

# TOWN OF HASTINGS, FLORIDA

## TOWN CODE

### LAND DEVELOPMENT REGULATIONS

#### ARTICLE X HARDSHIP RELIEF [Continued from Previous Page](#)

**Sec. 10.00.00 PURPOSE** The purpose of this Article is to provide mechanisms for obtaining relief from the provisions of this Code where hardship would otherwise occur. The hardships include ones that would be caused if nonconforming development were required to immediately come into compliance with this Code; that may be caused in particular cases by the imposition of the Code's development design standards; or that addresses the hardship that may be caused in particular cases by the Code's resource protection standards.

#### **Sec. 10.01.00 EXISTING NONCONFORMING LAND USE**

**Sec. 10.01.01 Continuation Of A Non-Conforming Land** Subject to the provisions below for terminating nonconforming development, such development may, if otherwise lawful and in existence on the date of enactment of this Code, remain in use in its nonconforming state.

#### **Sec. 10.01.02 Termination Of Nonconforming Land Use**

A. Structures Nonconforming structures must be brought into full compliance with the use regulations in Article III of this Code, and the development design and improvement standards in Article VI of this Code, in conjunction with the following activities:

1. The gross floor area of the structure is expanded by more than twenty five (25) percent, or more than four thousand (4000) square feet, whichever is less. Repeated expansions of a structure, constructed over any period of time commencing with the effective date of this Code, shall be combined in determining whether this threshold has been reached.
2. Reconstruction of the principal structure after the structure has been substantially destroyed by fire or other calamity. A structure is "substantially destroyed" if the cost of reconstruction is fifty (50) percent or more of the assessed value of the structure before the calamity. If there are multiple principal structures on a site, the cost of reconstruction shall be compared to the combined assessed value of all the structures.
3. Nonconforming Signs
  - a. Amortization
    - (1) All nonconforming signs with a replacement cost of less than \$100.00, and all signs prohibited by Part 8.02.00 (Prohibited Signs) of this Code, shall be removed or made to conform within sixty (60) days of the enactment of this Code.
    - (2) All other nonconforming signs shall be removed or altered to be conforming within seven (7) years of the effective date of this code.
  4. All home occupation shall comply with the condition of this code within ninety (90) days of enactment of this code.

#### **Sec. 10.02.00 VARIANCES**

##### **Sec. 10.02.01 Generally**

A. Granted By the Hastings Town Council The Hastings Town Council may grant a variance from the strict application of any provision of this Code, except provisions in Articles III (Land Use) and IV (Consistency/Concurrency), if the following procedures are followed and findings made.

B. Variances To Be Considered As Part Of Development Review Any person desiring to undertake a development activity not in conformance with this Code may apply for a variance in conjunction with the application for development review. The variance shall be granted or denied in conjunction with the application for development review.

#### **Sec. 10.02.02 Limitations On Granting Variances**

A. Initial Determination The Town Council shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are unique to the specific property involved. If so, the Council shall make the following required findings based on the granting of the variance for that site alone. If, however, the condition is common to numerous sites so that requests for similar variances are likely to be received, the Council shall make the required findings based on the cumulative effect of granting the variance to all who may apply.

B. Required Findings The Town Council shall not vary the requirements of any provision of this Code unless it makes a positive finding, based on substantial competent evidence, on each of the following:

1. There are no reasonable use of the property because of the practical or economic difficulties in carrying out the strict letter of the regulation and the hardship is not the result of the applicants own actions.

2. If the applicant complies strictly with the provisions of the ordinance, he is deprived of any rights that others in the district are allowed.

3. The hardship is suffered only by the applicant rather than by neighbors or the general public.

4. The hardship relates to the land, rather than personal circumstances.

5. The variance requested is the minimum variance that will make reasonable use of the land, building or structure and will not result in the creation or extension of a non-conforming use or structure.

6. The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire, or other hazard to the public.

7. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site.

C. Imposition Of Conditions In granting a development approval involving a variance, the Town Council may impose such conditions and restrictions upon the premises benefitted by a variance as may be necessary and such conditions shall be entered on the face of the development permit and are enforceable in the same manner as any other applicable requirements of this ordinance.

#### **Sec. 10.03.00 CLUSTERING DEVELOPMENT RIGHTS**

**Sec. 10.03.01 Generally** The density or intensity of a use that would have been allowed on a site that is considered environmentally sensitive in the absence of the application of this Code may be used by "clustering" the development within non-sensitive areas within the project site.

**Sec. 10.03.02 Clustering** Development on parcels containing environmentally sensitive areas may be clustered on non-sensitive portions of the site by concentrating the number of units or the amount of square footage allowed for the entire site under the otherwise applicable land use designations on those non-environmentally sensitive portions of the site. The clustered development shall meet all applicable provisions of this Code including those in the environmentally sensitive land regulations relating to development activities adjacent to environmentally sensitive areas. Any fraction equal to one-half ( $\frac{1}{2}$ ) or greater shall be rounded