

ORDINANCE NUMBER 22-02-1249

AN ORDINANCE OF THE CITY OF MURPHY, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MURPHY, TEXAS, BY AMENDING TITLE II, “BUILDINGS AND DEVELOPMENT,” CHAPTER 30, “ZONING,” DIVISION 4, “BOARD OF ADJUSTMENTS (BOA)” RELATING TO THE DEFINITION OF UNNECESSARY HARDSHIP AS APPLIED TO A STRUCTURE IN ACCORDANCE WITH H.B. 1475; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FOR AMENDMENTS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS/REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Murphy, Texas, (“City”) is a home rule municipality organized under the Constitution and the laws of the State of Texas; and

WHEREAS, the 87th Texas Legislature enacted H.B. 1475 to define “unnecessary hardship” relating to the authority for the Board of Adjustment to consider a variance for a structure from the terms of a zoning ordinance; and

WHEREAS, City Council desires to adopt amendments to Chapter 30, “Zoning,” of the Code of Ordinance to comply the definition of “unnecessary hardship” as set forth in H.B. 1475; and

WHEREAS, the City Council finds that these amendments in this Ordinance herein protect the public health, safety, and welfare of the residents of Murphy.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS:

SECTION 1. Incorporation of Premises. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2. Amendment to Section 30.02.116(e). That Title II, “Buildings and Development,” Chapter 30, “Zoning,” Section 30.02.116, “Authorization of variances” is amended to add subsection (e) to read as follows:

(e) Variance for Structure. The Board of Adjustments may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

- (1) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the city under Section 26.01, Tax Code;
- (2) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;

- (3) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (4) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (5) the municipality considers the structure to be a nonconforming structure.

SECTION 3. Amendment to Section 30.02.116. That Title II, “Buildings and Development,” Chapter 30, “Zoning,” Section 30.02.116, “Authorization of variances” is amended to replace each and every instance of the word “undue” with the word “unnecessary.”

SECTION 4. Severability Clause. It is the intention of City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable; and if any section, paragraph, sentence, clause, and phrase of this Ordinance shall be deemed unconstitutional or invalid by any judgement or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance or any other provision of the Code of Ordinances of the City of Murphy.

SECTION 5. Savings/Repealing Clause. The City of Murphy’s Code of Ordinances shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any Ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed or amended Ordinance, nor shall the repeal or amendment prevent a prosecution from being commenced for any violation if occurring prior to the repeal or amendment of the Ordinance. Any remaining portions of said Ordinances shall remain in full force and effect.

SECTION 6. Effective Date. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and City Charter in such cases provides.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Murphy, Texas, on the 1st day of February, 2022.



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Scott Bradley, Mayor
City of Murphy, Texas

ATTEST:

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Susie Quinn, City Secretary
City of Murphy

APPROVED AS TO FORM AND LEGALITY:

A handwritten signature in blue ink, appearing to read "Wm. Andrew Messer", is written over a horizontal line. To the left of the signature is a handwritten word "for" in blue ink.

Wm. Andrew Messer, City Attorney