

# Oconee County Memorandum

1291 Greensboro Hwy • P.O. Box 145 • Watkinsville, GA 30677 P:  
(706) 769-3910 • F: (706) 310-3506  
[www.oconecounty.com](http://www.oconecounty.com)

## Planning and Code Enforcement Department

DATE: May 18, 2023  
TO: Oconee County Board of Commissioners  
FROM: Guy Herring, Director of Planning & Code Enforcement  
CC: Ethan Perry  
RE: Text Amendments to Unified Development Code Articles 2, 3, 6 and 13

---

Attached is a copy of the proposed amendments to Articles 2, 3, 6 and 13 of the Unified Development Code for consideration at the June 6, 2023 Board of Commissioners meeting. The changes are numbered below, and corresponding numbers are shown next to each change in the attached UDC text. Please feel free to contact me should you have any questions or if you would like to discuss the proposed amendments.

### **Article 2**

1. Revised Sec. 205.09.c.3.i: Changed “administrative variance” to “special exception variance”
2. Revised Sec. 206.04.d.7.g: Changed “administrative variance” to “special exception variance”

### **Article 3**

3. Revised Sec. 304.06: Require special exception variance for deviation from standards
4. Revised Sec. 348.a: Deleted “administrative”
5. Revised Sec. 348.c.1.i.4: Deleted “administrative”
6. Revised Sec. 351.02.c: Deleted “administrative”
7. Revised Sec. 351.04.b: Deleted “administrative”

### **Article 6**

8. Revised Sec. 607.06: Deleted “administrative”
9. Revised Sec. 608.03: Changed to require special exception variance process for waiver of easement requirement

### **Article 13**

10. Revised Sec. 1303.04: Deleted all text and marked as RESERVED

- iii. Principal Free Standing Signs shall not exceed 15 feet in height nor shall they exceed 90 square feet in sign area or sign structure area, whichever is less.
- iv. No lighted sign shall be permitted within the B-1 District if such sign is within 100 feet of a residential use property.
- (c) At least 80 percent of exterior wall surfaces of all buildings and structures are to be designed to incorporate one or more of the following finish materials: Brick Veneer, Stone veneer; Natural Wood Siding or Cement-Board Siding (such as Hardy-plank). The remaining 20 percent of each wall may be stucco. An exception is permitted for front and side building facades to allow up to 70 percent glass on a maximum of two walls of each building, provided that the remainder of such wall is comprised of the foregoing brick, stone or siding materials. The intent of this section is to encourage use of brick or stone veneer as the predominant exterior material. Where other materials are used as the dominant exterior finish, (i.e. wood or cement board siding) use of brick and/or stone foundation walls, columns, accents and detailing shall be required with a minimum of 20 percent of each exterior wall comprised of said brick or stone materials. Changes to surface materials should be made at inside corners rather than outside corners.
- (d) The use of visible concrete block, painted block, split face block, poured concrete, metal, or prefabricated wall panels is specifically prohibited on all exterior wall faces. Where walls are structurally formed of such prohibited finish materials they must be completely finished per the guidelines for brick, stone, siding, stucco or glass as provided above.
- (e) No flat or blank wall exceeding 25 feet in length shall be permitted for any structure; wall offsets, architectural details, doorways, windows and contrasting construction materials shall be used to meet this requirement.
- (f) Buildings shall utilize at least two of the following design features to provide visual relief along the front (facade) of the structure:
  - i. Dormers
  - ii. Gables
  - iii. Recessed entries
  - iv. Covered front porches
  - v. Pillars or posts
  - vi. Bay window (min. 24-inch projection).
- (g) Windows shall be provided with trim and molding and shall not be flush with the exterior wall treatment.
- (h) Maximum overall building height shall be 35 feet as measured from the adjoining ground level to the highest point of any part of the building. No individual building shall exceed 20,000 square feet on the ground floor for a single story building nor 6000 square feet on the ground floor for a multi-story building. No individual lease space or aggregate of multiple lease spaces which are occupied by a single business or single use shall exceed 10,000 square feet, except that an office use occupied by a single tenant or user may occupy the entire building.
- (i) Deviations from standards; where allowed.

## 1.

Deviations from the architectural requirements of this Section may be approved by ~~administrative variance~~ [special exception variance](#) as outlined in the Appeals article of this Development Code.

- (4) Service area, loading dock, lighting and dumpster screening and fencing.
  - (a) No service area or loading dock or dumpster shall be permitted adjacent to any roadway unless enclosed such that all sides appear as a primary facade

- 
- i. Dormers
  - ii. Gables
  - iii. Recessed entries
  - iv. Covered front porches
  - v. Pillars or posts
  - vi. Bay window (min. 24-inch projection).
- (d) Windows shall be provided with trim and molding and shall not be flush with the exterior wall treatment.
- (e) Building height.  
Maximum overall building height shall be 35 feet as measured from the adjoining ground level to the highest point of any part of the building.
- (f) Service areas, loading docks and dumpsters.
- i. No service area or loading dock or dumpster shall be permitted adjacent to any roadway unless enclosed such that all sides appear as a primary façade similar to the principal building, including design, detail, finish material and landscaping.
  - ii. Service areas and dumpsters shall be visually screened from public view by a masonry wall or privacy fence at a minimum of 6 feet high, measured from finished grade. Any masonry wall used to screen service areas and dumpster areas shall be of such material so as to match the exterior of the principal building.
  - iii. Each enclosure shall include a decorative opaque gate equal in height to the masonry wall or fence. The gate posts for the front gates to dumpster enclosures shall be located approximately 3 feet from the front of the enclosure wall to allow pedestrian access to the dumpster without opening and closing the gate. The gates shall remain closed at all times except during truck delivery or pick up or emptying of the dumpster container.
  - iv. Service areas, delivery areas and dumpster areas shall be directed and located away from any residential side of the development and in no case shall they be located directly between the building and any residential lot.
  - v. No part of a dumpster or materials stored within the service area shall extend above the required masonry wall or fence.
  - vi. Dumpsters must have drainage provisions to prevent runoff from the container enclosure onto public right-of-way or onto lands of others.
  - vii. Where detached from the primary building, dumpster areas must be landscaped with a minimum 3 feet tall (at time of planting) evergreen hedge around the sides and rear of the enclosure.
  - viii. Chain link, painted or unpainted concrete block walls and barbed wire are prohibited as part of a screening.
- (g) Deviations from standards, where allowed.

## 2.

Deviations from the architectural requirements of this Section may be approved by ~~administrative variance~~ [special exception variance](#) as outlined in the Appeals article of this Development Code.

### (8) MPD commercial areas.

A commercial area approved as part of a Master Planned Development shall comply with the following, in addition to all other standards of this Section 206.04.d:

- (3) Single-Family Detached homes in Minor Subdivisions (as defined in this UDC), on undivided acreage tracts, or in Major Subdivisions Phases having received a Final Plat prior to January 1, 2018.
- (4) Lots with existing predeveloped grades (as shown on the Land Disturbance Permit Application) with a maximum slope grade change of 5.0% in the building envelope.

Sec. 304.02. **Landings.**

At each exterior door there must be a landing that is a minimum of 36 inches by 36 inches.

Sec. 304.03. **Exterior siding.**

Exterior siding materials shall consist of any combination of wood, brick, stucco or stone finish, shake shingle siding, custom log construction, vinyl certified by the Vinyl Siding Institute as conforming to the standards of ASTM D3679, or painted wood lap or fiber cement siding. Except for manufactured homes in the M-H zoning district, metal siding, corrugated metal and vinyl-covered metal siding are not permitted.

Sec. 304.04. **Roofs.**

- a. All roof surfaces shall have a minimum pitch of 4:12 (4 inches of rise for every 12 inches of run), except that mansard and gambrel roofs must meet this requirement only for those surfaces that rise from the eaves.
- b. All roof surfaces exposed to view shall be covered with asphalt or fiberglass shingles, wood shakes or shingles, standing seam metal, clay tiles, slate, baked on enamel, galvanized tin, or similar materials.
- c. Minimum roof overhang shall be 12 inches, excluding gutters, along all sides of the structure.

Sec. 304.05. **Minimum width.**

The minimum width of the entire structure shall be greater than 16 feet. Structure width shall be measured between all parallel exterior walls, with the exception of extensions from the main structure for dormers, bay windows, entrance foyers and similar appurtenances, and extensions of no more than 5 feet for other architectural elements of the structure's design.

Sec. 304.06. **Deviations from standards; where allowed.**

3.

~~The Planning Director may approve d~~Deviations from the standards contained in this Section for a single-family or two-family dwelling or a manufactured home ~~as an administrative may be approved through special exception~~ variance as outlined in the Appeals article of this Development Code.

Sec. 304.07. **Compliance with codes.**

The dwelling shall be constructed in accordance with all applicable requirements of the Building Code as adopted by the County, or in accordance with standards established by the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401, et seq.) for manufactured homes, or in accordance with State law and regulations for industrialized buildings, whichever apply.

Sec. 304.08. **Qualified manufactured homes.**

For special standards for a manufactured home to be classified as a "qualified manufactured home," see Sec. 329.06.

**Sec. 305. Standards for multi-family dwellings (including townhouses).**

Sec. 305.01. **Recreation amenity.**

Every townhouse or multi-family development proposed to contain 50 dwelling units or more must include a community recreation amenity to serve the development, based on the number of dwelling units, in accordance with this Subsection.

### **DIVISION III. ACCESSORY USES AND STRUCTURES.**

The following provisions apply to accessory uses or structures in all zoning districts where the principal use is otherwise allowed, whether by right or through Special Use approval.

#### **Sec. 347. Provisions relating to all accessory uses.**

##### **Sec. 347.01. Relationship to a principal use.**

Accessory uses or structures shall be permitted only in rear yards and side yards, and between the minimum front setback for a principal building and the principal building itself, except as otherwise provided in this Development Code. Exceptions will be granted to well houses which are constructed over wells located in the minimum front yard, satellite TV antenna less than 1 meter in diameter, and other uses and structures as specified in this Section.

- a. Where an accessory building is attached to a principal building by a common wall, the accessory building shall be considered an integral part of the principal building and must comply with setbacks and other requirements as applicable to the principal building.
- b. When an accessory building is attached to a principal building by breezeway, passageway, or similar means, it shall comply independently with the setback, separation and other requirements applicable to the principal building to which it is accessory.
- c. No accessory use or structure shall be allowed on any lot except in relation to an existing principal use on the lot. If the lot is vacant, no accessory building, structure, or use shall be built upon a lot until construction of the principal building has commenced.

##### **Sec. 347.02. Size limitations.**

- a. Any accessory building to a residence in a residential zoning district that exceeds 1,000 square feet of gross floor area must have Special Exception Variance approval by the Board of Commissioners as to the location, architectural design, and size prior to commencing construction. Residential properties larger than three acres shall be exempt from this requirement.
- b. An accessory use shall not occupy more than 30% of a side or rear yard.

##### **Sec. 347.03. Setback and height restrictions for accessory uses and structures.**

Except as specifically regulated under this Section, see the setback and height restrictions for accessory buildings and structures in the Lot and Building Standards Article of this Code.

#### **Sec. 348. Customary accessory uses to a dwelling.**

Each of the following is considered to be a customary accessory use to a dwelling and may be situated on the same lot with the principal use that it serves, subject to more restrictive standards that may apply under this Section.

- a. Private garage or carport.

4.

A private freestanding (detached) garage or carport is allowed, and must be at least 200 feet from the nearest street right-of-way or it must be in the rear or side yard. An exemption from this requirement may be approved by ~~administrative~~ special exception variance as outlined in the Appeals article of this development code.

- b. Outdoor parking area, except that no automobiles not in operating condition shall be parked between the residence and the street or streets it adjoins. All cars not in operating condition shall be parked in the rear yard or in a garage or carport. All automobile parts shall be stored within a garage or storage building.
- c. Utility or storage buildings.
  - (1) In the R-3 and M-H zoning districts, a shed or tool room for the storage of supplies and equipment used in grounds or building maintenance shall not exceed 1,000 square feet. Metal buildings over 500 square feet require a Special Use approval.

- d. Radio, television and telecommunications devices, as follows:
  - (1) Any device designed for over-the-air reception of radio or television broadcast signals, or direct broadcast satellite service.
  - (2) Any tower and antenna under 70 feet in total height that is owned and operated by an amateur radio operator licensed by the Federal Communications Commission.
  - (3) Radio, television and telecommunications devices shall meet the same setbacks as for principal buildings for the zoning district.
- e. Children’s playhouse, playground and play equipment.
- f. Quarters for the keeping of domestic pets (such as a doghouse) owned by the occupants of the dwelling for non-commercial purposes. Pens housing dogs shall be a minimum of 25 feet from all property lines. For kennels, see Sec. 314.
- g. When allowed, a barn, shed, pen, corral, other structure to house, shelter, or confine farm animals such as horses, mules, ponies, sheep, goats, rabbits, or poultry provided said structure to be placed in the rear yard and be at least 100 feet from every property line. Additional distance may be required by Sec. 302.
- h. When allowed, a barn used only to store farm equipment, supplies or crops must be behind the dwelling and at least 50 feet from any property line. Additional distance may be required by Sec. 302.
- i. Home swimming pools.

Home swimming pools may be installed in the AG, AR-3, AR, R-1, R-2, R-3, and M-H Residential Districts. No swimming pool shall be installed or maintained unless:

- (1) Private residential pools as accessory uses on individual residential lots are defined as follows: Private residential swimming pools include all constructed pools which are used or intended to be used as a swimming pool in connection with one single-family residence and available only to the residents of the single-family home and private guests.
- (2) There shall be erected and maintained a good quality fence not less than 4 feet in height, enclosing the entire portion of the premises upon which such pool shall be installed and entirely surrounding the area in which such pool is located.
- (3) Every gate or other opening in the fence enclosing such pool, except an opening through the dwelling or other main building of the premises, shall be kept securely closed and locked at all times when the owner or occupant of the premises is not present at such pool. Gates or other openings except through the dwelling shall be self closing and self latching.
- (4) Such pool shall not be erected closer than 10 feet from the rear and side property lines of the premises, or within the front yard. For corner lots and double-frontage lots, home swimming pools may be placed in the front yard if approved by ~~administrative~~ special exception variance as outlined in the Appeals article of this Development code.
- (5) If the water for such pool is supplied from a private well, there shall be no cross-connection with a public water supply system.
- (6) If the water for such pool is supplied from a public water supply system, the inlet shall be above the overflow level of the pool.
- (7) No permit shall be issued for the installation of any swimming pool, unless the drainage of such pool is adequate and will not interfere with any public water supply system, with existing sanitary facilities or with the public highways.
- (8) A pool bathhouse or cabana not more than 12 feet high and not more than 400 square feet in area may be built next to the swimming pool provided that it be connected to the required fence or enclosed by said fence and provided that it be

5.

- b. A maximum of 5 children or elderly adults for whom compensation is received, or no more than 6 children or elderly adults if the structure meets the Building Code requirements for institutional uses.
- c. For purposes of this section only, children who are related by blood, marriage or adoption to the childcare provider shall not be included in the calculation of the 6 children limitation, with the total maximum of no greater than 8 children at any one time.
- d. The family day care home must be registered with the day care licensing division of the Georgia Department of Human Resources and proof of such registration must be submitted to, and maintained current with, the Code Enforcement Department.
- e. The registered family day care home operator must be a full-time resident of the premises where the family day care home is located.
- f. The family day care home shall comply with all provisions relating to a home business under Sec. 350.03, except that there shall be no employees.
- g. No off-street parking other than that required for the residential use under the Parking and Loading Article of this Code may be provided.
- h. All outward appearance of the day care use shall be prohibited other than normal play equipment associated with a residence.

**Sec. 351. Guest houses and garage apartments.**

A detached dwelling unit that is used primarily for sleeping purposes by relatives, domestic employees or temporary guests of the family occupying the principal home on the lot must meet the following minimum requirements:

**Sec. 351.01. Standards for guest houses.**

- a. The guest house must be an accessory use to a dwelling already existing on the lot.
- b. Minimum standards:
  - (1) The placement of a guest house on a lot shall not result in the violation of the lot coverage maximums applicable to the zoning district in which it is located.
  - (2) The water supply and sanitary sewage disposal system for the lot must be certified as adequate to support the guest house in combination with the main house.
  - (3) Adequate parking as outlined within this code must be provided specifically for the guest house. Access shall be provided through the principal dwelling unit's existing driveway.

**Sec. 351.02. Guest house restrictions.**

- a. Guest houses shall be architecturally compatible with the main unit.
- b. No more than one guest house may be located on any lot.
- c. For lots less than ten acres in size, the guest house must be placed to the rear of the main house or may be placed in the side or front yard if approved by ~~administrative~~ special exception variance as outlined in the Appeals article of this Development Code. For lots greater than ten acres in size, guest houses may be placed in any yard.
- d. The floor area of the guest house shall not exceed 50 percent of the existing heated floor area of the principal residence.

6.

**Sec. 351.03. Standards for garage apartments**

- a. The garage apartment must be located inside a detached garage for a dwelling already existing on the lot.
- b. Minimum standards:
  - (1) The placement of a garage apartment on a lot shall not result in the violation of the lot coverage maximums applicable to the zoning district in which it is located.

- (2) The water supply and sanitary sewage disposal system for the lot must be certified as adequate to support the garage apartment in combination with the main house.
- (3) Adequate parking as outlined within this code must be provided specifically for the garage apartment. Access shall be provided through the principal dwelling unit's existing driveway.

Sec. 351.04. **Garage apartment restrictions.**

7.

- a. Garage apartments must be located within a structure architecturally compatible with the main unit.
- b. For lots less than ten acres in size, detached garages containing garage apartments must be placed to the rear of the main house or may be placed in the side or front yard if approved by ~~administrative~~ special exception variance as outlined in the Appeals article of this Development Code. For lots greater than ten acres in size, detached garages containing apartments may be placed in any yard.
- c. The floor area of the garage apartment shall not exceed 50 percent of the heated floor area of the principal residence.

**Sec. 352. Short Term Rentals**

a. Location Allowed/Prohibited

Short Term Rentals are prohibited in all zoning districts, except where specifically allowed in Article 2 of this Development Code.

Nothing contained in this section shall be construed to prohibit motels, hotels, inns and other commercial lodging uses from being located in commercial zoning districts or where otherwise specifically allowed.

b. Tenancy

The maximum time period a Short Term Rental may be rented is 30 days. With the exception of AG-zoned properties, no Short Term Rental may be rented more than once during the same 30-day period.

c. Regulations Applicable to Short Term Rentals

In addition to the licensing requirements and other requirements set forth herein, the following regulations apply to Short Term Rentals:

- (1) Annual Inspection: The property must be inspected each year prior to the issuance of a license for a Short Term Rental;
- (2) Parking: Off street parking is required for every Short Term Rental. One (1) paved off-street parking space is required per room qualifying as a bedroom for Short Term Rentals. To qualify as a parking space, the minimum dimensional requirements must include a useable rectangular area of 9 feet wide by 19 feet long, exclusive of any other area counted as a parking space. The number of vehicles allowed during a Short Term Rental tenancy shall not exceed the number of parking spaces available on the property. For the purposes of this ordinance, any type of trailer, boat and/or recreational vehicle shall also be counted as one vehicle, separate from the vehicle used to transport the trailer, boat and/or recreational vehicle;
- (3) Trash: All trash must be disposed of properly. No trash may be disposed of on the property. If curbside trash pickup is available, a limit of 3 rolling trash cans not to exceed 65 gallons each may be utilized for property with a Short Term Rental. Use of commercial or roll-off dumpsters on a property with a Short Term Rental is prohibited;
- (4) Fire Extinguishers: At least one (1) 10 lb. ABC fire extinguisher must be located on each level of the structure and must be clearly visible or marked with appropriate signage. Fire extinguishers must be certified annually by a licensed fire extinguisher company;



Sec. 607.05. **Lighting of parking areas.**

If the off-street parking facilities are to be used at night, they shall be properly illuminated for the safety of pedestrians and vehicles and for policing.

- a. Illumination devices such as, but not limited to, flood or spot lights shall be so placed and so shielded as to prevent the rays or illumination therefrom being cast into neighboring dwellings and approaching vehicles.
- b. A lighting plan and details shall be submitted to the Planning Director showing light templates (lighting footprints) for the proposed fixtures for review and verification of compliance with this provision.
- c. Any lights used to illuminate a parking area shall be arranged, located or screened to direct light away from any adjoining residential use and shall not cause glare on any abutting property or street. "Shoe box" recessed lighting fixtures or similar full cutoff lighting devices shall be utilized for this purpose.
- d. Lighting fixtures on the underside of a canopy shall be installed in such a manner that the lighting fixture is recessed or flush with the canopy surface and the source of the light is not directly visible from any abutting street or residential use.
- e. Parking areas shall not be illuminated between the hours of 12:00 midnight and 6:00 A.M. if the uses on the property are not open for business and employees are not on the premises, although temporary activation by motion detectors may be allowed to provide security lighting for periods not to exceed 15 minutes.

Sec. 607.06. **Waiver from off-street parking requirements for intermittent, occasional or temporary uses.**

8.

An ~~administrative~~ special exception variance may be granted from certain requirements of this Article for buildings or uses which are only subject to incidental, occasional or temporary parking needs, such as cemeteries, recreation facilities, or other buildings and uses where parking is not required on a regular or daily basis. See the Appeals Article of this Code for procedures.

- a. Said variance may:
  - (1) Allow substitution of gravel or similar hard surface material in lieu of asphalt or concrete; and
  - (2) Waive the requirement for striping on the interior of the lot; and
  - (3) Waive the requirements for lighting.
  - (4) Provided, however, that the minimum area and number of parking spaces and driveways required by this Development Code shall be met and provided that said required parking area and drives shall be properly graded, surfaced and maintained so as to provide safe vehicular and pedestrian access and to prevent erosion, siltation and movement of mud, soil or debris and excessive or detrimental storm water runoff onto public or private lands.
  - (5) Prior to issuance of a special exception variance under this exemption, the applicant for building permit, subdivision plat or zoning amendment shall first submit for Planning Department approval, the appropriate site development plan(s) required by this Development Code. Said plan shall show the proposed layout, dimensions, grading, and access for the parking area for which exemption(s) are sought and shall indicate all requested exemptions and proposed improvements.

**Sec. 608. Inter-parcel access.**

Inter-parcel access shall be required as follows:

Sec. 608.01. **Internal access easements required.**

For any office or retail sales or services use, the property owner shall grant a "cross" or internal access easement as described in this Subsection to each adjoining property that is zoned or used for an office or retail sales or services use. The purpose of the easement is to facilitate

movement of customers from business to business without generating additional turning movements on the public street, thus increasing public safety.

Sec. 608.02. **Access easement provisions.**

The internal access easement shall permit automobile access from the adjoining property to driveways and parking areas intended for employee, customer or visitor use on each property; but parking spaces may be restricted to use by each owner's employees, customers and visitors only.

- a. Inter-parcel vehicle access shall be required between contiguous properties only when the parking areas are or will be in reasonable proximity to one another.
- b. All internal access easements shall be no less than 28 feet in width and shall be improved to a minimum paved width of 24 feet in order to accommodate two-way vehicular traffic to and from the adjoining properties.
- c. The granting of an internal access easement on a property shall be effective only upon the granting of a reciprocal easement by the adjoining property owner.
- d. Upon the availability of access to driveways and parking areas of the adjoining lot, the pavement or other surfacing of each owner's driveways and parking areas shall be extended by each owner to the point of access on the property line.

Sec. 608.03. **Relief.**

Where the proposed land use is such that adverse impact of the required easement on use of the property would outweigh the reduced impact on the public street provided by the reciprocal easements, ~~the Planning Director may waive~~ the requirement for the access easements may be waived, in whole or in part, ~~as via an administrative~~ special exception variance.

9.

**Sec. 609. Improvement of parking areas.**

Sec. 609.01. **Surfacing and curbing; permanent lots.**

- a. In the AG and AR zoning districts, all minimum required off-street parking areas and all access drives for single-family and two-family dwellings shall be improved with an asphalt surface, triple surface treatment (TST) or concrete surface at least 8 feet wide. See also Sec. 607.06 for exemptions in the AG district.
- b. Except in the AG or AR zoning districts, all minimum required off-street parking areas and all access drives for single-family and two-family dwellings shall be improved with a concrete surface at least 4 inches thick and no less than 8 feet wide.
- c. All off-street parking areas and all access drives for uses other than single-family and two-family dwellings shall be improved with a permanent load-bearing surface consisting of one or more of the following:
  - (1) Pavement consisting of a minimum of a 4-inch graded aggregate base overlaid with a 2-inch Type E or F asphalt surface.
  - (2) Pavement consisting of a minimum 5-inch course of 3,500 psi concrete applied on a stabilized subgrade consisting of at least 150 pounds of stone per square yard mixed in 4 inches deep and compacted.
  - (3) Porous asphalt or concrete pavement installed to the manufacturer's specifications on a 95% compacted subbase.
  - (4) Pervious paving materials installed to the manufacturer's specifications on a 95% compacted subbase.
- d. For any multi-family or nonresidential use, and for any parking lot operated as a principal use, curb and gutter meeting County specifications for public streets shall be installed around the periphery of every paved parking lot containing more than 5 spaces. The curb and gutter shall also extend along both sides of every access drive between the paved parking lot or loading area and the street or another parking lot or loading area, as applicable.

- l. Grading and draining requirements for individual building sites.
- m. Required improvements to private access drives.
- n. Number of lots off a private access drive.
- o. Construction requirements for nonresidential uses.

Sec. 1303.03. **Standards for special exception variance approval.**

A special exception variance may be granted upon a finding that the relief, if granted:

- a. Would not cause substantial detriment to the public good; and
- b. Would not be injurious to the use and enjoyment of the environment or of other property in the immediate vicinity; and
- c. Would not diminish and impair property values within the surrounding neighborhood; and
- d. Would not impair the purpose and intent of this Development Code.

Sec. 1303.04. **Administrative approval**~~RESERVED.~~

- ~~a. Special exception variances shall be considered by the Board of Commissioners unless the variance is approved administratively. Only those variances listed in this Subsection, below, and within the parameters stated, may be considered for administrative approval.~~
- ~~b. The Planning Director, upon a finding that a special exception variance meets the standards for approval contained in this Section, may administratively approve such special exception variance within and not exceeding the following parameters:~~

10.

~~(1) Minimum building setbacks:~~

~~Not to exceed a reduction in the minimum setback required by 10%, except the front setback may be reduced or waived if the parking is located in the side or rear yards.~~

~~(2) Maximum building height:~~

~~Not to exceed an additional 4 feet above the maximum allowed.~~

~~(3) Minimum floor area requirements for dwellings:~~

~~For a residence to be constructed by a nonprofit organization only, floor area reduction to no less than 1,000 square feet.~~

~~(4) Automobile parking requirements~~

~~Not to decrease the number of spaces required, shared parking permitted, or the proximity of spaces to the use served by more than 10%. May exceed 110% of required on-site parking provided that additional spaces are constructed of pervious or porous pavement or equivalent as approved by the Public Works Director.~~

~~(5) Parking lot improvements for intermittent, occasional or temporary uses:~~

~~Approval subject to the provisions for such waivers in the Parking and Loading Article of this Code, and to the imposition of such time limits or operational limitations appropriate to the proposed use of the parking lot.~~

~~(6) Inter-parcel access:~~

~~Modification or waiver of inter-parcel access requirements.~~

~~(7) Grading and draining requirements for individual building sites:~~

~~Variations from the requirements of the grading and draining requirements for individual building sites under the Erosion Control and Stormwater Management Article of this Development Code may be granted by the Planning Director upon the~~

~~submission of such information as may be required by the Director, and the Director's satisfaction that the public health, safety and general welfare will be adequately protected if the variance is granted.~~

~~(8) Deviations from design standards of Section 206.04.d.7, Architectural requirements of the Mars Hill Overlay District, Section 205.09.c.3, Architectural requirements of the B-1 zoning district; and Section 304, Standards for single family and two family dwellings, of this Development Code.~~

Sec. 1303.05. **Restriction on re-filing a special exception variance if denied.**

If denied, an appeal for a special exception variance affecting the same property shall not be reconsidered for a period of 6 months from the date of denial; provided, however, that the Board of Commissioners may reduce the waiting period under extenuating circumstances or on its own motion.

Sec. 1303.06. **Limitations on special exception variance approval.**

In no case shall a special exception variance be granted from the conditions of approval imposed on a property through a zoning change granted by the Board of Commissioners.

**Sec. 1304. Hardship variances.**

Sec. 1304.01. **Appellant.**

A request for a hardship variance on a property shall be brought by the property owner or, with the owner's permission, the holder of or applicant for a permit for development or construction on the property.

Sec. 1304.02. **Hardship variances; general.**

- a. The Board of Commissioners may authorize upon appeal in specific cases such variances from the terms of this Development Code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the this Development Code will, in an individual case, result in unnecessary hardship, so that the spirit of this Development Code shall be observed, public safety and welfare secured and substantial justice done.
- b. The existence of a nonconforming use of neighboring land, buildings or structures in the same district or of permitted or nonconforming uses in other districts shall not constitute a reason for approval of the requested variance.
- c. Such relief may be granted only to the extent necessary to alleviate such unnecessary hardship and neither as a convenience to the applicant nor to gain any advantage or interest over similarly zoned properties.

Sec. 1304.03. **Standards for hardship variance approval.**

Such variances may be granted in such individual case of unnecessary hardship upon a finding by the Board of Commissioners that all of the following conditions exist:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.
- b. The application of this development code to this particular piece of property would create an unnecessary hardship.
- c. Such conditions are peculiar to the particular piece of property involved.
- d. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this ordinance.

Sec. 1304.04. **Limitations on hardship variance approval.**

In no case shall a hardship variance be requested or granted for any of the following:

- a. A condition created by the applicant, including the result of an unwise investment decision or real estate transaction.