

AN ORDINANCE AMENDING ORDINANCE NO. 644, IN REGARD TO VARIANCES, AND DECLARING AN EMERGENCY.

THE CITY OF SWEET HOME DOES ORDAIN:

Section 1. Article 8 of Ordinance No. 644 is hereby amended to read as follows, to-wit:

Section 8.010. Authorization to Grant or Deny Variances. Variances from the requirements of this ordinance may be granted where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of the ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, conditions may be attached which are necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this ordinance.

Section 8.020. Circumstances for Granting a Variance. A variance may be granted only in the event that all of the following circumstances are considered:

(1) 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.

(2) The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.

(3) The variance would not be materially detrimental to the purposes of this ordinance, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of the City plan or policy.

(4) The variance requested is the minimum variance which would alleviate the hardship.

Section 8.030. Procedure for Taking Action on a Variance Application. The procedure for taking action on an application for a variance shall be as follows:

(1) A property owner may initiate a request for a variance by filing an application with the City Manager, using forms prescribed pursuant to Section 10.050. A filing fee in accordance with the provisions of Section 10.060 shall accompany an application for a variance.

(2) If the request is for less than a ten percent variance from the requirements, and if such request is for no more than two variances within a twelve month period for the same tax lot, the

City Manager shall have the discretion of either acting on the request, or he may refer the request to the Planning Commission.

(3) Should the request for a variance be referred to the Planning Commission, it shall hold a public hearing thereon in accordance with the provisions of Sections 10.070 and 10.080.

(4) Should the City Manager choose to act on the request without referral to the Planning Commission he shall cause a public notice of the request to be published in a newspaper of general circulation in the City. In addition, a notice of the request shall be mailed to all owners of property within 100 feet of the exterior boundaries of the property for which the variance has been requested and to members of the Planning Commission. Both the published notice and the mailed notice shall specify that comments will be received by the City Manager for a 10 day period following the date of the notice.

(5) Upon expiration of the aforementioned 10 day period, the City Manager shall act on the request and within 5 days after a decision has been rendered the City Manager shall provide the applicant and any party who has indicated an interest in the request with written notice of the decision and shall advise the Planning Commission of his decision at its next regular meeting.

(6) The applicant or any other interested party may, within 10 days of receipt of the written notice of the decision, request review of the request by the Planning Commission at its next regular meeting. The Planning Commission may either uphold the decision of the City Manager, approve the application with special conditions, or approve the request without modification.

Section 8.040. Building and Zoning Permits for an Approved Variance. Building and zoning permits for all or any portion of an application involving an approved variance shall be issued only on the basis of the plan for the variance as approved by the City Manager or the Planning Commission. Any proposed change in the approved plan shall be submitted to the City Manager as a new application for a variance.

Section 8.050. Time Limit on an Approved Variance Application. Authorization of a variance shall be void one year after the date of approval of a variance application, or such lesser time as the authorization may specify, unless a use permit and a building permit has been issued and substantial construction pursuant thereto has taken place. However, upon written request, the City Manager or the Planning Commission may extend authorization for an additional period not to exceed one year.

Section 8.060. Termination of a Variance: A variance may be revoked or modified by the City Manager after public notice, or by the Planning Commission after public notice, on any one or more of the following grounds:

- (1) Approval of the variance was obtained by fraud or misrepresentation.
- (2) The use for which approval was granted has ceased to exist.
- (3) The use does not meet the conditions specifically established for it at the time of approval of the application.
- (4) The variance is in violation of any provision of this ordinance or any other applicable statute, ordinance or regulation.

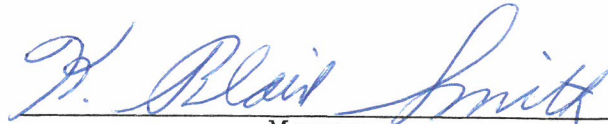
Section 8.070. Limitation. No request for a variance shall be considered within the one-year period immediately following a denial of such request, except a request may be considered if new evidence or a change of circumstances warrant it.

Section 2. Sub-section (2) of Section 10.070 of Ordinance No. 644 is hereby amended to read as follows, to-wit:

Section 10.070. (2) In addition, a notice of hearing on a variance shall be mailed to all owners of property within 100 feet, and notice of a hearing on a conditional use or an amendment to a zoning map shall be mailed to all owners of property within 300 feet, such distance to be measured from the exterior boundaries of the property for which the variance, conditional use, or zoning map has been requested. The notice shall be mailed at least 10 days prior to the date of hearing.

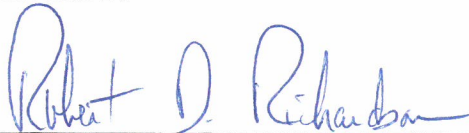
Section 3. It is hereby adjudged and declared that existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health, and safety. Therefore, an emergency is hereby declared to exist, and this ordinance shall take effect and be in full force and effect from and after its passage and approval by the Mayor.

PASSED by the Council and approved by the Mayor this 24 day of January, 1978.



Mayor

ATTEST:



City Manager