

14.26.600 Pre-existing Uses

14.26.610 Pre-existing Structures

14.26.620 Pre-existing Single Family Residences

14.26.630 Pre-existing Over-water Structures located in Hazardous Areas

14.26.640 Substandard Lots

14.26.600 Pre-existing Uses

(1) Applicability. This section applies to lawfully established uses that do not meet the specific standards of this program, except pre-existing legally-established single family residences that are located landward of the ordinary high water mark are considered a conforming use and section .620 applies.

(2) Uses and developments that were legally established and are nonconforming with regard to the use regulations of the master program may continue as legal nonconforming uses. Such uses may not be enlarged or expanded, except that a nonconforming use may be extended throughout any part of the building which was designed for its use prior to the effective date of this master program.

(3) A use that is listed as a conditional use but existed prior to the effective date of this master program and for which a conditional use permit has not been obtained is a nonconforming use. A use that is listed as a conditional use but existed prior to the applicability of the master program to the site and for which a conditional use permit has not been obtained is a nonconforming use.

(4) A structure that is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit.

(a) A conditional use permit may be approved only upon findings that:

(i) No reasonable alternative conforming use is practical;

(ii) The proposed use will be at least as consistent with the policies and provisions of the act and the master program and as compatible with the uses in the area as the preexisting use; and

(iii) The proposed use can meet the criteria for granting conditional use permits, Section 14.26.730.

(b) Conditions may be attached to the permit to ensure compliance with the above findings, the requirements of the master program, and the Shoreline Management Act, and to assure that the use will not become a nuisance or a hazard.

(5) Abandonment. If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any

subsequent use shall be conforming. A use authorized pursuant to subsection (4) of this section is a conforming use for purposes of this section.

14.26.610 Pre-existing Structures

(1) Applicability. This section applies to lawfully established structures that do not meet the specific standards of this master program. Exceptions:

(a) For pre-existing legally established single family residences, section .620 applies.

(b) For over-water structures, structures located in hazardous areas, including floodplains and geologically hazardous areas, and structures in such disrepair to be considered a safety concern or hazard, section .630 applies.

(2) Repair, Maintenance, and Expansion.

(a) A structure that was legally established and is used for a conforming use but are nonconforming with regard to setbacks (buffers or yards), area, bulk, height, or density may be maintained and repaired and may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses, unless a variance is obtained pursuant to 14.26.750.

(b) A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to pre-existing nonconformities.

(c) A nonconforming structure that has been moved by the landowner any distance must be brought into conformance with the applicable master program and the act.

(5) Replacement.

(a) If a nonconforming structure is damaged or destroyed by fire, natural disaster, or other casualty, it may be reconstructed to the configuration existing immediately prior to the time the development was damaged, provided a complete application for reconstruction or replacement is submitted within 12 months of the date the damage occurred, and all permits are obtained and the restoration is completed within five years.

(b) An applicant may request a 12-month extension of the period to submit application for reconstruction or replacement prior to the expiration of the original 12-month period. Such a request is a Level 1 application. The County may grant the extension if the applicant has made a good faith effort to submit a complete application, and extenuating circumstances beyond the applicant's control have delayed submittal of a

complete application. Extenuating circumstances do not include change in market conditions or delay in financing.

14.26.620 Pre-existing Single Family Residences.

(1) Applicability. This section applies to pre-existing single family residences located landward of the ordinary high water mark and appurtenant structures that were lawfully established prior to the effective date of this master program but do not comply with current setbacks (buffers or yards), area, bulk, height, or density. These residences are considered conforming structures and uses for purposes of this master program. An appurtenant structure to a single-family residence is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. For purposes of this section, appurtenant structures are garages, sheds and other legally established structures. They do not include bulkheads and other shoreline modifications or over-water structures.

(2) Routine repair and maintenance is allowed.

(3) Enlargement or Expansion.

(a) Minor. Enlargement or expansion of single-family residences by the addition of space to the main structure or by the addition of space to an appurtenant structure that would increase the nonconformity and/or encroach further into areas where new structures or developments would not now be allowed under the master program may be approved by the Shoreline Administrator if all of the following criteria are met:

(i) The enlargement, expansion or redevelopment may not extend further waterward than the existing primary residential structure or further into the minimum side yard setback.

(ii) The project does not expand the footprint of the existing structure by more than 200 square feet.

(iii) Potential adverse impacts to shoreline or critical area ecological functions or processes from the remodel or expansion are mitigated on site, in accordance with Chapter 14.24.

(iv) If the existing structure, remodel or expansion is within the special flood hazard area, the requirements of Skagit County Code 14.34 must also be met.

(b) Major. Proposed enlargements or expansions that do not meet all of the criteria above shall require a variance pursuant to 14.26.750.

(4) Replacement.

(a) If a pre-existing single family residential structure is damaged or destroyed by fire, natural disaster, or other casualty, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided a complete application for reconstruction or replacement is submitted within 12 months of the date the damage occurred, and all permits are obtained and the restoration is completed within five years.

(b) An applicant may request a 12-month extension of the period to submit application for reconstruction or replacement prior to the expiration of the original 12-month period. Such a request is a Level 1 application. The County may grant the extension for if the applicant has made a good faith effort to submit a complete application, and extenuating circumstances beyond the applicant's control have delayed submittal of a complete application. Extenuating circumstances do not include change in market conditions or delay in financing.

14.26.630 Pre-existing Over-water Structures located in Hazardous Areas(1) Applicability.

This section applies to over-water structures that were legally established, but by virtue of their location are nonconforming with regard to the regulations of the master program, Chapter 14.34, Flood Damage Prevention, or Chapter 14.24, Critical Areas. This section also applies to over-water structures that are located within the jurisdiction of this master program and the Shoreline Management Act in such disrepair to be considered a safety concern, hazard or nuisance.

[This section will be completed, upon additional coordination with other staff and agencies that provide technical expertise in these areas. The intent here is for the eventual elimination of these over-water-structures that were built prior to shoreline regulations, not over-water structures that have been constructed since the enactment of the SMA.]

14.26.640 Substandard Lots

An undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established in accordance with local and state subdivision requirements prior to the effective date of this master program but which does not conform to the present lot size standards may be developed if permitted by other land use regulations of the local government and so long as such development conforms to all other requirements of the applicable master program and the act.