

# DRAFT

## Chapter 240 VARIANCES

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### **240.01 Purpose.**

The purpose of this chapter is to provide standards for the granting of variances from the applicable requirements of this ordinance when it can be shown that, owing to special and unusual circumstances related to a specific property, the literal interpretation of the provisions of this ordinance would cause undue or unnecessary hardship.

### **240.02 Applicability.**

- A. Appropriate requests. An applicant may seek a variance from any numerical development standard, e.g., minimum lot size, setbacks, height, minimum parking ratios, Transportation System Plan standards, in this Ordinance as it applies to a specific property.
- B. Prohibited requests. An applicant may not seek a variance:
  - 1. For a use that is not otherwise permitted by right or conditionally in the underlying zoning district; or
  - 2. To create new lots that are substandard in size except when processed with a concurrent land division per Chapters 310-330.

### **240.03 Process Type.**

Variances shall be processed by means of a Type III procedure, as governed by Section 205.06, subject to the approval criteria in Section 240.04.

### **240.04 Approval Criteria.**

The Decision Making Body shall approve, approve with conditions, or deny a request for a variance upon a finding that all of the following approval criteria are met:

1. The variance would not be materially detrimental to the purposes of this Ordinance, to any other applicable policies and standards, or to other properties in the same zone or vicinity.
2. There are exceptional or extraordinary circumstances that are peculiar to the lot size or shape, topography or other circumstances over which the applicant has no control, and which do not apply generally to other properties in the same zone or vicinity.
3. The variance is necessary for the preservation of a property right of the applicant, to be substantially the same as those of owners of other property in the same zone or vicinity.
4. Existing physical and natural systems such as, but not limited to, traffic, drainage, dramatic land form or parks, will not be affected adversely any more than would occur if no variance was granted.
5. The hardship is not self-imposed and the variance requested is the minimum needed to alleviate the hardship.
6. If more than one variance is being requested, the cumulative effect of the variances will not result in a project that is inconsistent with the overall purpose of the underlying zoning district.