



City Of Wyoming
 26885 Forest Blvd, PO Box 188
 Wyoming, MN 55092
 Phone (651) 462-4947
 permits@wyomingmn.org

LAND USE & VARIANCE APPLICATION

A variance application initiates a request for an allowance to vary from the terms of the Ordinance and is heard by the Planning Commission who will make a recommendation to the City Council. The City Council will make the final decision.

Property Address: _____

Applicant(s) Information:

Name(s) _____ Home _____
 Address _____ Work _____
 City _____ State _____ Zip _____ Email _____

Owner(s) Information: (if other than Applicant(s))

Name(s) _____ Home _____
 Address _____ Work _____
 City _____ State _____ Zip _____ Email _____

Owner(s) Signature(s) _____ **Date** _____

Legal description of property: _____

Property Identification Number: R.21 _____ Present Zoning: _____

Present use of property: _____

Proposed use of property: _____

Description of request: _____

This application and the following attachments must be submitted to be considered a complete application:

1. A detailed map of the property showing the location of existing and proposed structures and improvements and existing land uses and buildings of adjacent properties within 500 feet. A survey is required for all setback variances.
2. A letter to the Planning Commission describing the variance request and how the request satisfies the criteria found in Sec. 40 – 120, (5), (a) – (j).
3. A completed Variance Worksheet (attached).
4. The variance fee (\$220.00) must be paid at the time of application. The application fee and escrow must be paid at the time of application. The fee is not refundable. The unused portion of the escrow will be returned to the applicant.
5. Any other information deemed necessary by the Zoning Administrator or Planning Commission. *(A variance application for a property in a Shoreland District must include a valid Septic System Certificate of Compliance)*

A public hearing can be scheduled only after a complete application has been received.

Applicant(s) Signature _____ Date _____

As the applicant for this request, I agree to reimburse the City for all expenses incurred by the City in employing planning, engineering, legal, and other professional consultants in reviewing this application. This may include the replenishment of any escrow funds as required as part of this application. Such costs shall be paid by me, the applicant, regardless of the outcome of the review and prior to commencing any work on the project. All of Article V, Division 7, Variances, is attached to this application and by signing this application, the applicant acknowledges that it has been read and understood.

OFFICE USE ONLY

Application # _____ Date Application Received ____/____/____
 Date Complete Application Received ____/____/____ 60 Days ____/____/____ By: _____
Official
Fee \$220.00 + Escrow \$750.00 Date Paid ____/____/____ Check # _____
Revised 01/24/23

City of Wyoming Variance Worksheet

Applicant(s): _____ Phone: _____

Address: _____

Variance request description: _____

City Ordinance Section number: _____

Answer the following questions based on the criteria found in Sec. 40 – 120, (5), (a) – (j). If needed, use a separate page. **All questions must be answered.**

Criteria #1 The property in question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance.

Applicant - Can the property in question be put to a reasonable use if used under the conditions allowed by this Ordinance? Yes No

Describe: _____

Criteria #2 Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of this Ordinance have had no control.

Applicant - Do exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same zone or vicinity, and do they result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of this Ordinance have had no control?

Yes No

Describe: _____

Criteria #3 That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

Applicant - Does the literal interpretation of the provisions of this Ordinance deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance?

Yes No

Describe: _____

Criteria #4 The special conditions or circumstances do not result from actions of the applicant.

Applicant - Do the special conditions or circumstances result from actions of the applicant?

Yes No

Describe: _____

City of Wyoming Variance Worksheet (Continued)

Criteria #5 That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures, or buildings in the same district.

Applicant - Will granting the variance requested confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures, or buildings in the same district? Yes No

If yes, describe. _____

Criteria #6 The variance requested is the minimum variance which would alleviate the hardship.

Applicant - Is the variance you are requesting the minimum variance which would alleviate the hardship?

Yes No

Describe: _____

Criteria #7 The variance would not be materially detrimental to the purposes of this Ordinance, or to property in the same zone.

Applicant - Will the variance be materially detrimental to the purposes of this Ordinance, or to property in the same zone? Yes No

Describe: _____

Criteria #8 Economic conditions or circumstances alone shall not be considered in the granting of a variance request if a reasonable use of the property exists under the terms of the ordinance.

Applicant - Is the requested variance for economic reasons? Yes No

Describe: _____

Criteria #9 In the Flood Plain District, no variance shall be granted which permits a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permits standards lower than those required by state law.

Applicant - Is the property in a Flood Plain District? Yes No

Criteria #10 Variances shall be granted for earth-sheltered construction by state statutes when in harmony with this Ordinance.

Applicant - Is the variance for earth-sheltered construction? Yes No

If yes, how is the request in harmony with the ordinance? _____

DIVISION 7. VARIANCES

Sec. 40 – 120. Procedure.

- (1) Requests for variances, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall also be accompanied by complimentary copies of detailed written and graphic materials fully explaining the proposed change, development, and use. The Zoning Administrator shall refer said application, along with all related information, to the Planning Commission for consideration.
- (2) The application shall be accompanied by a site plan of the proposed variance showing such information as may be necessary or desirable, including, but not limited to Items 1 through 7 below. After receipt of all of the following items, the Zoning Administrator, on behalf of the Planning Commission, shall set a date for a public hearing. Notice of such hearing shall be published in the official newspaper of the City. The application shall include:
 - (a) Application for a Variance shall be made to the Zoning Administrator on forms provided by the City.
 - (b) The fee specified in Appendix A of the City Code.
 - (c) The names and addresses of the petitioner or petitioners, and their signatures to the petition.
 - (d) A specific description of the area for which the variance is requested and addresses of all owners of the property lying within five hundred (500) feet of such area, and a description of the property owned by each.
 - (e) Proposed use of land for which the variance is requested.
 - (f) A legal description of the property for which the variance is requested.
 - (g) A detailed map to scale of the property showing the location of proposed buildings, and dimensional variances requested, and existing land uses and buildings of adjacent properties within five hundred (500) feet.
 - (h) A letter to the Planning Commission explaining how the requested variance satisfies the ten (10) Items listed in Sec. 40 – 120, (5), (a) – (j).
 - (i) Pictures are to be provided of request showing locations, buildings, dimensional variance and existing land uses.
 - (j) Any other information deemed necessary by the Zoning Administrator or Planning Commission.
- (3) The Zoning Administrator, on behalf of the Planning Commission, shall set a date for a public hearing. Notice of such hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing. Written notice shall be sent to all property owners within five hundred (500) feet of the affected property in incorporated areas and unincorporated areas. A copy of the notice and a list of the property owners and addresses and local governments to which the notices were sent shall be attested to by the Zoning Administrator and made part of the official record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the subdivision has been made.
- (4) The Planning Commission shall consider the request and hold a public hearing at its next available regular meeting. The applicant or a representative thereof, shall appear before the Planning Commission in order to answer questions concerning the requested variance.
- (5) A variance to the provisions of the Zoning Ordinance may be issued to provide relief to the landowner in those cases where the application of the strict letter of the ordinance imposes particular hardship or practical difficulties to the property owner in the use of this land. No variance may be granted that would allow any use that is prohibited in the zoning district in which the property is located. A variance may be granted only in the event that the following circumstances exist:
 - (a) The property is question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance.
 - (b) Exceptional or extraordinary circumstances apply to the property which does not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of the property, since enactment of this Ordinance, have had no control.
 - (c) That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
 - (d) The special conditions or circumstances do not result from actions of the applicant.
 - (e) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures, or buildings in the same district.
 - (f) The variance requested is the minimum variance which would alleviate the hardship.
 - (g) The variance would not be materially detrimental to the purposes of this Ordinance, or to property in the same zone.
 - (h) Economic conditions or circumstances alone shall not be considered in the granting of a variance request if a reasonable use of the property exists under the terms of the ordinance.

- (i) In the Flood Plain District, no variance shall be granted which permits a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permits standards lower than those required by state law.
 - (j) Variances shall be granted for earth sheltered construction by state statutes when in harmony with this Ordinance.
- (6) In considering all requests for a variance, the Planning Commission shall make a finding of fact as appropriate that the proposed action will not:
- (a) Impair an adequate supply of light and air to adjacent property.
 - (b) Unreasonably increase the congestion in the public right-of-way.
 - (c) Increase the danger of fire or endanger the public safety.
 - (d) Unreasonably diminish or impair established property values within the neighborhood.
 - (e) Cause an unreasonable strain upon existing municipal facilities and services.
 - (f) Be contrary in any way to the spirit and intent of this Ordinance.
 - (g) Have a negative direct or indirect fiscal impact upon the City or school district, unless the proposed use is determined to be in the public interest.
- (7) The Planning Commission and City staff shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant if said information is declared to be necessary by the City to review the request or to establish performance conditions in relation to this Ordinance.
- (8) After receipt of a complete application for a variance, the Planning Commission shall make preliminary findings of fact and recommend approval or disapproval or approval with modifications, alterations, or differing conditions. Such preliminary findings and recommendations with modifications, alterations, or differing conditions shall be in writing and made part of the Commission's records.
- (9) All decisions of the Planning Commission shall be advisory to the City Council.
- (10) Upon receiving the report and recommendation of the Planning Commission the City Council shall place the report and recommendation on the agenda at its next available regular meeting. Such reports and recommendations shall be entered in and made part of the permanent record of the City Council.
- (11) Upon receiving the report and recommendation of the Planning Commission and after receiving such additional testimony as it may deem appropriate, the City Council shall either:
- (a) Approve or disapprove the request as recommended by the Planning Commission, or
 - (b) Approve or disapprove the recommendation of the Planning Commission with modifications, alterations, or differing conditions. Such modifications, alterations, or differing conditions shall be in writing and made part of the records of the City Council; or
 - (c) Refer the recommendation back to the Planning Commission for further consideration. This procedure shall be followed only one time on a single action.
 - (d) Should the City Council approve or deny the applicants request contrary to the Planning Commission's recommendation, the City Council shall include in their Findings of Fact the reason for their differing decision.
- (12) The Zoning Administrator or the City Clerk shall notify the applicant of the City Council's action in writing, and if the action relates to land located within a Shoreland District or a Floodplain District notice shall also be given to the Commissioner of the Minnesota Department of Natural Resources or their authorized representative within ten (10) days of the final decision.
- (13) After receipt of a complete (as defined in Sec. 40 – 120, (2)) variance application, the City Council shall approve or deny the application. If the application is not complete, the Zoning Administrator shall submit a written notice of missing material.

Sec. 40 – 121. Lapse of Variance.

Whenever within one (1) year after granting a variance, the work as permitted by the variance shall not have been completed, then such variance shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original variance or appeal. There shall be no charge for the filing of such petitions. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance or appeal. Such petition shall be presented to the Planning Commission for a decision, and shall be requested only one time on a singular action.

Sec. 40 – 122. Performance Bond.

The Planning Commission shall have the authority to recommend to the City Council, a performance bond, or other securities when it is deemed appropriate. The City Council will make the final determination.

- (1) Except in the case of non-income producing residential property, upon approval of a variance the City will be provided with a surety bond, cash escrow certificate of deposit, securities or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the variance and the ordinances of the City.
- (2) The security may be in the amount of the City's estimated costs of labor and materials for the proposed improvements or development.
- (3) The City may hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the variance and ordinances of the City have been issued by the Zoning Administrator.
- (4) Failure to comply with the conditions of the variance and ordinances of the City may result in forfeiture of the security.

Secs. 40 - 123—40 - 129. Reserved.