

# MEMO

To: Planning Commission, Mayor Santini & City Council

From: Randy Mannino, David Hardegree, and Zack Arnold

Date: April 1, 2026

Re: *Text Amendment T26-02. Re-implement Administrative Adjustment (form. administrative variance) process and revise variance or appeals procedures.*

In 2022, the Georgia State Legislature adopted changes to the Zoning Procedures Law, O.C.G.A Title 36, Chapter 66. The changes took effect July 1, 2022. One notable change was the elimination of the administrative variance procedure. In 2025, the state legislature amended the 2022 revision to allow local jurisdictions to re-implement the administrative variance process.

This text amendment adds the administrative variance process to Chapter 26, Zoning, Section 19.2, Administrative Adjustment.

This text amendment also revises *Chapter 26, Zoning, Article XXI, Appeals*, Sections 21.6 and 21.7 to clarify what constitutes a condition of variance, enforcement of conditions of variance, and timekeeping procedures for Board of Zoning Appeals meetings.

The planning commission is reviewing these revisions because the Zoning Appeals section of the city ordinance is under the Zoning Chapter. The Board of Zoning Appeals will be notified of these revisions.

## ARTICLE XIX. - INTERPRETATION, ADMINISTRATIVE ACTION, AND ENFORCEMENT

**CURRENT  
ORDINANCE  
TEXT**

## Sec. 19.1. - Interpretation.

The zoning administrator shall interpret the provisions of this chapter, and may utilize opinions of the city attorney and others in arriving at interpretations. Appeals from an interpretation of the zoning administrator shall be in accordance with the provisions of Article XXI of this chapter.

## Sec. 19.2. - Reserved.

**Editor's note**— Ord. No. 36-23, § 1, adopted July 6, 2023, repealed § 19.2, which pertained to administrative variance.

## Sec. 19.3. - Conflict.

The provisions of this chapter shall be administered and enforced by the zoning administrator, and/or his/her designee. Decisions of the zoning administrator may be appealed in accordance with the provisions of this article. Requests for a variance shall be heard and decided by the board of appeals in accordance with the guidelines set forth in Article XXI.

(Ord. No. 37-23, § 1, 7-6-23)

## Sec. 19.4. - Zoning enforcement officers; appeals.

The provisions of this chapter shall be administered and enforced by the zoning administrator, and/or his/her designee. Decisions of the zoning administrator may be appealed in accordance with the provisions of this article. Requests for a variance shall be heard and decided by the board of appeals in accordance with the guidelines set forth in Article XXI.

(Ord. No. 37-23, § 1, 7-6-23)

## Sec. 19.5. - Remedies.

In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this chapter, the zoning administrator, or any other appropriate city authority or any other person who would be damaged by such violation, in addition to other remedies, may seek injunctive, mandamus or other appropriate relief to prevent the violation in the case of each building or use of land.

## Sec. 19.6. - Permits in effect.

**Ordinance of the  
City of Cartersville, Georgia  
Ordinance No. \_\_\_\_\_-26  
Petition No. T26-02**

Now be it and it is hereby ordained by the Mayor and City Council of the City of Cartersville, that the CITY OF CARTERSVILLE CODE OF ORDINANCES. Chapter 26 - ZONING. is hereby amended as listed below:

1.

**CHAPTER 26. ZONING ARTICLE XIX. INTERPRETATION, ADMINISTRATIVE ACTION, AND ENFORCEMENTS. Sec. 19.2. – Reserved.** is hereby amended by deleting said section in its entirety and replacing it with the following:

**Sec. 19.2. – Administrative adjustment.**

- A. The Zoning Administrator is authorized by this chapter to consider an appeal for an administrative adjustment to any particular numeric criteria of this chapter causing undue hardship on the applicant. The Zoning Administrator shall be empowered to grant an administrative adjustment not to exceed thirty (30) percent of said requirement, if in doing so, the purpose of this chapter is not impaired, and there is not a negative impact on the surrounding uses, properties, or neighbors. The Zoning Administrator shall consider site location, site or building configuration, or preexisting topographic, geological, hydrological, or environmental factors.
- B. In granting an administrative adjustment, the Zoning Administrator may attach such conditions as may deem advisable so that the purpose of this chapter will be served and public safety and welfare secured. The Zoning Administrator shall not be authorized to grant a use in a zoning district in which the use is prohibited or increases the lot or unit density of a zoning district. An administrative adjustment shall be approved or denied in writing.
- C. To initiate an administrative adjustment, an application must be submitted to the department of planning and development and shall include the following:
  - 1. An application form supplied by the department of planning and development that must be completed by the applicant.
  - 2. A nonrefundable fee as indicated on the fee schedule referenced in City of Cartersville Code, section 17-86.
  - 3. A written narrative explaining and justifying the request.
  - 4. A plat, site plan, or architectural plan or elevations, drawn to scale showing all property lines with dimensions, location of buildings and other structures, north arrow, street numbers, lot and/or parcel number from the Bartow County tax sheet, locations of setback lines or other dimensional requirements from which the administrative adjustment is sought.

5. The signatures of the property owner, or his or her authorized representative, and the applicant.
- D. Review for completeness. The Zoning Administrator shall review the application for completeness within seven (7) calendar days of submission. Incomplete or improper applications will be returned to the applicant.
  - E. Notification to adjacent property owners. The applicant shall give notice of the administrative adjustment request to all property owners adjoining the property for which said administrative adjustment is sought. Said notice shall be given to each adjoining property owner by first class mail, with proof of mailing obtained from the Post Office. Proof of mailing means either a first class "certificate of mailing" or a first class "certified mail" receipt. Proof of delivery is not required. Only owners reflected on the Bartow County Tax Assessor records as of January 1st of the year the application is filed shall be entitled to notice. In determining the adjoining property owners, road, street, or railroad rights-of-way shall be disregarded. Proof of mailing for each recipient shall be provided to the Zoning Administrator before a decision is rendered. Said notice must be mailed at least fourteen (14) days prior to the decision of the Zoning Administrator.
  - F. Information in notice to adjacent property owners. The notice required to be served upon adjacent property owners shall contain the following information:
    1. Name and address of the applicant;
    2. Address and location of the property for which the administrative adjustment is sought;
    3. Current zoning of the property for which the administrative adjustment is sought;
    4. The administrative adjustment requested and the reason for the request;
    5. The application file number; and
    6. Contact information for the department of planning and development.
  - G. Decision. In rendering a decision on an administrative adjustment, the Zoning Administrator shall consider all information supplied by the applicant and any public comments received. Within five (5) calendar days of the expiration of the (14) day public notice period, the Zoning Administrator shall:
    1. Approve the application as submitted;
    2. Approve the application with conditions; or
    3. Deny the application.
  - H. Administrative adjustments may be granted upon finding that one (1) or more of the following exists:
    1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography; and
    2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and
    3. Such conditions are peculiar to the particular piece of property involved; and
    4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations, provided, however, that no adjustment may be granted for a use of land or building or structure that is

prohibited by this chapter; and  
5. A literal interpretation of this chapter would deprive the applicant of any rights that others in the same district are allowed.

- I. Remedy. Appeals from a decision by the Zoning Administrator shall be in accordance with the provisions of Article XXI of this chapter.
- J. Records. The Zoning Administrator shall keep public records of all administrative adjustment applications and the results pursuant to this chapter.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this Ordinance may be renumbered and/or alphabetized accordingly to accomplish such intention.

BE IT AND IT IS HEREBY ORDAINED

FIRST READING: \_\_\_\_\_  
SECOND READING: \_\_\_\_\_

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MATTHEW J. SANTINI, MAYOR

ATTEST: \_\_\_\_\_  
JULIA DRAKE, CITY CLERK

## CURRENT ORDINANCE TEXT

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### **Sec. 21.6. Action by the board of appeals.**

21.6.1. In exercising its powers, the board of appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, table or may modify the variance, appeal, order, requirements, decision, or determination, and to that end shall have all the powers of the zoning administrator.

21.6.2. The concurring four (4) votes of members of the board shall be necessary to reverse any order, requirement, decision or determination of the zoning administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to affect any variation of this chapter.

21.6.3. The board shall have the power to table incomplete applications, or to seek more time for further information to be submitted. The action by the board to table the application shall include a statement of the date and time of the next meeting at which the application will be considered, which statement shall constitute public notice of the hearing on the application; and no further notice, such as that required by section 21.4.2, is required. The application can be tabled for up to three (3) months at a time to obtain necessary information or for other reasons of the board. The application can be tabled more than once if necessary, extending the duration the application remains on the table.

21.6.4. On all appeals, applications and other matters brought before the board of appeals, said board shall inform, in writing, all the parties involved of its decisions and the reasons therefor. Such written decision shall be prepared by the zoning staff or city attorney and signed by the chair and secretary.

### **Sec. 21.7. Conduct of the board of appeals hearing.**

21.7.1. *Sign up.* All persons who wish to address the board of appeals at a hearing concerning an appeal or variance under consideration by the board of appeals shall first sign up on a form to be provided by the city prior to the commencement of the hearing.

21.7.2. *Matter presented.* The chair of the board of appeals will read the proposed appeal or variance under consideration in the order determined by the zoning administrator. The zoning administrator, or his designee, shall then present the basis of the appeal or variance, along with the pertinent departmental reviews, if any, prior to receiving public input on the proposed appeal or variance. Any appeal or variance that has not complied with all notice and other requirements of this chapter shall be deemed out of order and shall not be considered at that hearing. It shall be tabled until the next meeting, and if it is still out of order at the next meeting, the application shall be deemed denied.

21.7.3. *Speakers.* The chair of the board of appeals shall call each person who has signed up to speak on the appeal or variance then before the board of appeals in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself or herself and state his/her current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless a majority of the members of the board of appeals present at the hearing allow the person to speak to the appeal or variance, notwithstanding the failure of the person to sign up prior to the hearing.

21.7.4. *Time limits.* The applicant or appellant and those in favor of the variance or appeal shall have fifteen (15) minutes to speak, total. Those opposed to the application or appeal shall have fifteen (15) minutes to speak, total. The board may extend these times upon majority vote. In the event of multiple speakers on a side, the time shall be divided equally between all registered speakers, who may reserve their remaining balance of time for rebuttal, except that the applicant may use as much of the fifteen (15) minutes as is desired by them. The applicant may reserve time for rebuttal. Upon vote of a majority of the board, either side may be granted additional time in any amount the board desires, but in such event, the other side shall be granted the same additional time.

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21.7.5. *Evidence, cross-examination.* Each side shall have the opportunity to present evidence and witnesses which shall be entered into the record. Cross-examination of opposing witnesses shall be allowed by the chair, but decorum shall be maintained. The board may require the applicant and opponents to designate one (1) person to conduct any desired cross-examination.

21.7.6. *Decorum and order.* Each speaker shall speak only to the merits of the proposed appeal or variance under consideration and shall address his/her remarks only to the members of the board of appeals. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed appeal under consideration. The chair may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this subsection. Nothing contained herein shall be construed as prohibiting the chair from conducting the hearing in an orderly and decorous manner to assure that the public hearing on the appeal or variance is conducted in a fair and orderly manner.

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Ordinance No. \_\_\_\_\_-26  
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1.

**CHAPTER 26 – ZONING. ARTICLE XXI. – APPEALS**, is hereby amended as follows:

A.

That Section 21.6 – Action by the Board of Appeals, paragraphs 21.6.1 and 21.6.2, are hereby amended by deleting said paragraphs in their entirety and replacing them as listed below:

**21.6.1.** In exercising its powers, the Board of Appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, table or may modify and/or impose conditions on the variance, appeal, order requirements, decision, determination, and to that end, shall have all the powers of the Zoning Administrator.

A. Types of conditions. Such conditions may consist of any or all of the following, but not be limited to:

1. Setback requirements from any lot line;
2. Specified or prohibited locations for buildings, parking, loading, or storage areas or other land uses;
3. Restrictions as to what land uses or activities shall be permitted;
4. Maximum building heights or other dimensions;
5. Special drainage or erosion provisions;
6. Landscape buffers
7. Fences or walls
8. Special measures to alleviate undesirable views, light, glare, noise, dust or odor;
9. Permitted hours of operation;
10. A requirement that developers must build according to the concept plan as submitted;

B. Such conditions:

1. Shall only be valid if they are included in the Board of Appeals meeting minutes and written decision;
2. Shall be in effect as long as the approved zoning and land use are in effect, or for the period of time specified in the motion for approval of the variance;
3. Shall be required of the property owner and all subsequent owners as a condition of their use of the property; and shall be interpreted and continuously enforced by the Zoning Administrator in the same manner as any other provision of this Zoning Ordinance.
4. Failure to meet a condition of variance could result in penalties including the City not issuing a building permit, business license or Land Disturbance Permit for a property, or other enforcement detailed in Article XIX and/or Article XX of the Zoning Ordinance.

**21.6.2.** The concurring vote of a majority of the members present of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to affect any variation of this Ordinance.

B.

That Section 21.7. – Conduct of the Board of Appeals paragraph 21.7.4, is hereby deleted in its entirety and replaced with the following:

**21.7.4. *Time limits.*** The applicant or appellant and those in favor of the variance or appeal shall have fifteen (15) minutes to speak, total. Those opposed to the application or appeal shall have fifteen (15) minutes to speak, total. The Board may extend these times upon majority vote. Each individual speaker shall have no more than three minutes to speak, except the applicant, who can take as much of the fifteen minutes as is desired. The applicant may reserve time for rebuttal. Upon vote of a majority of the Board, either side may be granted additional time in any amount the Board desires, but in such event, the other side shall be granted the same additional time.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this Ordinance may be renumbered and/or alphabetized accordingly to accomplish such intention.

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SECOND READING: \_\_\_\_\_

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MATTHEW J. SANTINI, MAYOR

ATTEST: \_\_\_\_\_  
JULIA DRAKE, CITY CLERK

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