

CITY OF MANDEVILLE  
VARIANCE REQUEST FORM

Date \_\_\_\_\_

Applicant(s) Name(s) \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

Applicant(s) Signature(s) \_\_\_\_\_

Owner(s) Signature(s) \_\_\_\_\_

1. Is the applicant the owner of the property? Yes \_\_\_\_\_ No \_\_\_\_\_
2. If the answer to question 1 is "No", the applicant must have a legal right to the present use and possession of the property for the term of the requested variance. Variances are not transferable and only apply to the applicant(s) to whom the variance is granted.
3. A legal description of the subject property must be submitted. Please attach the description to this form.

If the subject property is not described by Square/Block and/or Lot/Parcel, the applicant must provide a survey plat and vicinity map in order to readily identify the property location. Please attach the survey and map to this form.

4. The applicant shall deposit with the City of Mandeville the sum of seventy-five dollars (\$75.00) for each request. Under no conditions shall the fee be refunded for the failure of such variance to be granted, or for the withdrawal of the request by the applicant.
5. State the variance(s) requested and the reason(s) below. **The request must demonstrate an unusual hardship or difficulty so great as to warrant a deviation from provisions established by this Ordinance and at the same time the surrounding property will be protected.** Continue on a separate sheet if necessary. Please attach any information necessary to understand the request, including plats, scaled drawings, etc.

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#### 4.3.4. Procedures and Fees for Filing Appeals, Requests for Variances and Exceptions to the Zoning Commission

##### 4.3.4.1. Procedures for Filing Appeals

1. Any person aggrieved by a decision of any of the officers, departments, or City staff that administer the provisions of these land use regulations may appeal to the Zoning Commission within thirty (30) days after the decision has been rendered. If a building or structure is believed by the Building Inspector to be unsafe or dangerous, the Planning Director may limit the time for such appeal to a shorter period with the consent of the Mayor.
2. City officials or employees shall produce all papers, correspondence, and records requested by the Zoning Commission for any hearing or meeting held by the Board.
3. An appeal stays all proceedings and furtherance of the action appealed from, unless the Building Inspector certifies to the Commission, after a notice of appeal shall have been filed with the Planning Director, by reason of facts stated in the certificate, that a stay would, in his opinion, cause imminent peril of life or property. In such cases, proceedings shall not be stayed other than by a restraining order which may be granted to the Zoning Commission by the District Court of the parish, and notice to the City Clerk and on due cause shown.
4. The Zoning Commission shall adopt rules of procedure to fix a reasonable time for hearing appeals, give notice thereof, as well as due notice to the interested parties, and shall decide the appeal within a reasonable time and in accordance with the Adopted Rules and Procedures of the Zoning Commission. At the hearing, any party may appear in person or by an attorney.

##### 4.3.4.2. Fees for Filing Appeals and Variance Requests

1. **Fees for Appeals to the Zoning Commission** - A fee of twenty-five dollars (\$25.00) shall be paid to the Secretary of the Zoning Commission at the time the notice of appeal is filed, which the Secretary shall transmit to the Director of Finance. Fees related to appeals shall be credited of the general revenue fund of the community.
2. **Fees for Variance Requests** - To initiate any variance request, as permitted by this code or in conjunction with an appeal, the party or parties requesting the variance shall deposit with the Secretary of the Zoning Commission the sum of seventy-five dollars (\$75.00) for each variance requested. Under no circumstances shall the fee be refunded for the failure of such variance to be granted or for the withdrawal of the request by the applicant.

##### 4.3.4.3. Conformity with Purpose of Land Use Regulations in Evaluation of Appeals

In consideration of all appeals and all proposed exceptions or variances under the terms of this Ordinance the Zoning Commission shall, before making any exception or variance from the ordinance in a specific case, give due consideration to the general purposes of these regulations as stated in Article 1. In consideration of all appeals and all proposed exceptions or variances under the terms of this Ordinance the Board shall, before making any exception or variance from the ordinance in a specific case, first determine that it will not impair an adequate supply of air or light to adjacent property, or unreasonably increase the congestion in public streets, or danger of fire, or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area or in any other respect impair the public health, safety, morals, comfort, welfare or aesthetics of the inhabitants of the community.

#### 4.3.4.4. *Scope of Action by the Zoning Commission on Appeals*

1. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the officers, departments, commissions, boards or bureaus that administer the provisions of these Land Use Regulations. In granting a variance, the Zoning Commission may establish conditions it deems advisable to further the purposes of this Ordinance.
2. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of the officers, departments, commissions, boards or bureaus that administer the provisions of these regulations, or to decide in favor of the applicant on any matter upon which it is required to pass under this or any ordinance, or to effect any variance of this Ordinance under which it has the power to grant a variance.

#### 4.3.4.5. *Variance Procedures*

1. **Authority.** The Zoning Commission may authorize a variance upon appeal of a decision of an official administering the provisions of this Ordinance when a property owner can show that a strict application of the terms of this Ordinance relating to the use, construction, or alteration of buildings or structures, or the use of land will impose upon him unusual and practical difficulties or particular hardship; but only when the Commission is satisfied that granting such variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a deviation from provisions established by this Ordinance and at the same time the surrounding property will be properly protected.
2. **Procedure.** Variance requests shall accompany the application for appeal, shall clearly identify the section of the ordinance from which the variance is requested and shall be filed in accordance with the Rules of Procedure of the Zoning Commission. Variance requests shall not be considered by the Zoning Commission until:
  - a. **Initiation** - The owner or person having a contractual interest, other than a lessee, in the property for which a variation is sought may initiate a request for a variance.
  - b. **Application** - The application and the number of copies required by the Rules of Procedure of the Zoning Commission shall be submitted on forms provided by the Planning Director. The application shall include the following information:
    - (1) Name, address, and telephone number of applicant.
    - (2) Nature and extent of the applicant's interest in the property for which the variance is requested.
    - (3) A survey drawn to scale indicating the existing dimensions and improvements of the property. Such plan shall be no smaller than 8.5" x 11" inches and no larger than 24" x 36" inches.
    - (4) A site plan drawn to scale indicating the proposed site plan of the property. Such plan shall be no smaller than 8.5" x 11" inches and no larger than 24" x 36" inches.
    - (5) A statement identifying the practical difficulties applicable to the variance request and, if applicable, the nature of the time variance requested.

- c. **Planning Director Responsibilities**
    - (1) The Planning Director shall have five (5) working days to determine if the application, as submitted, meets the requirements established herein. If an application is found to be incomplete, the Planning Director shall notify the applicant within five (5) working days of the reasons therefore and advise the applicant of the requirements for an acceptable application.
    - (2) Upon receipt of an acceptable application the Planning Director shall place the application on the agenda of the next regularly scheduled Zoning Commission meeting for which the required advertising procedures can be met.
  - d. **Notice Required.** Notice of the requested variance and of the time and place of the public hearing or hearings thereon shall be provided as follows:
    - (1) **Published Notice.** Notice shall have been published once a week for three (3) weeks in the City's official journal. At least fifteen (15) days shall elapse between the first publication and the date of the hearing or hearings to which said publication relates.
    - (2) **Printed Notice.** Printed notice in bold type shall be posted for not less than ten (10) consecutive days prior to the public hearings on signs prepared, furnished, and placed by the Department of Planning and Development staff upon the principal and accessible rights-of-way adjoining the site where the variance is requested.
    - (3) **Posted Notice.** The property will be posted with a sign no smaller than 11" x 17" at least fifteen (15) days prior to the Public Hearing.
  - e. **Zoning Commission Hearing.** There shall have been held a public hearing in relation thereto before the Zoning Commission at which time interested citizens and parties shall have had an opportunity to be fully heard.
  - f. **Zoning Commission Action** - Within forty (40) days of the meeting at which the variance request is first eligible for decision, the Zoning Commission shall take one of the following actions or the request shall be deemed approved:
    - (1) Approve the variance as requested,
    - (2) Approve the variance subject to specific conditions,
    - (3) Deny the variance request, or
    - (4) Table at written request of the applicant.
3. **Conditions on Variance** - The Board may set forth the conditions in granting a variance. Such conditions may include, but are not limited to the following:
    - a. Limit the manner in which the use is conducted, including restrictions on the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, discharge of pollutants, glare and odor.
    - b. Establish a special yard or other open space or lot area or dimension.
    - c. Limit the height, size or location of a building or other structure.
    - d. Designate the size, number, location or nature of vehicle access points.
    - e. Increase the amount of street dedication, roadway width, or improvements within the street right-of-way.

- f. Designate the size, location, screening, drainage, surfacing or other improvements of a parking or truck loading area.
  - g. Limit or otherwise designate the number, size, location, height or lighting of signs.
  - h. Limit the location and intensity of outdoor lighting or require its shielding.
  - i. Require diking, screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.
  - j. Designate the size, height, location or materials for a fence.
  - k. Protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
  - l. Specify other conditions to permit development of the site in conformity with the intent and purpose of the code.
4. **Tenure of Variance** - Except for time variances as provided for above, variances are valid for an unlimited time, irrespective of ownership.
  5. **Fee** - An application fee of \$75.00 as for other variances is hereby established.
  6. **Non-Conforming Development Site Variances**
    - a. **Background** - The non-conforming provisions of section 4.2 of these regulations establishes specific conditions under which non-conforming development sites must be upgraded to meet the standards established by this Code. Practical difficulties may exist which prevent the upgrading of certain non-conforming development sites to standards imposed by this Code.
    - b. **Purpose** - This variance procedure has been established in order to provide a viable economic use of existing structures and to insure that non-conforming development sites are upgraded to the extent deemed possible by the Zoning Commission. Provision of adequate parking and access shall take precedent over other applicable sections of these regulations in evaluating applications for non-conforming development site variances.
    - c. **Occupancy of Non-Conforming Development Site**
      - (1) Occupancy of a non-conforming site in conjunction with a change of use:
        - (a) Comparable or less parking demand: If a proposed change of use does not increase the number of required off-street parking spaces by more than five (5) percent over the number of spaces required for the then present use, an applicant for a non-conforming development site variance may, at his own risk, occupy the site prior to approval of non-conforming development site variance.
        - (b) Increase of parking demand: If the proposed change of use increases the number of required off-street parking spaces by more than five (5) percent over the number of spaces required for the then present use, alteration of the site to conform to this Ordinance or approval of a non-conforming development site variance is required prior to issuance of permits or occupancy of the site.
      - (2) Non-Conforming Shopping Center - Subsequent to the loss of legally nonconforming status for reasons defined by this Ordinance alteration of the site to conform to this Ordinance or approval of a non-conforming development site variance is required prior to issuance of a development permit or occupancy of the site.

- d. **Time Variance** - The Zoning Commission may provide a one-time temporary variance for up to 365 days. In reviewing other than time variance requests, the Commission shall not approve variance requests without first finding that practical difficulties do exist.
- e. **Practical Difficulties** - For non-conforming development sites, practical difficulties shall be limited to those situations:
  - (1) In which existing buildings would have to be relocated in order to meet the setbacks or landscaping requirements or other requirements prescribed by this Ordinance, or
  - (2) In which inadequate parking or maneuvering areas would be created or rendered less in conformance if the landscaping prescribed by this Ordinance were implemented, or
  - (3) In which other site conditions that would make conformance impossible. The cost incurred to remove concrete or other impervious surfaces to conform to the provisions of this Ordinance shall not constitute practical difficulties.

**4.3.4.6. Procedures and Standards for Exceptions by the Zoning Commission**

The procedures for application, notice, hearing and approval of exceptions authorized by this CLURO for the Zoning Commission shall be the same as those for variances established in section 4.3.4.5, except that applicant does not need to demonstrate a hardship that is unique to the applicable property. The Planning Commission may approve an authorized exception upon finding that the exception advances the goals of the Comprehensive Plan and the purposes of this CLURO.

**4.3.4.7. Scope of Civil Court Recourse**

Any person or persons, or any officer, department, board, bureau or any other agency of the community jointly or severally aggrieved by any decision of the Zoning Commission may present to the District Court of the parish, within thirty (30) days after filing of the decision in the office of the Board, a writ of certiorari asking for such relief and under such rules and regulations as are provided for such matters in appropriate legislation of the state.

**4.3.4.8. Notification of Decisions of the Zoning Commission**

- 1. Every appeal or variance decision of the Zoning Commission shall be recorded in the Board's official record and shall indicate the vote upon the decision. Every decision shall be promptly filed in the case file in the Office of the Department of Planning and Development and shall be open to public inspection. A copy shall be sent by mail or otherwise to the appellant and a copy shall be kept in the case file of the Office of the Department of Planning and Development for two (2) years after filing.
- 2. The Zoning Commission shall in every case reach a decision without unreasonable or unnecessary delay.
- 3. If a decision of the Zoning Commission reverses or modifies a decision of the Planning Director, Building Inspector, or Director of Public Works or varies the application of any provision of this Land Use Regulation Ordinance action shall be taken by the Planning Director or Building Inspector or Director of Public Works in accordance with such decision within a reasonable period of time.