

ORDINANCE No. 28-D

**AN ORDINANCE AMENDING ORDINANCE No. 28
CARLTON COUNTY SUBDIVISION ORDINANCE**

The Board of Commissioners of Carlton County ordains as follows:

SECTION I Section 2, Subdivision C. Variances, is amended in its entirety to read as follows:

Subdivision C. Variances

1. A plat or subdivision shall not be approved where a variance will subsequently be required in order to use the lots for their intended use.
2. The Board of Adjustment may consider a variance from any of the provisions of this Ordinance where it is found that practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be serviced to a greater extent by an alternative proposal.
3. The Board of Adjustment may approve variances from this Ordinance, provided the variances will not have the effect of nullifying the intent and purpose of this Ordinance, the *Carlton County Zoning Ordinance*, or the *Carlton County Community-Based Comprehensive Plan*. Further, the Board of Adjustment shall not approve or disapprove variances unless it makes findings based upon the evidence presented in each specific case that:
 - a. The property owner is proposing to use the property in a reasonable manner not permitted by this ordinance.
 - b. The practical difficulty upon which the request for variance is based is unique to the property for which the variance is requested and is not property created by the property owner or prior property owners.
 - c. Economic considerations alone do not constitute a practical difficulty if a reasonable use of the property exists under the terms of this ordinance.
 - d. The variance, if granted, will not alter the essential character of the locality.

- e. In granting any variance, the Board of Adjustment may impose conditions that it finds necessary or desirable to effect the purposes of this Ordinance and to protect the public interest.

If the variance is after-the-fact, the Board of Adjustment should consider the additional following factors:

- f. Why did the applicant fail to obtain a variance, and did the applicant act in good faith;
 - g. Did the applicant attempt to comply with the law by obtaining permits;
 - h. Did the applicant obtain a permit from another entity that violated the law;
 - i. Did the applicant make a substantial improvement in the property;
 - j. Did the applicant complete repairs, construction before the applicant was informed of the impropriety;
 - k. Is the nature of the property residential/recreational and not commercial;
 - l. Are there similar structures in place;
 - m. Would the benefits to the public be outweighed by the detriments to the applicant if regulations were enforced?
4. Application Required.
- a. A completed application for a variance from this Ordinance shall be submitted by the applicant on a form provided by the Planning and Zoning Office at the time when the preliminary plat application is submitted for consideration to the County. The application shall be complete when the applicant has complied with the following requirements:
 - 1.) A written and/or graphic description of the variance request including an explanation of the reason the variance is required, the practical difficulty involved, why it is unique to this property, potential impact on development and surrounding property and compliance with the *Carlton County Community-Based Comprehensive Plan* and the *Carlton County Zoning Ordinance*.
 - 2.) Supporting information required by the Zoning Administrator including, but not limited to, covenants, deed restrictions, or other legal provisions necessary to guarantee the full achievement of the plan.
 - 3.) A fee established by resolution of the County Board.
 - b. The Zoning Administrator shall notify the applicant within fifteen (15) business days of submittal if the application is incomplete.
 - c. The notice, review and public hearing of the variance request shall follow the same procedures as a preliminary plat found in Section 5, Subdivision B of this Ordinance.

5. A variance shall expire one (1) year from the date of approval if the variance is not utilized unless a request for an extension is submitted by the subdivider and approved by the Board of Adjustment.

SECTION II This Ordinance shall be in full force and effect after its passage and publication according to law.

Approved and adopted by the Board of Commissioners of Carlton County this 13th day of September, 2011.

/s/ Thomas R. Proulx

Thomas R. Proulx, Board Chair

ATTEST:

/s/ Paul G. Gassert

Paul Gassert, County Auditor

Legal notice published in the Arrowhead Leader on the 25th day of August, 2011.

Public Hearing held at the Carlton County Transportation Department on the 7th day of September, 2011, at 7:00 p.m.

Ordinance Published in the Arrowhead Leader on the 13th day of October, 2011.