

ORDINANCE AMENDING MANKATO CITY CODE CHAPTER 10 RELATED TO VARIANCES

WHEREAS, a 2011 amendment to State Statute altered the variance review process, clearly defining three practical difficulties; and

WHEREAS, an amendment to City Code would provide consistency between city and county land use authorities and allow for clear conditions to be imposed on the variance, as long as those conditions are directly related to, and are roughly proportional to, the impact created by the variance; and

WHEREAS, this amended City Code would result in the renaming of the “undue hardship” standard to “practical difficulties”; and

WHEREAS, this amended City Code would result in a terminology change from “valid hardships” to “practical difficulties” which is the amended terminology found within the City Code; and

WHEREAS, this code amendment aligns the variance standards within City Code with Minn. Stat. § 462.357, subd. 6.; and

WHEREAS, the Planning Commission of the City of Mankato submitted a finding stating the proposed amendment is consistent with the goals, objectives, and policies of the Comprehensive Land Use Plan, as adopted and amended from time to time by the City Council.

NOW, THEREFORE BE IT ORDAINED, by the City Council for the City of Mankato, that Chapter 10 of the Mankato City Code be and hereby is amended as follows:

Sec. 10-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Variance means the adjustment by the board of adjustments and appeals of the literal provisions of this chapter in cases where the literal provisions would cause practical difficulties ~~undue hardship~~ because of physical circumstances unique to an individual property. ~~Variances shall be limited to height, bulk, density, and yard requirements.~~

Sec. 10-440. Urban design guidelines.

The following shall apply to development proposals and plans submitted after the adoption of the ordinance from which this chapter is derived:

(3) Redevelopment.

- a. When the principal use of property changes and is accompanied by a change in the ground coverage of existing buildings or structures, development plans shall demonstrate conformance to the General Design Principles and Recommendations and General Site Development Guidelines of the Urban Design Framework Manual. The site plan review committee or planning agency may grant or recommend

variances from this subsection, as appropriate; when it is determined that practical difficulties ~~hardships~~ exist because of site conditions or the character of other structures in the vicinity.

Sec. 10-940. Urban design guidelines.

The following shall apply to development proposals and plans submitted after the adoption of the ordinance from which this chapter is derived:

(3) Redevelopment.

- a. When the principal use of property changes and is accompanied by a change in the ground coverage of existing buildings or structures, development plans shall demonstrate conformance to the General Design Principles and Recommendations and General Site Development Guidelines of the Urban Design Framework Manual. The site plan review committee or planning agency may grant or recommend variances from this subsection, as appropriate; when it is determined that practical difficulties ~~hardships~~ exist because of site conditions or the character of other structures in the vicinity.

Sec. 10-1700. Administration and enforcement.

- (b) The zoning administrator may grant administrative variances from the monument sign requirements for uses in existence on the effective date of the ordinance from which this chapter is derived if practical difficulties are a valid ~~hardship~~ is constituted by article XI, division 5 of this chapter. The zoning administrator's decision may be appealed to the city council.

Sec. 10-1937. Authority.

In accordance with the procedures and standards set forth in this section, the board of adjustments and appeals shall have the authority to grant variances from the provisions of this article in instances where their strict enforcement would cause practical difficulties ~~undue hardship~~ because of circumstances unique to the individual property.

Sec. 10-1938. Purpose.

The variance procedure is intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this article that create practical difficulties ~~or particular hardships~~.

Sec. 10-1941. Standards.

In considering an application for a variance, the board of adjustments and appeals may approve such variance only upon the finding that the application complies with the standards set forth below.

- (1) ~~*General standard.*~~ No variance shall be granted unless the applicant shall establish that conforming to the strict letter of the provisions of this article would create a unique and particular hardship. *Zoning.* The proposed variance is in harmony with the general purposes and intent of the zoning ordinance as amended from time to time.
- (2) ~~*Unique and particular hardship.*~~ Unique and particular hardship is defined as the property is exceptional as compared to other property subject to the same provisions by reason of a unique physical condition, including the presence of an existing use or structure, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot. The hardship shall amount to more than a mere inconvenience to the owner and the hardship shall relate to the physical situation of the lot rather than the personal situation of the current owner of the lot. *Comprehensive Plan.* The proposed variance is consistent with the comprehensive plan as amended from time to time.
- (3) ~~*Not self-created.*~~ The unique physical condition and hardship shall not be the result of any action or inaction of the property owner or its predecessors in title. The unique physical condition shall have existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of the ordinance from which this chapter is derived. *Practical Difficulties.* The property owner establishes that there are practical difficulties in complying with the zoning ordinance. Practical difficulties, as used in connection with the granting of a variance require the following findings:
 - a. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.
 - b. The plight of the property is due to circumstances unique to the property not created by the property owner.
 - c. The variance, if granted, will not alter the essential character of the locality.
- (4) ~~*Denied substantial rights.*~~ The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other property subject to the same provisions. *Economic considerations alone do not constitute practical difficulties.*
- (5) ~~*Not merely special privilege.*~~ The alleged hardship shall not include the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision. The alleged hardship shall not include the inability of the property owner to realize a greater profit than if the variance were not granted. Practical difficulties also include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
- (6) ~~*No other remedy.*~~ There are no means other than the requested variance by which the alleged hardship can be avoided or remedied to a degree sufficient to permit a reasonable use of the lot.
- (7) ~~*Variance less than requested.*~~ A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.
- (8) ~~*Essential character of the area.*~~ The variance would not result in a development on the lot that:

- ~~a. Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity.~~
- ~~b. Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity.~~
- ~~c. Would substantially increase congestion in the public streets due to traffic or parking.~~
- ~~d. Would unduly increase the danger of flood or fire.~~
- ~~e. Would unduly tax public utilities and facilities in the area.~~
- ~~f. Would endanger the public health or safety.~~
- ~~g. Would not be in harmony with the general and specific purposes of this article and the comprehensive planning policies and objectives of the city.~~

Sec. 10-1942. Conditions on variances.

The board of adjustments and appeals may impose specific conditions and limitations upon the granting of a variance as are necessary to achieve the purpose and objectives of this article. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. Such conditions and limitations may include, but are not limited to, those concerning the use, construction, character, location, landscaping, screening, parking, and other matters relating to the purpose and objectives of this article and shall be expressly set forth in the resolution granting the variance. Violation of any such condition or limitation shall be a violation of this article and shall constitute grounds for revocation of the variance pursuant to article X, division 10, of this chapter.

Sec. 10-1945. Prohibited variances.

Notwithstanding any other provision in this section, no variance shall be granted to establish a use not permitted in the zoning district where the property subject to the application is located. In case of an emergency, the City Council may grant a variance to permit the temporary use of a one-family dwelling as a two-family dwelling. Variances shall be granted for earth sheltered construction as defined in M.S. § 216C.06, subd. 14, when in harmony with this ordinance.

This ordinance shall, in accordance with the provisions of Sections 2.14 and 5.06 of the Mankato City Charter, become effective 30 days after publication of notice of its adoption.

Adopted this ____ day of _____, 2025.

Najwa Massad
Mayor

ATTEST: _____
Rena Kopischke, MMC
City Clerk