

VARIANCE Application INFORMATION
(City & Joint Jurisdictional Zoning Areas Zoned Non-Ag)

Return **COMPLETE** application to: **City Planning & Inspections Office (Phone) 353-8512), 239 Wisconsin SW by _____ .**

Meeting dates:

Hearing Examiner 12:00 Noon _____	City Commission 5:30 _____
Joint City/County Planning Cmsn 7:00 pm _____	Contact the Auditor at (605) 353-8400 for County Commission Meeting date & time

You (or a representative) are expected to be present at both hearings to explain the proposed project and to answer questions. All meetings are held in the City Commission meeting room.

What is a Variance? A variance is a request to vary from the zoning ordinance. A variance may ask for a setback to be narrower than allowed by the zoning ordinance, it may be a request for a use not allowed (not listed in) by the zoning ordinance, or some similar request. If a variance is approved, it is for a particular situation or use at a particular location. Variances are associated with a particular piece of property they are not associated with an owner.

Applying for a Variance? The information below will assist you through the application process. Please visit with the City Planner before turning in the application. The Planner will review the application, the appropriate zoning ordinances and the application process with you.

Neighborhood: It is recommended that you visit with and inform your neighborhood about your plans and address their concerns in your application.

APPLICATION DEADLINE: The complete application must be filed and the application fee paid at least **30 days** prior to the first public hearing date. An incomplete form will not be considered. Additional information (plot plan, pictures, etc.) may be requested by the Planner.

Joint Jurisdictional Zoning Area: If your property is located outside the city within the Joint Jurisdictional Zoning Area and zoned non-ag, you are required to apply to the City of Huron for a variance. A joint city/county planning commission meeting will be scheduled to hear your request.

Fee: There is a \$350.00 filing fee, which covers the cost of processing your request. If at any time prior to the Zoning Board of Adjustment hearing you withdraw your request, you will be refunded \$175.00.

THE PROCESS

Review: The City Planning and Inspection Offices will review your request and any property in question. Written Planner and Inspector comments will be forwarded to the Hearing Examiner or Joint Planning Commission who may then suggest certain conditions as part of their recommendation on the request.

Notice: The City will publish a notice of the public hearings in the Huron Daily Plainsman at least ten days before the first hearing. Also, seven to ten days before the hearing by the Hearing Examiner the Planning Office will post a sign advertising the public hearing on the applicant's property. The Planning Office will mail a project notice to all property owners and/or residents within 150 feet of your property (excluding public right-of-way) and can provide you with a list of addresses potentially be notified.

HEARINGS

Hearing Examiner: Generally held on the third Wednesday of the month, the Hearing Examiner will hold a public hearing and take testimony for and against your request. Following the discussion of your request, the Hearing Examiner may recommend in favor, in favor with conditions or against your request. City staff will forward the Hearing Examiner recommendation to the City Commission for their decision.

-- OR --

Joint City / County Planning Commission: Generally held on the second Wednesday of the month, the Joint Planning Commission will hold a public hearing and take testimony for and against your request. Following the discussion of your request, the Joint Planning Commission may recommend in favor, in favor with conditions or against your request. City staff will forward their recommendation to the City Commission. County staff will carry the recommendation to the Beadle County Commission.

Huron City Commissioners seated as the Zoning Board of Adjustment: Generally, on the Monday following the Hearing Examiner or the Planning Commission meeting, the City Commission acting as the Zoning Board of Adjustment will consider your request. The City Commission meets at 5:30 p.m. in the Municipal Building at 239 Wisconsin Avenue SW. Following their discussion of your request, they may approve, approve with conditions, or deny your request.

The Hearing Examiner, Joint City / County Planning Commission and the Zoning Board of Adjustment will use the following "Variance—Findings of Fact" in their deliberation of your request (from 23.04.028):

- (a) A variance may be granted to the strict application of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the title will result in unnecessary hardship, which constitutes an unreasonable deprivation of use as distinguished from the mere grant of a privilege, and so that the spirit of the title shall be observed and substantial justice done.
- (b) In any hearing concerning the requested variance, the applicant carries the burden of proving that the request complies with the necessary findings and that the granting of a variance is in keeping with the spirit and intent of this chapter.**
- (c) In granting a variance, the board of adjustment shall prescribe any conditions and safeguards that it deems to be necessary or desirable. Such variance may be granted upon finding that there exists an unnecessary hardship, which constitutes an unreasonable deprivation of use as distinguished from the mere grant of a privilege. The board of adjustment may find that some or all of the following conditions exist:
 - (1) The plight of the applicant is due to unique circumstances of their property;
 - (2) The plight of the applicant is not due to the circumstances or conditions of the neighborhood or zone;
 - (3) The unique circumstances which render the property incapable of being used in compliance with this chapter have not been caused or created by any actions of the applicant;
 - (4) The variance requested is the minimum variance which is necessary for the reasonable use of the property;
 - (5) The variance requested can be granted with substantial justice to the applicant as well as other property owners in the area;
 - (6) That the granting of this variance will be in harmony with the general purpose and intent of this chapter while maintaining the integrity of the comprehensive plan;
 - (7) The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare;
 - (8) That for an area variance, compliance with the strict application of this chapter governing area, setbacks, frontage, sideyards, height, bulk or density will unreasonably prevent the owner from using the property for a permitted purpose;
 - (9) That for a use variance, the land in question cannot yield a reasonable return if only used for a purpose allowed in the zone.

APPLICANT: If you cannot comply with one or more of the "**Variance - Findings of Fact**" you should attach information to the Variance Application explaining the situation, why you cannot meet the requirement(s) and what you offer as explanation of why your proposed variance should be approved.

VARIANCE APPLICATION

*Application must be filed 30 days prior to the public hearing date.
Filing fee \$350.00

[please print]

Applicant: _____

Home/Mailing Address: _____

Home/Office Phone: _____ Cellular Phone: _____

E-Mail Address: _____

Project Address: _____

Legal Description: _____

Zone: _____ Zoning Code Effected: 23.____.____ & 23.____.____

REQUEST PERMISSION TO: _____

Based on the municipal zoning codes of Huron, title 23.04.028, "the applicant carries the burden of proving that the request complies with the necessary findings and that the granting of a variance is in keeping with the spirit and intent of this chapter." With this in mind, please fill in the following blanks to demonstrate how your request meets the guidelines.

1. Describe your variance request and how it differs from the strict written codes. (i.e. desire narrower setback or use than allowed by the zoning code.) _____

2. Describe the exact purpose of the proposed construction or use. _____

3. Why are other alternatives (locations/uses/setbacks) not possible? _____

4. In comparison to your neighborhood, what is unique about your property that you should be given special consideration? _____

5. Describe how your variance will not have a negative effect on any neighbor's property.

6. APPLICANT: Be prepared at the hearings to address these Criteria for Review of Variance.

- a. The plight of the applicant is due to unique circumstances of applicant's property.
- b. The plight of the applicant is not due to the circumstances or conditions of the neighborhood or zone.
- c. The unique circumstances which rendered the property incapable of being used in compliance with this ordinance have not been caused or created by actions of the applicant.
- d. The variance in question is the minimum variance which is necessary for the reasonable use of the property.
- e. The variance requested can be granted with substantial justice to the applicant as well as other property owners in the area.
- f. The granting of this variance will be in harmony with the general purpose and intent of this ordinance while maintaining the integrity of the comprehensive plan.
- g. The granting of this variance will not be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare.
- h. That for an area variance, compliance with the strict application of this ordinance governing area, setbacks, frontage, side yards, height, bulk or density will unreasonably prevent the owner from using the property for a permitted purpose.
- i. That for a use variance, the land in question cannot yield a reasonable return, if only used for a purpose allowed in the zone.

*I do hereby authorize entry to city staff/hearing examiner onto the property before the meeting for the purpose of reviewing the request.

Signature of Applicant: _____ Date: _____

***Variance filing fee does not cover the cost of the building permit, which may be required.**

Signature of Property Owner: _____ Date: _____

=====ACTION ON REQUEST=====

Hearing Examiner Recommendation:

Approved: _____ Denied: _____ Withdrawn: _____

Planning Commission Recommendation:

Approved: _____ Denied: _____ Withdrawn: _____

Zoning Board of Adjustment. Conditions: _____

Approved: _____ Denied: _____ Withdrawn: _____

Finance Officer Signature: _____