DEVIATION GRANTED PURSUANT TO 14.32**

Technical deviations granted shall be valid for 3 years, unless specifically granted for a shorter period.