

ORDINANCE NO. 19-03

AN ORDINANCE ESTABLISHING SECTION 2.6 OF TITLE II OF THE HEBRON, NORTH DAKOTA ZONING ORDINANCE OF 1982 REGARDING VARIANCES WITHIN THE CITY OF HEBRON, COUNTY OF MORTON, STATE OF NORTH DAKOTA

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEBRON, COUNTY OF MORTON, STATE OF NORTH DAKOTA, THAT SECTION 2.6 OF TITLE II OF THE HEBRON, NORTH DAKOTA ZONING ORDINANCES OF 1982 (CITY ORDINANCE NO. 82-1) IS HEREBY ESTABLISHED AND ENACTED AS FOLLOWS:

2.6 Variances

1. A variance may be considered in the following areas:

- (1) Height
- (2) Yard/Setbacks
- (3) Lot Area
- (4) Lot Coverage
- (5) Off-Street Parking and Loading Requirements
- (6) Site Visibility Triangle
- (7) Sign Area
- (8) Sign Height
- (9) Boulevard Construction

2. Variance Process:

- A. Application. Variance Applications shall be submitted to the City Auditor on an appropriate form along with a non-refundable fee that has been established by a Resolution of the City Council.
- B. Processing Requirements. The City Auditor will determine when an application for a variance is considered complete. In addition to the required fee, see the Application Checklist below for all other required items.
- C. Application Checklist.
 - (1) Site Plan, drawn to scale, with dimensions.
 - (2) Elevation(s) of proposed structures (for height variances only).
 - (3) Written statement of hardship.

- (4) Written notice provided by first class mail to all owners of the subject property and all property owners within 300 feet of the subject property. The notice shall be deposited in the U.S. mail at least 15 days before the scheduled meetings of Planning and Zoning Board and City Council (not necessary for hearings after a continuation of the application).

D. Review and Action.

- (1) The Planning and Zoning Board will be advised of the application and provided with a copy thereof.
- (2) The Planning and Zoning Board shall hold a public hearing for the variance requested. The Planning and Zoning Board may make a recommendation to the City Council to approve, approve with conditions, or deny the application. The variance application may also be tabled by the Planning and Zoning Board in order to allow for additional information requested of the applicant. The Planning and Zoning Board will use the criteria located in Section 2.6(2)(E) as guidance to determine if a variance should be approved.
- (3) The City Council shall hold a public hearing on the proposed variance. The City Council may act to approve, approve with conditions, or deny the application. The variance application may also be tabled by the City Council in order to allow for additional information requested of the applicant. The City Council will use the criteria located in Section 2.6(2)(E) as guidance to determine if a variance should be approved.

E. Criteria A variance may not be approved unless the City Council finds that all of the following criteria, as applicable, have been satisfied:

- (1) The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district.
- (2) The request is not made to satisfy the owner's convenience.
- (3) The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
- (4) The strict application of the applicable zoning standards will constitute an unnecessary physical hardship (not economic hardship).
- (5) The variance desired will not adversely affect the public health, safety or general welfare.
- (6) The variance is the minimum variance that will overcome the hardship.

F. Notice of Public Hearing

- (1) Newspaper. The notice is to be published in the official newspaper of the City of Hebron at least once and not less than 15 days preceding the date of each scheduled public hearing (not necessary for hearings after a continuation of the application).
- (2) Adjacent Properties. Written notice shall be provided by first class mail to all owners of the subject property and all property owners within 300 feet of the subject property. The notice shall be deposited in the U.S. Mail at least 15 days before each scheduled public hearing (not necessary for hearing after a continuation of the application) and also for the City Council hearing.
- (3) Appeal Process. An appeal of the City Council decision may be made to the District Court.

G. Amendments The process for amendments to variances is the same as required for a new application.

H. Application Cost In addition to the application fee as set by the City Council, the applicant shall be responsible for all costs and expenses associated with their applying for a variance, including, but not limited to, engineer's fees, legal fees, publication costs, postage, and special meeting fees, if any.

3. All Ordinances and parts of Ordinances in conflict with this Ordinance No. 19-02 are hereby repealed so far as the conflicting portions thereof are concerned.
4. Should any section, paragraph, sentence, clause, or phrase of this Title and Chapter be declared unconstitutional or invalid for any reason, the remainder of said Title and Chapter shall not be affected thereby.
5. This Ordinance shall be in full force and effect from and after its final passage and approval by the City Council of the City of Hebron, Morton County, North Dakota.

DATED this 19th day of August, 2019.


GRANT WALTH - Mayor

ATTEST:


ERIN McCUTCHAN - City Auditor

Introduction and First Reading:	August 12, 2019
Section Reading:	<u>August 19, 2019</u>
Effective Date:	<u>August 19, 2019</u>