

## **ARTICLE IX. VARIANCE**

**SECTION 901. AUTHORIZATION** – Where the characteristics of a site create a demonstrable unnecessary hardship, the Commission may grant a Variance to the requirements of this Ordinance governing lot size, lot coverage, lot width, lot depth, , setbacks, parking space, and other provisions affecting the size or shape of a structure, or the placement of the structure upon a lot, or the size of lots. A variance shall not be considered a right or special privilege, and must be shown to not be in conflict with the public interest, and to not be materially detrimental to the purposes of this Ordinance or the general principles of the Comprehensive Plan.

**SECTION 902. CIRCUMSTANCES FOR GRANTING A VARIANCE** – No variance shall be granted unless all of the circumstances enumerated below can be demonstrated to exist:

1. Conditions apply to the property that do not generally apply to other properties in the same zone and vicinity. Further, the conditions must be the result of lot size, shape, topography or other factors over which the property owner has no control;
2. The variance is necessary for the preservation of a property right of the owner that is substantially the same as is possessed by owners of other property in the same zone and vicinity;
3. The variance will not be injurious to the property or rights thereto of other property owners in the same zone and vicinity, or injurious to the public interest, or detrimental to the purposes of this or any other Clearwater County Ordinance;
4. The variance requested is the minimum variance that will alleviate the condition.

**SECTION 903. PROCEDURE FOR GRANTING A VARIANCE** – To obtain a variance, the following procedure shall be followed:

1. The property owner shall file an Application for Variance with the Administrator, which shall include:
  - a. A completed copy of the Application for Variance as designated by the Administrator;
  - b. A site plan, which may or may not be drawn to scale, but shall show the condition to be varied, as well as all dimensions and the arrangement of the proposed development;
  - c. A fee, as adopted by resolution of the Board of Clearwater County Commissioners;
  - d. The Commission may also request such drawings and other information as is necessary to determine the disposition of the application.
2. The Administrator shall cause the Application for Variance to be placed on the agenda of the Commission, and shall notify interested parties as provided in Article XV;
3. The Commission shall conduct a public hearing, as provided in Article XV, at which the applicant, or authorized representative thereof, shall be present, to determine whether the Variance meets the Conditions stipulated in Section 902, and shall by

majority vote, grant, conditionally grant, deny, or postpone a decision on the Variance;

4. The Administrator shall notify the applicant in writing of the decision by the Commission within ten (10) days of said decision, specifying:
  - a. The Ordinance and Statutory standards used in evaluating the application;
  - b. The reasons for approval or denial;
  - c. Any conditions to be met by the applicant to maintain compliance.