

ARTICLE III. GENERAL PROVISIONS

Section 1. Conformance Required

Except as hereinafter specified, no land, building, structure, or premises shall hereafter be used, and no building or structure or part thereof, or other structure, shall be located, erected, moved, reconstructed, extended, enlarged, or altered except in conformity with the regulations herein specified for the district in which it is located and when all applicable building codes are met.

Section 2. Continuing Existing Uses

Except as hereinafter specified, any use, building, or structure existing at the time of the enactment of the Regulations may be continued, even though such use, building, or structure may not conform with the provisions of the Regulations for the district in which it is located.

Section 3. Public Utilities

Nothing contained in the Regulations shall prevent the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any building or structure of any public utility, whether publicly or privately owned, or the use of land by any public utility for the operations of its business, as may have been or may hereafter be specifically authorized or permitted by a certificate of public convenience and necessity or order used by the Public Service Commission, or by permit of the County Commission.

Section 4. Outdoor Advertising

Outdoor advertising shall be classified as a commercial use and shall be permitted in the following districts: C-1, C-2, C-3, M-1, and M-2, subject to the regulations of the State Highway Department.

Section 5. Retail Establishments and Places of Entertainment

Nothing contained in the Regulations shall prohibit the use of any land for the construction of a building or the reconstruction, change, alteration, maintenance, enlargement, or use of any building for the maintenance and operation of any mercantile or retail establishment, drug store, hotel, lunch room or restaurant, or place of entertainment in any area zoned for trade or industry except those lawful provisions set forth in the establishment of those areas or districts, but a Zoning Certificate for such uses shall be required in accordance with the provisions of the Regulations.

Section 6. Non-Conforming Uses or Buildings

No existing building or premises devoted to a use not permitted by the Regulations in the district in which such building or premises is located, except when required to do so by law or order, shall be enlarged, extended, reconstructed, substituted, or structurally altered, unless the use thereof is changed to a use permitted in the district in which such building or premises is located, and except as follows:

A. **Substitution or Extension**

When authorized by the Board (of Zoning Adjustment), the substitution for a non-conforming use of another non-conforming use or the extension of a non-conforming use may be made.

B. **Whenever a non-conforming use has been changed to a conforming use, such use shall not thereafter be changed to a non-conforming use.**

- C. Where, at the effective date of the adoption of this ordinance or amendment hereto (Feb. 14, 1978), a lot of record exists and is held in separate ownership but fails to meet the minimum requirements for area or width of the district in which it is located, such a lot may have one (1) single-family dwelling and customary accessory buildings erected upon it provided that:
1. Said lot is in separate ownership and not of continuous frontage with other lots in the same ownership; and
 2. Said lot is able to meet the yard requirement of the district in which it is located, variance only obtainable through Board (of Zoning Adjustment) authorization.
- D. If two (2) or more lots of record exist with continuous frontage in single ownership, any of which fail to meet the minimum requirements of the district in which said lots are located shall be considered to be an undivided tract, and no part therein shall be used which does not meet the minimum requirements of the respective district.
- E. When authorized by the Board (of Zoning Adjustment), the extension or completion of a building devoted to a non-conforming use, upon a lot occupied by such building or on a lot adjoining, providing that such lot was under the same ownership as the lot in question on the date the use of such building became non-conforming, and where such extension is necessary and incidental to the existing use of such building.
- F. When authorized by the Board (of Zoning Adjustment), a nonconforming use may be extended throughout those parts of a building designed or arranged for such use prior to the date it became non-conforming, if no structural alterations, except those required by law, are made therein.
- G. Discontinuance
- No building, structure, or premises where a non-conforming use has ceased for one (1) year or more shall again be put to a nonconforming use.
- H. Replacing Damaged Buildings
- Any non-conforming building or structure damaged more than sixty (60) percent of its then fair market value, exclusive of the foundations, at the time of damage by fire, flood, explosion, wind, earthquake, war, riot, or other calamity or Act of God, shall not be restored or reconstructed and used as before such happening; but if less than sixty (60) percent damaged above the foundation, then it may be restored, reconstructed, or used as before, provided that it be done within twelve (12) months of such happening.
- I. Repairs and Alterations
- Such repairs and maintenance work as required to keep it in sound condition may be made to a non-conforming building or structure, provided no structural alterations shall be made except such as are required by law or authorized by the Board (of Zoning Adjustment).

Section 7. Conversion of Dwellings

The conversion of any building into a dwelling or the conversion of any dwelling so as to accommodate an increased number of dwelling units or families, shall be permitted only within a district in which a new building for similar occupancy would be permitted under the Regulations and only when the resulting occupancy will comply with the requirements governing new construction in such district.

Section 8. Accessory Buildings and Uses

A. Definition

An accessory structure or use:

1. Is subordinate to and serves a principal building or a principal use;
2. Is subordinate in area, extent, or purpose to the principal building or principal use served;
3. Contributes to the comfort, convenience, or necessity of the occupants, business, or industry in the principal building or principal use served;
4. Is located on the same lot as the principal building or principal use served; and
5. Cannot be a vehicle or trailer, whether mobile or immobilized, except:
 - a. In the case of temporary buildings for uses incidental to construction work; or
 - b. In the case of a mobile food establishment operating as an accessory use in a C, M, or Plot Assignment District; and
6. Cannot be a tent or similar non-permanent structure, except where allowed as a temporary use in accordance with Article XXVI, Section 11 Temporary Structures and Uses.

B. Permitted Accessory Structures and Uses

1. Accessory Structures shall include, but are not limited to, the following permitted structures:
 - a. Buildings or structures incidental to a principal building or structures, such as storage buildings, workshops, studios, carports, or garages incidental to a permitted use;
 - b. Barns;
 - c. Playhouses;
 - d. Greenhouses;
 - e. Pools and bathhouses;
 - f. Entertainment rooms;
 - g. Living quarters;
 - h. Garage/living area combinations;
 - i. Guest house, servant's quarters, or rooms for guests in an accessory building, where structure must comply with adopted building codes and other adopted standards;
 - j. Ground-mounted solar panels;
 - k. Manufactured homes (as defined in Article I, Section 3 Definitions) smaller than 1000 square feet, provided they are located in A-1, Agriculture Districts and used for residential purposes only. A mobile home or manufactured home designed for residential use cannot be used as a storage building.
 - l. Temporary portable moving containers may be permitted without a building permit, provided that they not remain on any property for longer than 30 days.

C. Use Limitations

All Accessory Structures and uses shall comply with the use limitations applicable in the zoning district in which they are located.

D. Bulk, Setback, and Spacing Regulations

All accessory structures shall comply with the bulk, setback, and spacing regulations applicable in the zoning district in which they are located and with the following additional regulations:

1. Accessory buildings, regardless of size, shall be set back a minimum of ten (10) feet from the rear lot lines.
2. Accessory buildings shall maintain the same side yard as is required for the principal structure located on the lot.
3. Accessory buildings and structures shall otherwise comply with the bulk regulations applicable in the district in which they are located. In addition, all buildings shall set back a distance equal to their side wall height.
4. In districts zoned A-1, A-R, RR-1, or R-1 on lots larger than or equal to three (3) acres, accessory buildings shall be permitted in any front, rear, or side yard. In all other districts, including R-1 districts on lots smaller than three (3) acres, no accessory building shall be permitted in any required residential front yard or side yard. No accessory building will be permitted in a recorded easement.
5. Ground-mounted solar panels may be located in all yards in all districts, except for front yards in residential districts where the lot size is smaller than one (1) acre.
6. No accessory building shall be constructed closer than ten (10) feet from the principle structure on the lot.
7. On a corner lot, no accessory building shall project beyond the front lot lines on the adjacent lots.
8. Buildings accessory to a residential structure on a single property shall not singularly or in total exceed the following building sizes listed below.

Graduated increase in accessory building size:

<u>Lot Size</u>	<u>Building Size</u>
< 7,000 square feet	= 500 square feet
< 9,000 square feet	= 600 square feet
< 12,000 square feet	= 700 square feet
< 21,780 square feet	= 900 square feet
< 43,560 square feet	= 1,000 square feet
< 65,340 square feet	= 2,500 square feet
< 87,120 square feet	= 3,000 square feet
< 108,900 square feet	= 3,500 square feet
< 217,800 square feet	= 4,500 square feet
> 5 acres	= > 5,000 square feet

E. Additional Regulations for Accessory Structures

1. All driveways accessing accessory structures from a public right-of-way shall obtain approval from the Greene County Highway Department prior to installation of the driveway.
2. All driveways accessing an accessory structure shall be constructed of a concrete or asphalt surface to the limits of the front of the main structure in residential districts.
3. No tracts less than three (3) acres may have additional on-site wastewater disposal systems, and existing systems may not be enlarged.
4. Living area in an accessory structure will be limited to one thousand (1,000) square feet.

F. Variances

Property owners may, in accordance with the provisions of Article XXVI, Section 13 Administrative Review and Variances, request approval of a variance from the Board (of Zoning Adjustment) for the following:

1. Reduction in the required setbacks for the construction of an Accessory Building;
2. Increase in the size of the building beyond the permitted size; or
3. Location in a front or side yard where not permitted.

Section 9. Traffic Visibility across Corner Lot

In any R District on any corner lot, no fence, structure, or planting shall be erected or maintained within twenty (20) feet of the "corner" so as to interfere with the traffic visibility across said corner.

Section 10. Required Area or Space Cannot Be Reduced

- A. No lot, yard, court, parking area, or other space shall be reduced in area or dimension so as to make said area or dimension less than the minimum required by the Regulations; and, if already less than the minimum required by the Regulations, then said area or dimension shall not be further reduced.
- B. No part of a required yard, court, parking area, or other space provided about or for any building or structure shall be included in the requirements for another building or structure.

Section 11. Off-Street Parking and Loading

In any district, spaces for off-street parking and loading or unloading shall be provided.

Section 12. Unsafe Buildings

Nothing in the Regulations shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

Section 13. Pending Applications for Building Permits

Nothing herein contained shall require any change in the overall layout, plans, construction, size, or designated use of any development, building, structure, or part thereof for which official approvals and required building permits have been granted before the enactment of the Regulations; the construction of which, conforming with such plans, shall have been started prior to the effective date of the Regulations, and the completion thereof carried on in a normal manner within the subsequent six (6) months period, not discontinued until after the completion, except for reasons beyond the control of the builder.

Section 14. Multiple Uses and Structures

- A. Only one primary use is allowed on a single tract of property.
- B. All other uses, whether within the same structure or located in other structures on the same tract, must be of an accessory nature as determined by the Greene County Administrative Review Committee.
- C. All applicable building codes shall be met.

Section 15. Administrative Variances

Staff shall have the power to authorize variances administratively from the provisions or requirements of the Regulations, as would not be contrary to the public interest, but only in such cases where, owing to special conditions pertaining to a specific piece of property, the literal enforcement of the provisions or requirements of the Regulations, as well as the time and expense of applying to the Board (of Zoning Adjustment), would cause undue and unnecessary hardship.

The request must be approved by the Greene County Highway Administrator, the Greene County Resource Management Administrator, the Greene County Planning Director, the Greene County Stormwater Engineer, and the Chief Building Inspector for Greene County within thirty (30) days of its receipt. If the request is denied, then the applicant may appeal to the Board (of Zoning Adjustment) by applying for a variance as referenced in Article XXVI, Section 13 Administrative Review and Variances.

- A. The written request must include a site plan showing:
 - 1. The tract with existing lot lines and setbacks;
 - 2. Existing buildings on all tracts;
 - 3. The location of any existing onsite waste water systems and wells; and
 - 4. The location of the planned improvements or alterations to the property.
- B. Administrative variances may be approved only in the following circumstances:
 - 1. For an unbuilt, partially built, or completed structure encroaching upon the required setback by less than one (1) foot.
 - 2. For the parallel extension of a legally-built structure currently located within a required setback, provided that:
 - a. The use of the building conforms to the zoning regulations for the district in which it is located; and
 - b. The extension does not encroach further into the setback than what is currently built.
 - 3. For a fence exceeding four (4) feet in height above the elevation of the surface of the ground in the required front yard of a C or M District, except where required by the regulations of that district.
 - 4. For the establishment of the legality of a tract of ground illegally subdivided following the adoption of these regulations (Feb. 14, 1978) and prior to August 6, 2001, provided that:
 - a. The current owner of record is not the same owner who subdivided the property illegally;
 - b. The size of the lot is at least eighty (80) percent of the minimum lot size required for its zoning district; and
 - c. A soil analysis shows suitability for an on-site wastewater system where public sewer is not available.

5. For the use of a non-dustless surface by a church or other center of worship as overflow parking exceeding the minimum parking spaces required by Article IV, Section 2 Off-Street Parking Space, provided that:
 - a. The property is located outside of the adopted urban services area or urban growth areas;
 - b. All other Greene County Zoning and Environmental Regulations are followed; and
 - c. The gravel area is kept free of debris, potholes, puddles, or ruts and does not create a dusting on the surrounding area. If these items cannot be complied with, then the parking area must be protected with a surface similar to the driveway and access drive that are non-gravel.

Section 16. Reasonable Accommodation Policy and Procedure

- A. Purpose: This Section implements the policy of Greene County on requests for reasonable accommodation in its rules, policies, and procedures for persons with disabilities as required by the Fair Housing Act, as amended, 42 U.S.C. Section 3604(f)(3)(B) and Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132. The policy of Greene County is to comply fully with the provisions of the Fair Housing Act and Title II of the Americans with Disabilities Act.

Any person with disabilities and eligible under the Fair Housing Act or Title II of the Americans with Disabilities Act may request a reasonable accommodation with respect to the various land use or zoning laws, rules, policies, practices, and/or procedures of the County as provided by the Fair Housing Act and Title II of the Americans with Disabilities Act pursuant to the procedures set out in this Section.

Nothing in this Section requires persons with disabilities or operators of group homes for persons with disabilities acting or operating in accordance with applicable zoning, licensing, or land use laws or practices to seek reasonable accommodation under this Section.

- B. Definitions: For the purposes of this Section, certain terms and words are hereby defined as follows.

ACTS. Collectively, the FHA and the ADA.

ADA. Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131, *et seq.*, and its implementing regulations, 28 C.F.R. Part 35.

APPLICANT. An individual, group, or entity making a request for reasonable accommodation pursuant to this Section.

DEPARTMENT. The Planning and Zoning Department of Greene County.

FHA. The Fair Housing Act, Title III of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 *et seq.*, as may be amended.

DISABLED PERSON. Any person who is “handicapped” within the meaning of 42 U.S.C. § 3602(h) or a “qualified individual with a disability” within the meaning of 42 U.S.C. § 12131(2).

DWELLING. A “dwelling” as defined in 42 U.S.C. § 3602(b).

ZONING REGULATIONS. The Greene County Zoning Regulations.

- C. Notice to the Public of Availability of Accommodation Process: The Department shall prominently display a notice at the counter in the Department advising those with disabilities or their representatives that they may request a reasonable accommodation in accordance with the procedures established in this Section.
- D. Requesting Reasonable Accommodation: In order to make specific housing available to one (1) or more individuals with disabilities, a disabled person or a person acting on their behalf at their request (collectively, the “Applicant”) may request a reasonable accommodation relating to the various land use or zoning rules, policies, practices, and/or procedure of the County applicable to such housing.

1. A request by an Applicant for reasonable accommodation relating to land use or zoning rules, policies, practices, and/or procedures shall be made orally or in writing on a reasonable accommodation request form provided by the Department. The form shall contain:
 - a. The current zoning for the property;
 - b. The name, phone number, and address of the owner of the fee interest of the property (if other than the Applicant);
 - c. The nature of the disability that requires the reasonable accommodation. In the event that the specific individuals who are expected to reside at the property are not known to the Applicant in advance of making the application, the Applicant shall not be precluded from filing the application, but shall submit details describing the range of disabilities that prospective residents are expected to have to qualify for the housing. The Applicant shall notify the Department in the event the residents at the location are not within the range described. The Department shall then determine if an amended application and subsequent determination of reasonable accommodation is appropriate;
 - d. The specific type of accommodation requested by the Applicant. To the extent practicable, this portion should include information concerning the impact of the reasonable accommodation on the adjoining properties and area, the number of people who are expected to be availing themselves of the reasonable accommodation, the estimated number of people in an average week who will be necessary to provide services to the person(s) with disabilities at the property on an on-going basis, whether or not this type of reasonable accommodation is required to obtain a license from any state or county authority to operate, and any other information the Applicant thinks would assist in determining the reasonableness of the accommodation;
 - e. The Applicant should also note, if known, whether this accommodation requires any additional licensure from the County (e.g., business license); and
 - f. Whether the accommodation requested may be necessary to afford one (1) or more disabled persons equal opportunity to use and enjoy a specific dwelling.

The Department will assist the Applicant with furnishing the Department with all information necessary for processing the reasonable accommodation request, including that information which the Department deems necessary to complete a reasonable accommodation request form. Upon the County's receipt of the necessary information to process the Applicant's request for reasonable accommodation, the Department shall use the information to complete a reasonable accommodation request form.

2. The Department will provide the assistance necessary to an Applicant in making a request for reasonable accommodation. The Department will provide the assistance necessary to any Applicant wishing to appeal a denial of a request for reasonable accommodation to ensure the process is accessible to the Applicant. The Applicant is entitled to be represented at all stages of the proceedings identified in this Section by a person designated by the Applicant.
3. Should the information provided by the Applicant to the Department include medical information or records of the Applicant, including records indicating the medical condition, diagnosis, or medical history of the Applicant, the Applicant may, at the time of submitting such medical information, request that the Department, to the extent allowed by law, treat such medical information as confidential information of the Applicant.
4. The Department shall provide written notice to the Applicant, and any person designated by the Applicant to represent the Applicant in the application proceeding, of any request received by the Department for disclosure of the medical information or documentation which the Applicant has previously requested be treated as confidential by the Department. The Department will cooperate with the Applicant, to the extent allowed by law, in actions initiated by the Applicant to oppose the disclosure of such medical information or documentation.

E. Jurisdiction

1. Director/Designee: The Director of the Department, or their designee ("Director/Designee"), shall have the authority to consider and act upon requests for reasonable accommodation. When a request for reasonable accommodation is filed with the Department, it will be referred to the Director/Designee for review and consideration. The Director/Designee shall issue a written determination within thirty (30) days of the date of receipt of a completed application and may either grant the accommodation request or deny the request, in accordance with Federal law. Any such denial shall be in writing and shall state the grounds therefore. All written determinations shall give notice of the right to appeal and the right to request reasonable accommodation in the appeals process. The notice of determination shall be sent to the Applicant by certified mail, return receipt requested, and by regular mail.
2. If reasonably necessary to reach a determination on the request for reasonable accommodation, the Director/Designee may, prior to the end of said thirty (30) day period, request additional information from the Applicant, specifying in detail what information is required. The Applicant shall have fifteen (15) days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the thirty (30) day period to issue a written determination shall be stayed. The Director shall issue a written determination within thirty (30) days after receipt of the additional information. If the Applicant fails to provide the requested additional information within said fifteen (15) day period, the Director shall issue a written determination within thirty (30) days after expiration of said fifteen (15) day period.

F. Findings for Reasonable Accommodation: The following findings, while not exhaustive of all considerations and findings that may be relevant, must be made before any action is taken to approve or deny a request for reasonable accommodation and must be incorporated into the record relating to such approval or denial:

1. Whether the accommodation requested may be necessary to afford one (1) or more persons with disabilities equal opportunity to use and enjoy a specific dwelling;
2. Whether the requested accommodation would require a fundamental alteration to the County's zoning scheme; and
3. Whether the requested accommodation would impose undue financial or administrative burdens on the County.

A request for a reasonable accommodation shall not be denied for reasons which violate the provisions of the Acts. This order does not obligate the County to grant any accommodation request unless required by the provisions of the Acts or applicable Missouri State law.

G. Appeals

1. Within thirty (30) days after the date the Director/Designee mails a written adverse determination, under Subsection (E) of this Section, to the Applicant, the Applicant requesting reasonable accommodation may appeal the adverse determination.
2. All appeals shall contain a statement of the grounds for the appeal.
3. If an individual Applicant needs assistance in appealing a determination, the Department will provide the assistance necessary to ensure that the appeal process is accessible to the Applicant. All Applicants are entitled to be represented at all stages of the appeal proceeding by a person designated by the Applicant.
4. Appeals shall be to the Board (of Zoning Adjustment), who shall hear the matter and render a determination as soon as reasonably practicable, but in no event later than forty-five (45) days after an appeal has been filed. All determinations on appeals shall address and be based upon the findings identified in Subsection (F) of this Section and shall be consistent with the Acts.
5. An Applicant may request reasonable accommodation in the procedure by which an appeal will be conducted.

- H. Fee: The County shall not impose any additional fees or costs in connection with a request for reasonable accommodation under the provisions of this Section or an appeal of a denial of such request by the Director/Designee. Nothing in this ordinance obligates the County to pay an Applicant's attorney fees.
- I. Stay of Enforcement: While an application for reasonable accommodation or appeal of a denial of said application is pending before the County, the County will not enforce the subject zoning ordinance against the Applicant.
- J. Record-keeping: The County shall maintain records of all oral and written requests submitted under the provisions of this Section, and the County's responses thereto, as required by State law.