

## CHAPTER 245 VARIANCES

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**245.001. Purpose.** Because each area of land is, to some degree, unique as to its suitability for and constraints on development, the development standards imposed under the UDC cannot foresee all conceivable situations applicable to the development of every property at every moment. Therefore it is the purpose of this chapter to provide a process that will allow flexibility, adaptability, and reasonableness in the application and administration of the UDC where special conditions exist that create an unreasonable hardship or practical difficulty that limit the suitability of land for development. (Ord No. 12-12)

**245.005. Variances.**

**(a) Applicability.** Unless otherwise provided in the UDC, buildings, structures, or land shall not be developed contrary to the applicable development standards of the UDC unless a variance has been granted pursuant to this Chapter.

**(1) Prohibition.** No variance shall be granted to:

- (A)** Allow a use or activity not allowed under the UDC;
- (B)** Change the status of a use or activity under the UDC;
- (C)** Modify a definition or use classification;
- (D)** Modify a use standard;
- (E)** Modify the applicability of any requirement under the UDC;
- (F)** Modify a development standard specifically identified as non-variable;
- (G)** Modify a development standard that contains the word “prohibited”;
- (H)** Modify procedural requirements under the UDC; or
- (I)** A design review guideline or design review standard.

**(b) Procedure Type.** A variance is processed as a Type III procedure under SRC Chapter 300.

**(c) Submittal Requirements.** In addition to the submittal requirements for a Type III application under SRC Chapter 300, an application for a variance shall include the following:

**(1)** A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing all information necessary to establish satisfaction with the approval criteria. By way of example, but not of limitation, such information may include the following:

- (A)** The total site area, dimensions, and orientation relative to north;
- (B)** The location of all proposed primary and accessory structures and other improvements, including fences, walls, and driveway locations, indicating distance to such structures from all property lines and adjacent on-site structures;
- (C)** All proposed landscape areas on the site, with an indication of square footage and as a percentage of site area;
- (D)** The location, height, and material of fences, berms, walls, and other proposed screening as they relate to landscaping and screening required by SRC Chapter 807;
- (E)** The location of all trees and vegetation required to be protected pursuant to SRC Chapter 808; and
- (F)** Identification of vehicle, pedestrian, and bicycle parking and circulation areas, including handicapped parking stalls, disembarking areas, accessible routes of travel, and proposed ramps.

- (2) An existing conditions plan of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:
  - (A) The total site area, dimensions, and orientation relative to north;
  - (B) The location of existing structures and other improvements on the site, including accessory structures, fences, walls, and driveways, noting their distance from property lines and whether they are to be removed;
  - (C) The location of the 100-year flood plain, if applicable; and
  - (D) The location of drainage patterns and drainage courses, if applicable.
- (d) **Criteria.** An application for a variance shall be granted if all of the following criteria are met:
  - (1) There is an unreasonable hardship or practical difficulty created by the physical characteristics of the land.
  - (2) The variance will not result in adverse effects that are unreasonably detrimental to the public health, safety, and welfare or to property or improvements in the vicinity.
- (e) **Transfer of Variance.** Unless otherwise provided in the final decision granting the variance, a variance shall run with the land. (Ord No. 12-12; Ord No. 31-13)

**245.010. Modification of Variance Approval.**

- (a) **Applicability.** A variance approval may be modified after its effective date if the proposed modification meets the criteria in this section. Proposed modifications that do not meet the criteria in this section require submittal of a new application for variance.
- (b) **Procedure Type.** Modification of a variance approval is processed as a Type III procedure under SRC Chapter 300.
- (c) **Submittal Requirements.** In addition to the submittal requirements for a Type III application under SRC Chapter 300, an application for modification of a variance approval shall include the information required under SRC 245.005(c).
- (d) **Criteria.** An application for modification of a variance approval shall be granted if all of the following criteria are met:
  - (1) The proposed modification is not substantially inconsistent with the conditions of the original approval; and
  - (2) The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.
- (e) **Expiration.** The effect of a modification upon the expiration period of the original approval, if any, shall be established in the modification decision.  
(Ord No. 12-12)

