

ORDINANCE NO. 244

**AN ORDINANCE ESTABLISHING A VARIANCE AND
APPEAL PROCESS FOR DECISIONS REGARDING
DRIVEWAYS, SIGNS, OUTDOOR LIGHTING,
SUBDIVISIONS, AND OTHER CITY-REGULATED
FEATURES; AND FOR OTHER PURPOSES**

WHEREAS, it is the desire of the City Council for the City of Goshen to establish a process for applicants to request a variance from the driveway, sign, outdoor lighting and other ordinances regulating property within the City of Goshen; and

WHEREAS, it is the desire of the City Council for the City of Goshen, Arkansas to establish a process for appeals of decisions on requests for a variance from the driveway, sign, outdoor lighting and other ordinances regulating property within the City of Goshen;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF GOSHEN:

SECTION 1. Variance Hearing Request. That a property owner or authorized representative shall be entitled to request a variance from any City-regulated ordinance, including, but not limited to driveways, signs, outdoor lighting, subdivisions, and gated entrances. Variance requests must be submitted in writing to the Zoning Official using the official Variance Request Application. Each request must include a Letter of Intent and answers to all required fact-finding questions. A non-refundable fee of \$200.00 must accompany the application. Upon verification that the application is complete and the fee has been paid, the Zoning Official shall schedule the request for a public hearing before the Board of Zoning Adjustment at its next regularly scheduled meeting, following satisfaction of all notice requirements.

SECTION 2. Variance Hearing Notice. Upon receipt of a variance request, The Zoning Official shall ensure that the matter is set for a public hearing before the Board of Zoning Adjustment. The Zoning Official shall be responsible for ensuring that notice of the date, time and location of the hearing is published in a newspaper of general circulation in the City at least ten (10) days prior to the hearing. Furthermore, the individual(s) making the variance request shall present evidence to the Zoning Official, at least ten (10) days prior to the hearing showing that all property owners within two hundred feet (200') of the boundaries of the subject property, as well as any property owner's association of a subdivision of which the property is a part, have been notified of the variance request and of the date, time and location of the hearing. Such evidence shall consist of postmarked, certified receipts and/or return receipts and/or signed acknowledgements of receipt of notification; and shall be accompanied by a plat map showing the location of those properties, the owners of which the applicant certifies have been so notified.

SECTION 3. Variance Determination. The Board of Zoning Adjustment shall not grant any variance request unless and until the applicant demonstrates the following:

(A) *Special Conditions.* That special conditions and circumstances exist which are peculiar to the land, structure, or building involved;

(B) *Deprivation of Rights.* If applicable, that literal interpretation of the provisions of the driveway, sign or outdoor lighting ordinances would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the driveway, sign or lighting ordinances;

(C) *Resulting Actions.* That the special conditions and circumstances do not result from the actions of the applicant;

(D) *No Special Privileges.* That granting the variance requested will not confer on the applicant any special privilege that is denied by the subject ordinances to other lands, structures, or buildings in the same district;

(E) *Nonconforming Uses.* No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance;

(F) *Time Limitation.* Any variance granted shall automatically be revoked if the applicant does not comply with the terms of the variance within ninety (90) days from the granting thereof or, if during a construction project from time of the installation of that which was requested for the variance. The Zoning Official may allow a single administrative extension of up to 30 days, or up to 90 days with good cause shown, if requested by the applicant. Any additional time beyond this extension shall require the submission of a new variance application;

(G) *Content Neutrality; Restrictions.* The Board of Zoning Adjustment shall not take into account the content of any message sought to be displayed on any sign when determining whether to grant a variance; and

(H) *Safety and Nuisance.* A variance must not create a health or safety risk, or conditions that a reasonable person would deem a nuisance or annoyance (e.g., glare, brightness, unrealized restricted access).

SECTION 4. Appeal of Variance Request Decision. Any decision of the Board of Zoning Adjustment on a variance request may be appealed to the City Council. Any applicant for a variance request shall be entitled to appeal the decision of the Board of Zoning Adjustment. Additionally, a Council Member may bring an appeal on behalf of any resident of, or property owner in, the City of Goshen of a decision by the Board of Zoning Adjustment to approve a

variance request. Any decision of the City Council may be appealed to the Circuit Court of Washington County, Arkansas.

SECTION 5. Appeal Process. For all appeals to City Council of any Board of Zoning Adjustment decision, the following requirements shall be met:

(A) *Form.* All appeals shall be submitted in writing, setting out the reasons the applicant contends the decision was in error and how the applicant is adversely impacted.

(B) *Time.* Appeals shall be submitted within ten (10) business days from the date of the final action taken by the Board of Zoning Adjustment. Appeals shall be filed with the Zoning Official.

(C) *Appeal Hearing Date.* The appeal shall be heard by the City Council at its next regularly scheduled meeting.

SECTION 6. Stay pending appeal. An appeal shall immediately stay all city proceedings or installation of any installation of that which was requested for the variance until the final decision of City Council. Should a member of City Council appeal a decision of the Board of Zoning Adjustment on behalf of a resident or property owner, the Zoning Official shall provide written notice to the applicant using any of the following means of service: (1) Goshen Police Department; (2) any person authorized to serve process in the county where the applicant resides; (3) by U.S. Mail, Certified, Return Receipt Requested; or (4) by any commercial delivery company if said company obtains signatures of the recipients and maintains permanent records of actual delivery. Notice shall be delivered to the applicant at least ten (10) days prior to the date of the City Council meeting where the appeal will be heard.

SECTION 7. Severability. If any section, provision, or part of this ordinance is held to be unconstitutional or invalid, the remainder of the ordinance shall remain in full force and effect.

SECTION 8. Repealer. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

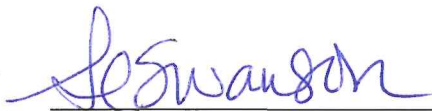
SECTION 9. Emergency Clause. This Ordinance being necessary for the immediate preservation of the public peace, health, safety, and wellbeing, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this 14th day of October, 2025.



Russell Stroud, Mayor

ATTEST:



Gina Swanson, Recorder/Treasurer



APPROVED AS TO FORM:



Brian C. Hogue, City Attorney

ROLL CALL VOTE ADOPTING THE ORDINANCE

Names of those voting YEA

Birch Wright
John Vaillancourt
Paula Anderson
Shawn Mayfield
Colton Martin
Curtis Vaughan

Names of those voting NAY

Absent

ROLL CALL VOTE ADOPTING THE EMERGENCY CLAUSE

Names of those voting YEA

Birch Wright
John Vaillancourt
Paula Anderson
Shawn Mayfield
Colton Martin
Curtis Vaughan

Names of those voting NAY

Absent

