

CITY OF EMILY
VARIANCE APPLICATION

Please read the Variance Application in its entirety before submitting the application. Applications must be submitted 30 days before the Planning Commission meeting. The full Land Use Ordinance is available at City Hall and online at www.cityofemily.com.

WHAT IS A VARIANCE?

A Variance is a legally permitted deviation from the provisions of the Ordinance as deemed necessary by the Planning Commission when the be impractical because of circumstances related to lot size, shape, topography or other characteristics of the property. The deviation from the Ordinance, with any attached conditions, must still be in keeping with the spirit and intent of the Ordinance. Variances cannot be given to create a land use that is not permitted in a zone.

The Planning Commission must consider the following when evaluating a Variance application:

- A. The applicant establishes that there are practical difficulties, as defined in this ordinance, in complying with the official control, and
- B. The plight of the landowner is due to circumstances unique to the property not created by the landowner, and
- C. The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the landowner, and
- D. The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of the Ordinance and the Comprehensive Plan, and
- E. The Variance will not create a land use not permitted in the zone, and
- F. The Variance will not alter the essential character of the locality, and
- G. The Variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

APPLICATION:

- A. Applicant shall complete Variance Application provided by Zoning Administrator and submit to the Zoning Administrator **30 days** prior to scheduling Public Hearing.
- B. Application shall be accompanied by a copy of a Site Plan Drawing complete with, as a minimum, the information stated on the Variance Checklist.
- C. Application shall be accompanied by application fee of \$500 made payable to the City of Emily and a recording fee of \$46 made payable to the Crow Wing County Recorder (recording fee is returned if the application is denied). **These fees do not cover the Land Use Permit, which must be filed separately, if necessary.**
- D. The Planning Commission holds their monthly meeting on the first Tuesday of the month at 6:00 PM at City Hall.

REVIEW:

- A. The Zoning Administrator reviews the application for completeness and assigns a reference number to the application, plans and any other attachments. The applicant will be notified within ten days if additional information is required to complete the application.
- B. After receipt of a completed Variance Application and supporting documents, the Zoning Administrator shall schedule a Public Hearing date on the Planning Commission's agenda for the earliest possible opening. Applicant will be notified by mail of the date and time of the Public Hearing.
- C. City Staff will prepare a Staff Report on the application. The Staff Report will be available for public review at City Hall approximately one week prior to the scheduled meeting date.
- D. The City Fee Schedule is based on average processing and review costs for all applications. When costs exceed the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to obtain in reviewing permits. The City may withhold final action on any application and/or hold the release of such permits until all fees are paid.
- E. It may be necessary for Planning Commission Members and/or City Staff to enter the subject property in order to become familiarized with the variance request. By submitting the variance application, the property owner is allowing Planning Commission Members and City Staff entrance to the subject property without direct consent.

ACTION:

- A. The Planning Commission shall hold a Public Hearing on the Variance Application.
- B. At the conclusion of the Public Hearing, and after consideration of the testimony presented, the Planning Commission shall make a decision on the application. The application can be approved, denied, or tabled in order to gather additional information.
- C. Appeals of the Planning Commission decision are made to the City Council.

**CITY OF EMILY
VARIANCE APPLICATION**

APP # _____
Date _____
Fee _____
(for office use only)

Name of Applicant _____

Property Address _____

Mailing Address _____
(if different than above)

Phone _____ Email _____

Applicant is:

Title Holder of Property *(if other than applicant)*

- Legal Owner
- Contract Buyer
- Option Holder
- Agent
- Other _____

(Name)

(Address)

(City, State, Zip)

Signature of Owner, authorizing application *(required)* _____
(By signing the owner is certifying that they have read and understood the instructions accompanying this application.)

Signature of Applicant *(if different than owner)*: _____
(By signing the applicant is certifying that they have read and understood the instructions accompanying this application.)

Property ID # (8 digit # on Tax Statement) _____

Zoning District _____, Lake Name (if applicable) _____

What are you proposing for the property? State nature of request in detail: _____

What changes (if any) are you proposing to make to this site?

Building: _____

Landscaping: _____

Parking/Signs: _____

Pursuant to the Emily City Code of Ordinances Chapter 152.156, the applicant should be prepared at the Public Hearing to explain the practical difficulty for the proposed Variance. A "practical difficulty," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. (Per Minnesota State Statutes 394.27, Subdivision 7 (In Part))

Please answer the following questions which will be the legal basis of the review:

When responding to the questions, it is essential to provide detailed and comprehensive answers. Simple "yes" or "no" responses are insufficient. We encourage you to elaborate on your answers, providing specific examples, explanations, and any relevant context that supports your response. Detailed answers not only help us understand your perspective better but also ensure that all aspects of the variance request are thoroughly considered.

- 1) **Reasonableness:** Will the variance allow the property owner to use the property in a reasonable manner? (Please explain)

- 2) **Uniqueness:** Is the variance necessary because of circumstances unique to the property (not caused by the landowner)? (Please explain)

- 3) **Essential Character:** Will the variance alter the essential character of the locality? For example, will the resulting structure be out of scale, out of place, or otherwise inconsistent with the surrounding area? (Please explain)

Other Questions Reviewed by the Planning Commission, please answer as you are able:

- (4) **How is granting this Variance consistent with the intent of the City of Emily Land Use or Subdivision Ordinance?**

- (5) **What other options, either conforming or non-conforming, have been considered and why were those options not chosen?**

- (6) **Describe the impact to traffic on roads and highways in the vicinity, and expected traffic generated by this application. Is there adequate parking available to accommodate the proposal?**

- (7) **Discuss any environmental limitations of the site or area.**

- (8) **Please include any other comments pertinent to this request.**

VARIANCE CHECKLIST

- _____ Completed application, including signature of property owner
- _____ Fees (\$500 application fee payable to the City of Emily + \$46 recording fee payable to Crow Wing County)
- _____ Sewer Compliance Inspection Report (if SSTS)
- _____ All current City charges paid
- _____ No outstanding violations
- _____ Site Plan (8.5" x 11" minimum size preferred) as close to scale as possible with the following information, as a minimum (unless waived by P&Z Administrator) *
 - _____ Legal Description of Site
 - _____ Size of parcel and dimensions
 - _____ All existing structures, their square footage, height, distance from all property lines and setbacks (including road, bluff and lake OHW level) and each other
 - _____ All proposed structures, their square footage, height, distance from all property lines and setbacks (including road, bluff and lake OHW level) and each other
 - _____ Location on the parcel of existing and proposed sewage treatment systems (SSTS) and wells and their distance from property lines, structures and each other
 - _____ Existing and/or proposed square footage of the driveway (gravel and/or paved), access roads, parking, sidewalks
 - _____ Proposed landscaping and screening plans (required)
 - _____ Proposed Drainage Plan (required)
 - _____ Location of the subject property (a copy of the tax map can be used)
 - _____ Name of record owner/title holder of property
 - _____ Approximate location of existing and proposed water courses, wooded areas and other significant physical features
 - _____ Approximate location of any proposed signs

** Under certain circumstances, the Planning Commission may require a professionally prepared property survey, stormwater management plan, and/or landscaping plan.*

CITY OF EMILY PLANNING AND ZONING OFFICE CONTACT INFORMATION

Planning and Zoning Administrator: Steve Jones
Zoning Clerk: Sue Fahrendorff
P. O. Box 68
Emily, MN 56447

Phone: (218) 763-2480 Option 2 (Emily Office)
(320) 841-1793 (cell)

Fax: (218) 763-2481

Email: zoning@emily.net
steve.jones@sourcewell-mn.gov