

## Chapter 17.71

### VARIANCES

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17.71.01 PURPOSE AND APPLICATION. Where special physical circumstances exist limiting the development of a particular property in accordance with development standards of a zoning district, relief from the development standards may be secured by the granting of a variance from those standards. The granting or denial of a variance will be based on whether the particular circumstances conform to the standards of this Chapter. Under no circumstances will a variance for permitted or conditionally permitted uses be considered or granted.

17.71.02 APPLICATION CONTENTS. An application for a variance shall include the following:

- A. Name and address of applicant.
- B. Name(s) and address(es) of the property owner(s).
- C. Assessor's parcel number(s)
- D. Legal description of the property.
- E. Site development plan drawn at a scale specified by the Planning Department, which includes the following information:
  - 1. Location of all existing buildings, structures, and improvements on the property.
  - 2. Location of all proposed buildings, structures, and improvements on the property.
  - 3. North arrow.



F. Elevations of all buildings or structures related to the variance sought.

G. A narrative description of the proposed use or development, including:

1. Description of the nature of the proposed use or development.
2. Identification of the applicable zoning district or districts and Section(s) of this Ordinance containing the standards from which variance is sought.
3. Explanation of the variance sought.
4. Reasons applicant feels justify the granting of the variance.

H. Applicable application processing fees as established by the City Council.

17.71.03 REVIEW AND APPROVAL PROCEDURES. The City Administrator shall investigate the facts bearing on each case to provide the information necessary for action consistent with the intent and purpose of this chapter. If the application is found to be accurate and complete, it shall be formally accepted. The date of formal acceptance shall be noted on the application. Acceptance of the application shall not constitute an indication of approval. The application for a variance shall be reviewed and approved, conditionally approved, or denied by the Planning Commission in accordance with the procedures set out in Chapter 17.75.03 of this Ordinance.

17.71.04 BASIS FOR APPROVAL. The Planning Commission may approve or conditionally approve an application for a variance if it finds all of the following:

- A. Special circumstances exist applicable to the subject property, including size, shape, topography, location, or surroundings, such that the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and in the same zoning district or districts.
- B. The granting of the variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zoning districts in which such property is located.
- C. The granting of the variance will not be materially detrimental to the public health, safety, or welfare or to property or residents in the vicinity.

17.71.05 TERMS AND CONDITIONS.

- A. Any variance granted may include such terms and conditions as deemed necessary or appropriate by the decision making authority to effect the



purpose of the Chapter. If no additional terms or conditions are specified, the variance shall be considered unconditional and valid for an indefinite period.

- B. If the development for which a variance has been approved pursuant to this Chapter has not commenced, or permits for each development have not been issued, within one (1) year of the granting of the variance, the variance shall become null and void and of no effect, unless an extension has been granted by the decision making authority, upon the written request for an extension before the expiration of the one (1) year period. This provision shall not apply to applications approved in conjunction with another discretionary permit. In such cases, the expiration period shall coincide with that of the associated permit.
- C. All conditions of approval shall be final, and a request to delete or to modify a condition to make it less restrictive shall only be considered at a properly noticed public hearing, unless said conditions are appealed pursuant to Section 17.75.

17.71.06 VARIANCE REVOCATION AND MODIFICATION. Any variance issued pursuant to this Chapter may be revoked or modified pursuant to Section 17.75.05 of this Ordinance.

17.71.07 REASONABLE ACCOMMODATION UNDER THE FAIR HOUSING AMENDMENTS ACT

A. Purpose

It is the policy of the City of Huron, pursuant to the Fair Housing Amendments Act of 1988, to provide people with disabilities, reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing. The purpose of these provisions is to provide a process for making requests for reasonable accommodation to land use and zoning decisions and procedures regulating the siting, funding, development and use of housing for people with disabilities. In these regulations, "use of housing" includes, but is not limited to, housing related services and the use and enjoyment of the property.

B. Definitions

Act. The Fair Housing Amendments Act of 1988.

Applicant. The individual making the request for reasonable accommodation pursuant to these Regulations.

Code. The municipal zoning code or ordinance which sets forth the jurisdiction's land use and zoning regulations.



Department(s). The department(s) within the jurisdiction responsible for administering requests for reasonable accommodation pursuant to these Regulations.

Designee or Appeals Designee. The person(s), commission or other group of persons designated to make determinations on fair housing accommodation requests pursuant to these Regulations.

Disability. Any person who has a physical or mental impairment that substantially limits one or more major life activities; anyone who is regarded as having such impairment or, anyone who has a record of such impairment. People who are currently using illegal substances are not covered under the Act, unless they have a separate disability.

C. Notice to the Public of Availability of Accommodation Process

At all counters where application is made for a permit, license or other authorization for the siting, funding, development or use of housing, notice in the form set forth in Appendix A shall be prominently displayed advising applicants that they may request a reasonable accommodation of existing rules, policies, practices and procedures. Forms for requesting an accommodation shall be available in all departments where decisions are made regulating the siting, funding, development and use of housing.

D. Requesting Reasonable Accommodation

1. In order to make specific housing available to an individual with a disability, any person may request a reasonable accommodation in the rules, policies, practices and procedures regulating the siting, funding, development or use of housing by completing the "Fair Housing Accommodation Request" form (Appendix B) and filing it with the Department.
2. If an individual needs assistance in making the request for reasonable accommodation, the department shall provide the assistance necessary to ensure that the process is accessible to the applicant.
3. A request for reasonable accommodation in rules, policies, practices and/or procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing; at the outset or during the approval process.

E. Review of Requests for Reasonable Accommodation

1. When a request for reasonable accommodation is filed with the Department, it is referred to the designee for review and consideration. The designee shall issue a written decision within thirty (30) days of the date of the application



and may grant the reasonable accommodation request or deny the request. See Notice of Decision on Fair Housing Accommodation Request form (Appendix C) for designee's use.

2. If necessary to reach a decision on the request for reasonable accommodation, the designee may request further information from the applicant consistent with the Act, specifying in detail what information is required.
3. Not more than thirty (30) days after receiving a written request for reasonable accommodation, the designee shall issue a written decision on the request; provided that, in the event that the designee requests further information pursuant to the above paragraph, the running of this period shall be stopped until the applicant responds to the request.

F. Factors for Considering Requests for Reasonable Accommodation

The designee shall consider the following criteria when deciding whether a requested accommodation is reasonable:

- Is the housing, which is the subject of the request for reasonable accommodation, to be used by an individual protected under the Act?
- Is the request for accommodation necessary to make specific housing available to an individual protected under the Act?
- Whether the requested accommodation would impose an undue financial or administrative burden on the jurisdiction?
- Whether the requested accommodation would require a fundamental alteration in the nature of a program?

G. Written Decision on the Request for Reasonable Accommodation

1. The designee's written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the designee's findings on the criteria set forth in Sec. F above. All written decisions shall give notice of the right to appeal and to request reasonable accommodation in the appeals process as set forth below. The designee's Notice of Decision shall be sent to the applicant by certified mail.
2. If the designee fails to render a written decision on the request for reasonable accommodation within the time period allotted by Sec. E, above, the request shall be deemed granted.

H. Appeals

1. Within thirty (30) days of the date of the designee's written decision, the applicant may appeal an adverse decision by filing the Appeal of Denial of Fair Housing Accommodation Request form (Appendix D).



2. An applicant may request reasonable accommodation in the procedure by which an appeal will be conducted. If an applicant needs assistance in filing an appeal, the Department shall provide the assistance that is necessary to ensure that the appeal process is accessible to the applicant.
3. All appeals shall contain a statement of the grounds for the appeal.
4. Nothing in these Regulations shall preclude an aggrieved individual from seeking any other state or federal remedy available.