**Requirements for issuance of a zoning variance, LMC Model Ordinance**

*League staff thoughtfully develops models for a city’s consideration. Models should be customized as appropriate for an individual city’s circumstances in consultation with the city’s attorney. Helpful background on this model may be found in League information on* [*“Land Use Variances.”*](https://www.lmc.org/resources/land-use-variances/)

**ORDINANCE NO.** **\_\_\_\_\_**

**AN ORDINANCE providing for the issuance of variances within the City of \_\_\_\_\_**

**The City Council of \_\_\_\_\_, Minnesota ordains:**

**SECTION 1. BOARD OF APPEALS AND ADJUSTMENTS**

**SUBD. 1.** The Planning Commission shall be the Board of Appeals and Adjustments for this city, and as provided by Minn. Stat. Sec. 462.354, subd. 2 shall have the powers granted under Minn. Stat. Sec. 462.357, subd. 6, as they may be amended from time to time.

**SECTION 2. VARIANCES**

**SUBD. 1.** Pursuant to Minn. Stat. Sec. 462.357, subd. 6, as it may be amended from time to time, the Planning Commission, acting as a Board of Appeals and Adjustments, may issue variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property.

**SUBD. 2.**

A. Variances shall only be permitted

1. when they are in harmony with the general purposes and intent of the ordinance and
2. when the variances are consistent with the comprehensive plan.

B. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

**SUBD. 3.** "Practical difficulties," as used in connection with the granting of a variance, means that

1. the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
2. the plight of the landowner is due to circumstances unique to the property not created by the landowner; and
3. the variance, if granted, will not alter the essential character of the locality.
4. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

**SUBD. 4.** Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the ordinance. The board of appeals and adjustments may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board may permit as a variance the temporary use of a one family dwelling as a two-family dwelling. The board may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

**SECTION 3. EFFECTIVE DATE**

**SUBD. 1.** This ordinance becomes effective from and after its passage and publication.

Passed by the City Council of \_\_\_\_\_\_\_, Minnesota this \_\_\_\_\_ day of Month, Year.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mayor

Attested:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Clerk