



WAIVER

FORM COM-RFW 2-5.15

**THIS FORM IS TO BE USED WHEN GRANTING ANY OF THE FOLLOWING
(Please Check Only One)***

Variance Non-Conforming Use Conditional Use

Agreement

BETWEEN: The City Council of the City of Mackay, Idaho a corporation organized and existing under the laws of the State of Idaho, with its office located at:

203 South Main Street
Mackay, Idaho 83251
(208) 588-2274

AND: Applicant: _____ an individual with his main address located at (or) a corporation organized and existing under the laws of the State of _____, with its head office located at:

STATEMENT OF OWNERSHIP AND INTEREST

The Applicant is the owner of property located at: _____

The legal description of the property is as follows: _____

The Applicant obtained the above described property on: [Date Purchased] _____

*Definitions are found at the end of this form.

REQUEST

The Applicant requests the following:

Ordinance Number _____ Section Number Concerned _____ [identify].

Description and purpose of use restriction(s) sought to be relieved [For Example: Reduction in front set-back from 20 feet to 15 feet] _____

Statement of Relief Sought [For Example: Obtain a waiver of the uses permitted in Residential Zone R-1 by permitting three family occupancy on the property identified] _____

REASON FOR REQUEST

The strict application of the above-referenced Ordinance would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the Ordinance of the City of Mackay.

The exceptional or extra ordinary circumstances or conditions applying to the property involved or intended use of the property involved or intended development of the property involved that do not apply generally to other properties or uses in the same zoning district or neighborhood are [Please Specify]

The granting of relief sought will not be a substantial detriment to the public interest or to the property or improvements concerned, and will not materially impair the purpose of the Ordinance of the City of Mackay referenced because [Please Specify] _____

This request was been presented to the City Council of Mackay at their regular Council meeting held on _____ day of _____ 20__ and:

Approved Rejected Returned for More Information

STIPULATION OF WAIVER APPROVAL

The Applicant agrees to the following conditions to be met in lieu of those stipulated in the Ordinance herein referenced. Should these conditions be violated at any time, this agreement will be terminated and the Applicant will be subject to the Ordinance as written and approved:

**This Agreement Shall Become Binding When Approved By The City Council
And Signed By The Parties Listed Below**

Applicant

City of Mackay

Name Printed

Mayor

Signature

Date

Date

ATTESTED

Mackay City Clerk

Date

A copy of this document is to be given the Applicant
Original signed Copy is to be filed with the identified Ordinance

Definitions

Variances

A variance is a request to deviate from current zoning requirements. If granted, it permits the owner to use the land in a manner not otherwise permitted by the Ordinance. It is not a change in the Ordinance. Instead, it is a specific waiver of requirements of the Ordinance.

Typically, variances are granted when the property owner can demonstrate that existing regulations present a practical difficulty in making use of the property. Each municipality has rules for variance requests. The land owner seeking the variance files a request or written application for a variance with the City Clerk. The request then is presented to the City Council for their review. The City Council may refer the matter to a Planning and Zoning Committee for their input prior to the Council approving the request. The applicant may be required to appear before the City Council for the final determination.

Non-Conforming Uses

A nonconforming use is a permitted use of property which would otherwise be in violation of the current Ordinance. The use is permitted because the land owner was using the land or building for that use before the zoning ordinance became effective. Nonconforming uses are often referred to as being "grandfathered in" to an Ordinance. In order to qualify for nonconforming use, the property almost always needs to have been continuously put to the non-conforming use. Thus, if the business closes and the use lapses for any time, the permission for the nonconforming use would vanish.

Conditional Use Permits

Similar to variances, conditional use permits allow an otherwise non-permitted use of the property that the Ordinance does not include. Conditional use permits are usually granted at a public hearing before a political body, usually with the conclusion that the new use of the property will be in the public interest.