

PART THIRTEEN: PLANNING AND ZONING CODE

CHAPTER 3

ARTICLE 1331 PURPOSE AND INTRODUCTION

Section 1331.01 Title.

This ordinance shall be known as the Zoning Ordinance of the City of Moundsville, West Virginia, hereinafter referred to as “this code.”

Section 1331.02 Authority.

Whereas, by act of the West Virginia State Legislature, as recorded in the West Virginia Code, the governing body of any county or municipality may, by ordinance, classify the territory under its jurisdiction into districts of such number, shape, and size as it may deem best suited to carry out the purpose of zoning.

Section 1331.03 Purpose.

This Zoning Ordinance is consistent with the City of Moundsville Comprehensive Plan and was developed to promote the health, safety, morals, and general welfare of the public. Other purposes of this Zoning Ordinance include:

- a. To plan so that adequate light, air, convenience of access, and safety from fire, flood, and other danger is secured;
- b. To ensure attractiveness and convenience is promoted;
- c. To lessen congestion;
- d. To preserve historic landmarks, sites, districts and buildings; and
- e. To promote the orderly development of land.

Section 1331.04 Scope and Jurisdiction.

The provisions of this Zoning Ordinance shall apply to the construction, addition, alteration, moving, repair, and use of any building, structure, parcel of land, or sign within the City of Moundsville, except work located primarily on a public way or road, or on public utilities and public utility structures. In fulfilling these purposes, this Zoning Ordinance is intended to benefit the public as a whole and not any specific person or class of persons. Although, through the implementation, administration, and enforcement of this code, benefits and detriments will be enjoyed or suffered by specific individuals, such is merely a byproduct of the overall benefit to the whole community. Therefore, unintentional breaches of the obligations of administration and enforcement imposed on the City of Moundsville hereby shall not be enforceable in tort.

Section 1331.05 Interpretation, Conflict, and Severability.

In interpretation and application of this code, these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provisions of law. Where the conditions imposed by, or pursuant to, these regulations are different from those imposed by any other provision of these regulations or any other ordinance rule or regulation, statute, or other provision of law, the provisions which are more restrictive and which impose the higher or greater standards shall control. If any portion of this Zoning Ordinance is held invalid for any reason, the remaining herein shall not be affected.

Section 1331.06 Non-Exclusionary Intent.

It is not the intent of this code to exclude any persons or groups with differing economic, race, color, religion, sex, national origin, disability or familial status from enjoyment of a residence, land ownership, or tenancy within the City of Moundsville; nor is it the intent of this code to use public powers in any way to promote the separation within Moundsville of economic, racial, religious, or ethnic groups, except as may be an incidental result of meeting the purposes outlined in this article.

Section 1331.07 Official Zoning Map.

The Zoning Ordinance of the City of Moundsville shall include this code and the accompanying Official Zoning Map, which shall be considered part of this code. The Official Zoning Map shall be the map certified by the City Council of Moundsville. All subsequent amendments (i.e., rezoning) of the Official Zoning Map shall be certified by

the City Council of Moundsville and then filed with both the office of the Clerk of Marshall County and the Clerk for the City of Moundsville.

Section 1331.08 Enactment.

Therefore, the Council of the City of Moundsville hereby ordains for the purpose of accomplishing the objectives set out in the West Virginia Code, and Section 1331.03 of this code, that the following be enacted as the Zoning Ordinance of the City of Moundsville, West Virginia.

Section 1331.09 Effective Date.

This act shall take effect [effective date].

ARTICLE 1333 DEFINITIONS

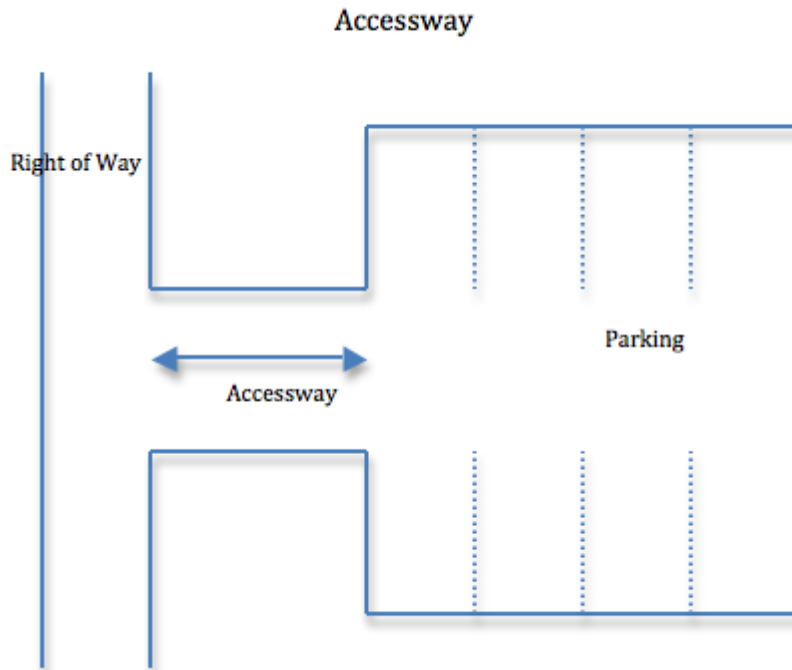
Section 1333.01 Interpretation of Words.

For the purpose of this Zoning Ordinance certain terms and words used herein shall be interpreted as follows:

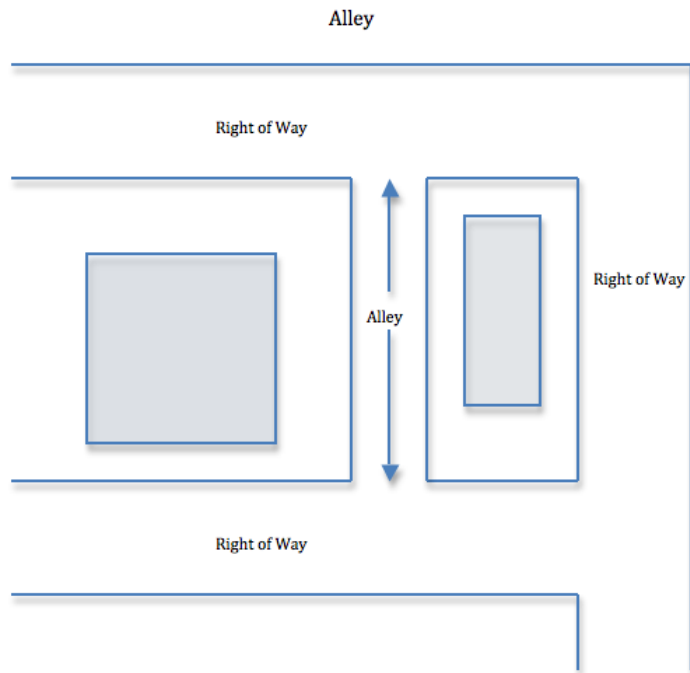
- a. Words used in the present tense include the future tense.
- b. Words used in the singular number shall include the plural, and words used in the plural number shall include the singular.
- c. The word “person” shall include a firm, association, organization, limited liability company, limited partnership, corporation, trust, company, as well as a natural individual.
- d. The word “City” shall mean the City of Moundsville.
- e. The word “shall” and “must” are used to indicate mandatory directives.
- f. The word “structure” shall include the word “building.”
- g. The word “Map” or “Zoning Map” or “Zoning Map, City of Moundsville, West Virginia” or “Official Zoning Map” shall mean the map that geographically illustrates all zoning district boundaries within the City of Moundsville, West Virginia, pursuant to the requirements of Chapter 8A of the West Virginia Code.
- h. The term “governing body” and “city council” shall both mean the City Council for the City of Moundsville, Marshall County, West Virginia pursuant to the Charter of the City of Moundsville.
- i. The term “Planning Commission” shall mean the Planning Commission for the City of Moundsville, Marshall County, West Virginia, pursuant to Chapter 8A of the West Virginia Code.
- j. “Districts” or “Zoning Districts” shall mean administrative tracts designating the uses to which land can legally be utilized. Boundaries of the districts are shown on the Official Zoning Map, which is a part of this code.

Section 1333.02 Definitions.

- a. Unless otherwise expressly stated, the following words shall, for the purpose of this Zoning Ordinance, be defined as follows:
 1. “Abandonment” means the relinquishment of property or a cessation of the use of the property by the owner or lessee without any intention of transferring rights to the property to another owner or without any intention to resume a nonconforming use of the property for a period of one year.
 2. “Accessory Use” means a use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use.
 3. “Accessory Structure” means a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure, including but not limited to swimming pools, piers and other water related structures, parking, fences, gazebos, non-commercial greenhouses, private garages, satellite dishes, doghouses, and dog-related structures.
 4. “Accessway” means a private vehicular facility for townhomes, multi-family dwellings, and condominiums, serving more than four (4) dwelling units, and commercial developments that extends from the curb-line extended of a public or private road to the parking lot.



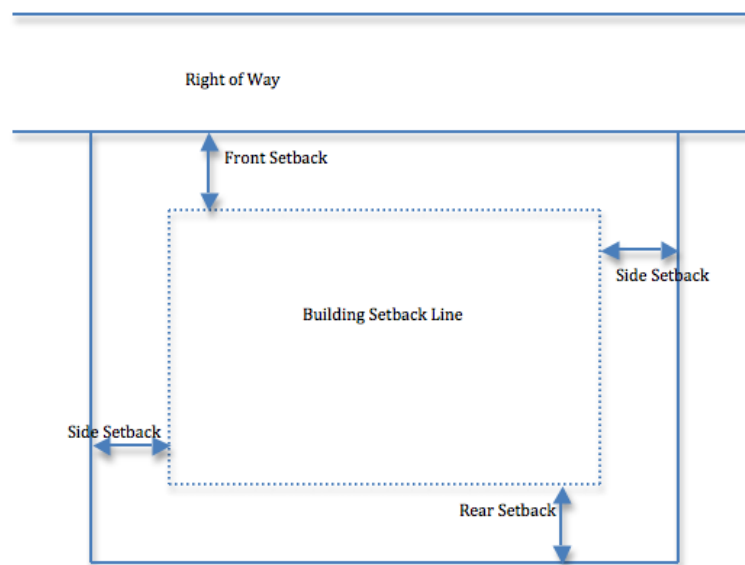
5. "Adult Bookstore" means any commercial establishment in which is offered for sale as a substantial or significant portion of its stock-in-trade videocassettes, movies, books, magazines or other periodicals, or other media which are distinguished or characterized by their emphasis on nudity or sexual conduct or on activities which, if presented in live presentation, would constitute adult entertainment.
6. "Adult Business" means an adult bookstore, movie theater, or movie house or other adult entertainment, as defined herein.
7. "Adult Entertainment" means an establishment providing, either as a sole use or in conjunction with or in addition to other uses, entertainment consisting of the use of nudity or of live dancing, posing, displaying, acting, or other live presentation or use of persons whose actions are distinguished or characterized by emphasis on use of the human body in a manner intended to or resulting in arousal of sexual excitation or sexual titillation or a prurient interest or intended to or resulting in producing lustful emotions.
8. "Adult Movie Theater" or "Movie House" (including Adult Mini-Theaters) means any movie theater which on a regular, continuing basis shows films rated X by the Motion Picture Coding Association of America or any movie theater which presents for public viewing on a regular, continuing basis so-called adult films constituting adult entertainment, as defined by this code.
9. "Advertising" means any words, symbol, color, or design used to call attention to a commercial product, service, or activity.
10. "Aggrieved or Aggrieved Person" means a person who (1) is denied by the planning commission, board of subdivision and land development appeals, or the board of zoning appeals, in whole or in part, the relief sought in any application or appeal; or (2) has demonstrated that he or she will suffer a peculiar injury, prejudice, or inconvenience beyond that which other residents of the municipality may suffer.
11. "Agriculture" means the keeping of livestock or cultivation of the soil, including the planting and harvesting of crops.
12. "Alley" means a service roadway providing a secondary means of access to abutting property and not intended for general traffic circulation.



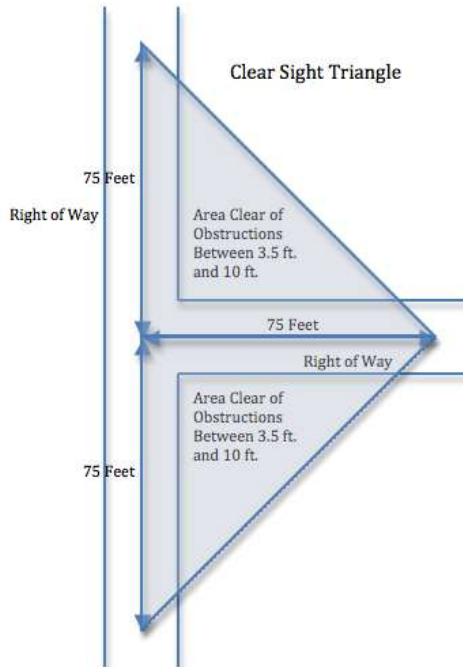
13. "Alteration" means any change or expansion in the size, configuration, exterior features, or location of a structure; or any change or expansion in the use of a structure or lot from a previously approved or legally existing size, configuration, location, or use.
14. "Amphitheater" means an outdoor gathering space typically for entertainment which is often constructed with tiers of seats or sloping surfaces that gradually rise outward from a central open space or stage. An amphitheater may include a bandshell-type structure to provide weather protection to a stage.
15. "Amusement and Recreation Center" means a business establishment, generally intended for use by all ages, that provides recreation or entertainment, including but not limited to swimming pools, dance halls, bowling alleys, skating rinks, billiard and pool halls, video and other coin-operated electronic games, miniature golf courses, indoor archery range, table games, trampolines, ball pits, and similar recreational diversions.
16. "Animal Hospital" or "Veterinary Office" means an establishment for temporary occupation by sick or injured animals for the purpose of medical diagnosis and treatment, but excluding the treatment or other care of humans.
17. "Antenna Support Structure" means any building or structure other than a tower which can be used for location of telecommunications facilities.
18. "Automobile" means a road vehicle, typically with four wheels, able to carry a small number of people.
19. "Automobile Car Wash" means the use of a site for washing and cleaning of automobiles, recreational vehicles, or other light duty equipment.
20. "Bakery" means an establishment primarily engaged in the retail sale of baked goods for consumption off-site.
21. "Bank/Financial Institution" means a bank, savings and loan, credit union, or other institution that provides retail banking services to individuals and businesses.
22. "Basement" means a story having one half (0.5) or more of its clear height below grade.
23. "Bed and Breakfast Inn" means a private residence in which overnight accommodations are provided for not more than 10 transient paying guests, along with ancillary services such as providing breakfast, private parties, and evening and lunch meals to guests; holding outdoor events such as weddings, fundraising or civic events for local clubs, and special dinners or meals; and operating gift shops.
24. "Board" or "Board of Zoning Appeals" means the officially constituted body appointed to carry out duties and responsibilities in accordance with the West Virginia Code, Chapter 8A, Article 8, *et seq.*, as amended.
25. "Boat and Marine Sales/Service" means the sales, service, and repair of new and used boats, boat trailers, marine hardware, and related products

26. "Boat Storage" means an enclosed, partially enclosed, or open facility utilized for the wet or dry storage of boats.
27. "Bollard" means a short, vertical, and permanent post, usually ornamental in nature, used to inhibit trespass by persons or vehicles, or to prevent encroachment onto private property or other defined space.
28. "Brewery Pub" means a place of manufacture of nonintoxicating beer or nonintoxicating craft beer owned by a resident brewer, subject to federal and state regulations and guidelines, a portion of which premises may be designated for retail sales for consumption on the premises of nonintoxicating beer or nonintoxicating craft beer by the resident brewer owning the brewpub.
29. "Broadcasting Studio" (radio/television) means a structure housing the operation of the over-the-air distribution of audio or video signals to a large number of recipients ("listeners" or "viewers") within the technical reach of the signals.
30. "Building" means any structure having enclosing walls and roofs and requiring a permanent location on the land.
 - i. "Principal Building" means a building in which is conducted the principal use of the site or lot on which it is situated. In all residential districts, a dwelling is the principal building on the lot on which it is located.
 - ii. "Building Frontage" means the length of the main wall of a building which physically encloses usable interior space and which is the architecturally designed wall that contains the main entrance for use by the general public. Said frontage is measured at a height of ten (10) feet above grade.
 - iii. "Building, Height of" means the vertical distance measured from the level of approved street grade opposite the middle of the front of the building to the highest point of the coping of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of gable, hip, or gambrel roof.
31. "Building Material Facility" means an establishment that sells home, lawn, and garden supplies and tools and construction materials, such as brick, lumber, hardware, and other similar materials. Construction goods may be located in outdoor storage.
32. "Building Setback Line" means a line establishing the minimum allowable distance between the nearest part of any building, including decks, patios, covered porches, steps, and landings exceeding twenty-four (24) square feet, but excluding eaves, overhangs, bay windows, sills, belt courses, cornices, and ornamental features not exceeding two (2) feet in width, to the nearest edge of a street right-of-way, property line, or easement line, when measured perpendicular thereto.

Building Setback Line

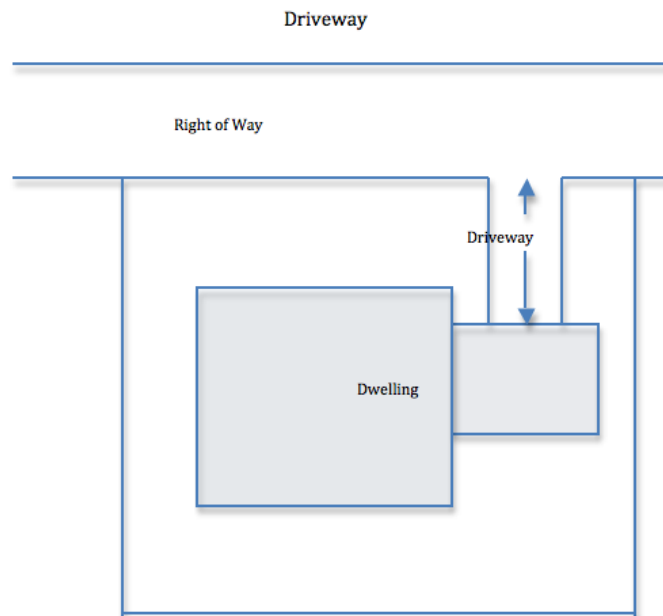


33. "Bus & Transit Facilities" means a facility operated as a bus or rail passenger station or transfer center that may have a covered structure. Typical facilities may include station platforms, bus bays, off-street parking, private access roads, and other passenger amenities.
34. "Campground" means a publicly or privately owned site designed, designated, maintained, intended, or used for the purpose of supplying a location for seasonal, recreational, and temporary living purposes in cabins, tents, or recreational equipment or vehicles open to the public for free or for a fee. This definition excludes "tourist" or "trailer camps."
35. "Catering Business" means the preparation and delivery of food and beverages for off-site consumption for a fee.
36. "Cemetery/Mausoleum" means land used or intended to be used for the disposition of human remains and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries and funeral homes when operated with and within the boundary of such cemetery.
37. "Centerline" means an imaginary line running parallel to street or easement right-of-way lines and equidistant from the lines on each side of the street or easement, or a line following the center of a physical feature such as a stream.
38. "Child Day Care Facility" is divided into four classes:
 - i. "Child Day Care Facility, Class 1" means a facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private, for the care of thirteen (13) or more children for child care services in any setting, if the facility is open for more than thirty (30) days per year per child.
 - ii. "Child Day Care Facility, Class 2" means a facility which is used to provide child care services for compensation for seven (7) to twelve (12) children, including children who are living in the household, who are under six (6) years of age. No more than four (4) of the total number of children may be under twenty-four (24) months of age. A facility may be in a provider's residence or a separate building.
 - iii. "Child Day Care Facility, Class 3" means a facility which is used to provide child care services for compensation in a provider's residence. The provider may care for no more than six (6) children at one time including children who are living in the household, who are under six (6) years of age. No more than two of the total number of children may be under twenty-four (24) months of age.
 - iv. "Child Day Care Facility, Class 4" means residential child care services for compensation for three (3) or fewer children, including children who are living in the household, who are under six (6) years of age. Care is given in the provider's own home to at least one (1) child who is not related to the caregiver.
39. "Clear Sight Triangle" means the triangular area formed by intersecting street, alley, or other public right-of-way centerlines and a line interconnecting points established on each centerline, seventy-five (75) feet from the point of intersection and the plane established three and one-half (3.5) feet in elevation to a height of ten (10) feet from grade level at the intersection of the street, alley, or other public right of way centerline.



40. "Clinic" means an establishment providing medical, opioid treatment, dental, chiropractic, psychiatric, or surgical services exclusively on an outpatient basis, including emergency treatment and diagnostic services.
41. "Community Facility" means a nonprofit facility whose primary goal is to provide a community service and may be publicly or privately owned.
42. "Compact Car Parking Stall" an off-street space available for parking of one (1) automobile and having an area not less than eight (8) feet in width by eighteen (18) feet in depth and an area exclusive of passageways, accessways, and driveways appurtenant thereto, and having a means to direct access to a street or road.
43. "Comprehensive Plan" means the comprehensive plan for the City of Moundville.
44. "Conditional Use" means a use which because of special requirements or characteristics may be permitted in a particular zoning district only after review by the board of zoning appeals and upon issuance of a conditional use permit, and subject to the limitations and conditions specified in this code.
45. "Contiguous" means lots, parcels, municipal boundaries or county boundaries that are next to, abutting, and having a boundary, or portion thereof, that is coterminous. Streets, highways, roads or other traffic or utility easements, streams, rivers, and other natural topography are not to be used to determine lots, parcels, municipal boundaries, or county boundaries as contiguous.
46. "Continuing Care Facility" means one or more of the following types of facilities:
 - i. "Adult Assisted Living" means any facility, residence, or place of accommodation available for four (4) or more residents for the purpose of having personal assistance or supervision, or both, provided to any residents therein who are dependent upon the services of others by reason of physical or mental impairment and who may also require nursing care at a level that is not greater than limited and intermittent nursing care.
 - ii. "Nursing Home" means any institution, residence, or place, or any part or unit thereof, however named, which is advertised, offered, maintained, or operated by the ownership or management, whether for consideration or not, for the express or implied purpose of providing accommodations and care, for a period of more than twenty-four (24) hours, for four (4) or more persons who are ill or otherwise incapacitated and in need of extensive, ongoing nursing care due to physical or mental impairment or which provides services for the rehabilitation of persons who are convalescing from illness or incapacitation.
 - iii. "Skilled Nursing Facility" means an institution, or a distinct part of an institution, that primarily provides inpatient skilled nursing care and related services, or rehabilitation services, to injured, disabled, or sick persons.

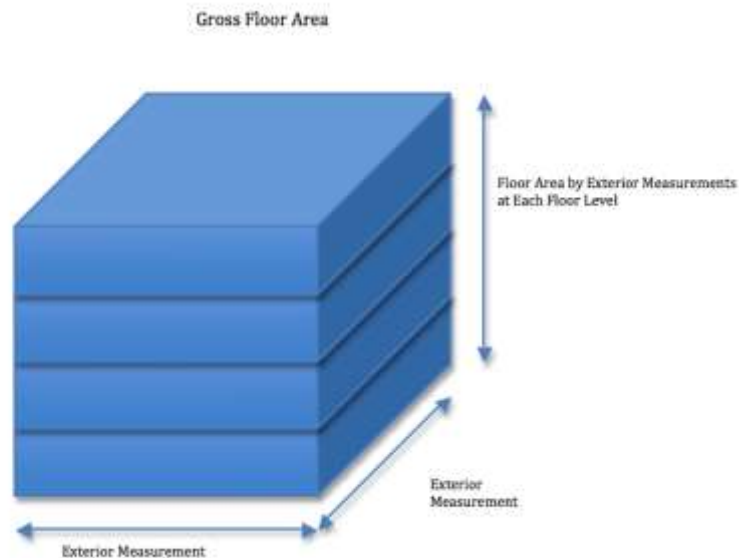
47. “Convenience Store” means a business establishment that offers convenience goods for sale, such as pre-packaged or limited prepared food items, tobacco, and periodicals, but not having gasoline sales on premises and not displaying merchandise or products outdoors, except where such display is required to sell the merchandise.
48. “Conversion of Old Schools/Churches” means the adaptive reuse of a former school or church for residential or commercial purposes not affiliated with the prior use.
49. “Correctional Facility” means a publicly or privately operated facility housing persons awaiting trial, serving a sentence after being found guilty of a criminal offense, being within the jurisdiction of a federal, state, or local probation, parole, or corrections agency or receiving treatment other than at a hospital while under the jurisdiction of such authority or agency, including but not limited to jails, prisons, juvenile detention centers, work release centers, pre-release centers, and treatment centers.
50. “Council” means the Council of the City of Moundsville.
51. “County” means Marshall County, West Virginia.
52. “Cultural Service” means a site used for the collection, display, or preservation of objects of community or cultural interests, such as a library, museum, or similar facility.
53. “Distribution Facility” means any premises or part thereof, which provides logistical support for business, such as freight management, inventory control, storage, packaging, and consolidation of goods for distribution.
54. “Distillery” means, as defined by West Virginia statutes, an establishment where alcoholic liquor other than wine or beer is manufactured or in any way prepared.
55. “Dog Day Care” means an organized, controlled, and monitored environment for a group of dogs to interact and play throughout the day. The purpose is to provide stimulation, exercise, and socialization for dogs, and ancillary services. Overnight stays are not permitted in dog day care facilities.
56. “Driveway” means a privately owned vehicular accessway from a street to properties abutting the street and serving no more than four dwelling units.



57. “Dry Cleaner” means an establishment providing dry cleaning and laundering services where dry cleaning and laundering are done on the premises. Includes the mechanical cleaning of garments, clothing articles, or goods of fabric, including a linen, diaper, or uniform laundering service. May perform work on the premises for other dry cleaning and laundry services, serve retail customers, and provide ancillary services such as tailoring.
58. “Dry Cleaning and Laundry Pick-up Station” means an establishment where customers drop-off and pick up garments or articles that are sent to another location for cleaning or laundering. A dry cleaning and laundry pick-up station does not include on-site dry cleaning or laundry facilities.

59. "Dwelling" means a house, apartment building, or other building designed or used primarily for human habitation, but not including boarding houses, rooming houses, tourist homes, motels, hotels, or other structures designed for transient residence.
60. "Dwelling, Conversion Apartment" means the remodeling of a single-family dwelling unit into two or more separate living units each having a minimum of five hundred (500) square feet of gross living space and having separate and private sanitary, cooking, and dining facilities and a minimum of two off-street parking spaces per living unit.
61. "Dwelling, Garage Conversion" means conversion of an existing garage to habitable space for domestic use no smaller than five hundred (500) square feet of gross living space.
62. "Dwelling, Mixed Use" means a building containing a residence with commercial or office uses on the ground floor in the front of the building facing the primary street frontage. Residential units may be on the ground floor, provided they are not accessed from any portion of the building that faces the primary street. Residential units may be located on the ground floor behind the commercial uses.
63. "Dwelling, Multi-Family" means a freestanding building containing three (3) or more dwelling units, whether they have direct access to the outside, or access to a common building entrance. Multi-family dwellings can consist of rental or owner occupied dwelling units, provided that all such freestanding buildings contain three (3) or more dwelling units.
64. "Dwelling, Single-Family" means a detached, permanent structure designed for or occupied exclusively as a residence for only one family.
65. "Dwelling, Townhouse" or "Rowhouse" means a one-family dwelling unit, with private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation.
66. "Dwelling, Two-Family" means a freestanding building containing two (2) dwelling units, each of which has direct access to the outside.
67. "Dwelling Unit" means any dwelling or portion thereof used or intended to be used by one family and providing complete housekeeping facilities.
68. "Educational Institution" means a college or university giving general academic instruction. Included within this term are areas or structures used for administration, housing of students and faculty, dining halls, and social or athletic activities when located on the institution's land that is not detached from where classroom facilities are maintained.
69. "Emergency Services" means an area utilized for the maintenance, fueling, storage, receiving and dispatching calls or transmissions, or parking of vehicles or equipment providing rescue or ambulatory services.
70. "Emergency Shelter " means a residential facility which provides room and board for a temporary period, protection, counseling, and pre-placement screening for abused, displaced, or transient adults or children.
71. "Equipment Rental/Repair" means an establishment involved in renting or repairing small tools and equipment, including janitorial equipment.
72. "Existing Use" means use of land, buildings, or activity permitted or present prior to the adoption of a zoning map or ordinances by the county or municipality.
73. "Extractive Industry" means a heavy industry use that involves the extraction of minerals for sale or other commercial purpose, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity.
74. "Factory-Built Home" means manufactured homes and mobile homes.
 - i. "Manufactured Home" means a home which is factory-built after June 15, 1976, in the U.S. to the HUD Title 6 construction standards; which displays required documentation, the Certification Label and the Data Plate; and which is built on a permanent chassis to ensure transportability.
 - ii. "Mobile Home" means a home which is factory-built before June 15, 1976, and not built to a uniform construction code.
75. "Factory-Built Home Rental Community" means a parcel of land under single or common ownership upon which two or more factory-built homes are located on a continual, nonrecreational basis together with any structure, equipment, road, or facility intended for use incidental to the occupancy of the factory-built homes, but does not include premises used solely for storage or display of uninhabited factory-built homes or premises occupied solely by a landowner and members of their family.

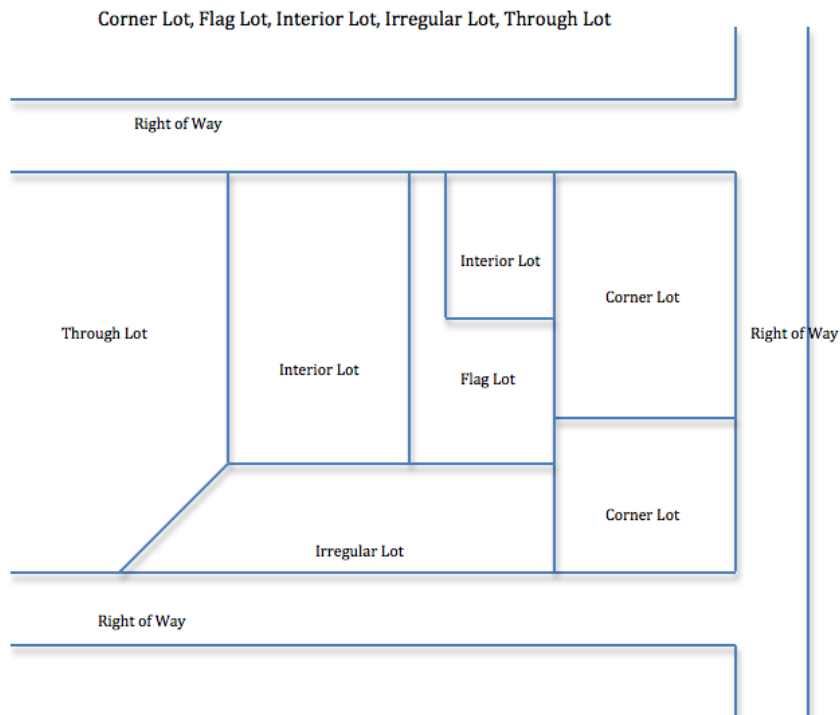
76. "Fairground" means an area of land used for fairs in accordance with local and state requirements, exhibitions, and shows, including but not limited to animal shows and judging, carnivals, circuses, concerts, food booths and stands, games, rides, rodeos, sales and auctions, storage, racetracks, agricultural related office buildings, and community meeting or recreational buildings and uses.
77. "Family" means an individual or two or more persons related by blood, marriage, adoption, or foster relationship, or no more than four (4) unrelated individuals and individuals related by blood, marriage, adoption, or foster relationship to any of those four (4) unrelated individuals, living together as a single housekeeping unit and sharing common living, dining, and kitchen areas, subject to the requirements of the Building Code.
78. "Farm" means the raising of crops or livestock, including orchards, vineyards, or nurseries, along with any buildings or structures necessary to conduct such activities.
79. "Farm/Construction Equipment and Supply Sales" means an establishment engaged in the on-premises lease, rental, or retail sale of new or used construction or farm equipment, with or without incidental service for minor repairs and maintenance.
80. "Farmer's Market" means the offering for sale of agricultural products directly to the consumer at an open-air market designated as a community activity.
81. "Federal, State, County, and Municipal Offices" means government owned or occupied buildings not being industrial in nature.
82. "Fence" means an artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate an area.
83. "Flag" means a piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole or rope and used as a symbol or decoration; this includes pennants.
84. "Flea Market" means an outdoor or enclosed commercial activity, open to the general public that offers goods for sale, trade, or barter regardless of whether they are new, used, antique, or homemade.
85. "Floor Area, Gross" means the total area of a building measured by taking the outside dimensions of the building at each floor level.



86. "Freight Terminal" means any premises and buildings where cargo is stored and where railroad cars or trucks load and unload cargo for shipment or distribution and which may include facilities for temporary storage of loads prior to shipment and facilities for the maintenance of transport vehicles.
87. "Front Building Line" means a line parallel to the front lot line, at a distance measured perpendicular therefrom as prescribed in this code for a required yard. Where there is no required yard, the lot line is the front building line.
88. "Funeral Home/Mortuary" means a building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial or disposition of the dead; including cremation (b) the performance of

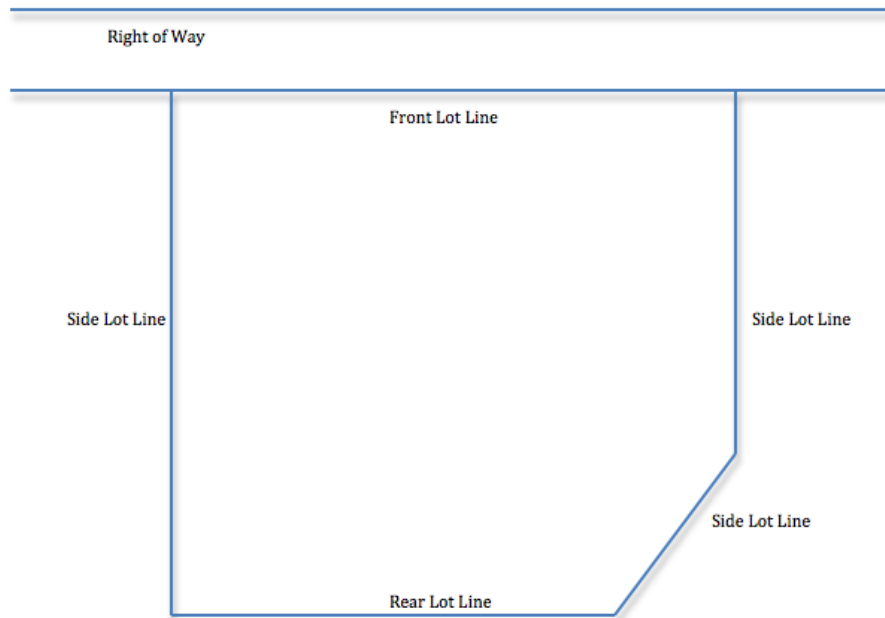
- autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles; and (e) facilities for cremation.
89. "Garage, Private" means an accessory structure either attached to or detached from a residential dwelling which is situated on the same property or adjoining property and used for storing personal property by the resident of the dwelling and not to be used as a business.
 90. "Garage, Public" means a garage conducted as a business, which includes but is not limited to the rental of storage space for more than two automobiles or for one commercial vehicle not owned by a person residing on the premises.
 91. "Garage Sale" means the sale of personal property owned or maintained by occupants of the premises in, at, or upon any residentially zoned or residentially occupied property. Garage sales shall include, but not be limited to, any yard sale, multi-family sale, home sale, patio sale, or any other sale similarly conducted on any residentially zoned or residentially occupied property.
 92. "Garden Center" means an establishment primarily engaged in selling containerized trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools, and other garden supplies to the general public and where no trees, shrubs or plants are grown on the premises.
 93. "Gas Station" means a building, place of business, land area, or other premises, or portion thereof, used or intended to be used for the retail dispensing of gasoline, oil and grease, and other vehicle fuels, and including, as an accessory use, the sale and installation of batteries, tires, lubricants, and other automobile accessories and retail items. Minor repair service may also be rendered. May also offer convenience goods for sale, such as pre-packaged or limited prepared food items, tobacco, and periodicals, except that the term does not include display of merchandise or products outdoors except where such display is required to sell the merchandise.
 94. "Greenhouse, Non-commercial" means a building or structure under one hundred and fifty (150) square feet constructed chiefly of glass, glasslike or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers or other weather-sensitive plants.
 95. "Greenhouse, Commercial" means a building used for the growing of plants, all or part of which are sold at retail or wholesale.
 96. "Group Residential Facility" means a facility which is owned, leased, or operated by a behavioral health service provider and which (1) provides residential services and supervision for individuals who are developmentally disabled or behaviorally disabled; (2) is occupied as a residence by not more than eight individuals who are developmentally disabled and not more than three supervisors or is occupied as a residence by not more than twelve individuals who are behaviorally disabled and not more than three supervisors; (3) is licensed by the Department of Health and Human Resources; and (4) complies with the State Fire Commission for residential facilities.
 97. "Group Residential Home" means a building owned or leased for developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence, and complying with all applicable requirements of the state of West Virginia. Includes a place for transitional group living arrangements for persons discharged from hospitals, correctional facilities, or in lieu of hospitalization, characterized by the presence of live-in staff and emphasizing the development of skills necessary for more independent living, which is licensed and operated in accordance with all applicable laws, and does not exceed eight (8) total individuals including live-in staff.
 98. "Health Club" means a building or portion of a building designed and equipped for sports, exercise, or other customary and usual recreational activities, operated for profit. The sale of sports nutrition products, non-alcoholic beverages, packaged health foods, exercise clothing, and sports videos and magazines is permitted as an accessory use to such facilities.
 99. "Historic District" means a geographically definable area, designated as historic on a national, state, or local register, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.
 100. "Historic Landmark" means a site, building, structure, or object designated as historic on a national, state, or local register.
 101. "Historic Site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure and designated as historic on a national, state, or local register.
 102. "Holiday Displays" means exhibits erected on a seasonal basis in observance of religious, national, or state holidays, which are not intended to be permanent in nature and which contain no advertising material.

103. "Home-Based Business (Low Impact)" means a an accessory use intended to allow commercial enterprises that generate limited numbers of customer visits or merchandise deliveries to a residential dwelling. Use involves limited customer, client, or patient traffic, whether vehicular or pedestrian, pickup, delivery, or removal functions to or from the premises, in excess of those normally associated with the use of a dwelling.
104. "Hospital" means an institution designed for the diagnosis, treatment, and care of human illness or infirmity and providing health services, primarily for inpatients, and including related facilities, laboratories, outpatient departments, training facilities, and staff offices.
105. "Hotel/Motel" means a building or group of buildings in which lodging is provided and offered for compensation. The building may also include dining rooms, kitchens, serving rooms, ballrooms, and other facilities and services intended primarily for the accommodation of its patrons.
106. "Industrial Park" means an area of land arranged or constructed in accordance with a plan for a group of business purposes, having separate building sites designed and arranged on streets and having utility services, setbacks, side yards, and covenants or other such regulations controlling or restricting uses.
107. "Kennel" means any establishment wherein cats and dogs are kept or boarded. Business may be conducted in conjunction with a dog day care.
108. "Laboratory" means a facility equipped for experimental study in a science or for testing and analysis; a facility providing opportunity for research, experimentation, observation, or practice in a field of study.
109. "Landscaping" means the bringing of the soil surface to a smooth finished grade, installing trees, shrubs, ground cover, grass, and similar vegetation to soften building lines, provide shade, and generally produce a pleasing visual effect of the premises.
110. "Laundromat" means a business that provides washing, drying, or ironing machines for hire to be used by customers on the premises.
111. "Liquor Store" means an establishment operated under the authority of the West Virginia Code, Chapter 60, Article 3A, and primarily engaged in the retail sale of packaged alcoholic beverages such as ale, beer, wine, or whiskey, for off-premises consumption.
112. "Loading Space" means an area or berth available for the loading or unloading of goods from commercial vehicles.
113. "Lot" means a parcel of land with boundaries established by some legal instrument, such as a recorded deed or a recorded map, and which is recognized as a separate legal entity for purposes of transfer of title, together with the customary accessories and open spaces belonging to the same.

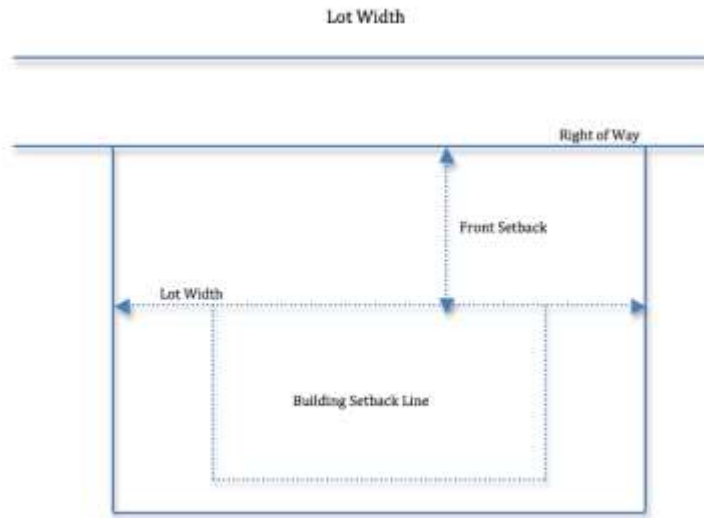


114. “Lot, Corner” means a lot at the junction of and abutting two or more intersecting streets.
115. “Lot, Interior” means a lot other than a corner lot with only one frontage on a street.
116. “Lot, Flag” means a lot not meeting minimum frontage requirements and where access to the public road is by a narrow, private right-of-way or driveway, or “handle.”
117. “Lot, Irregular” means a lot of such shape or configuration that technically meets the area, frontage, and width-to-depth requirements of the ordinance but has unusual elongations, angles, and curvilinear lines.
118. “Lot Line” means property boundary line of any lot held in single or joint ownership that divides one lot from another or from a street or any other public or private space.
- i. “Front Lot Line” means, in the case of an interior lot, a line separating the lot from the street or public right of way; and in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street.
 - ii. “Rear Lot Line” means a lot line which is opposite and more distant from the front lot line, and in the case of an irregular lot, a line ten feet in length within the lot and parallel to and at the maximum distance from the front lot line.
 - iii. “Side Lot Line” means any lot line other than a front or rear lot line.

Front Lot Line, Rear Lot Line, and Side Lot Line



119. “Lot, Through” or “Double Frontage” or “Reverse Frontage” means a lot other than a corner lot facing on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
120. “Lot Width” means the distance measured between side lot lines, at the required building setback line. In a case where there is only one side lot line, lot width is measured between such side lot line and the opposite rear lot lines or street line.



121. "Lumberyard" means an establishment where processed wood timbers and products are stored for bulk and retail sale.
122. "Manufacturing (Heavy)" means the manufacturing or compounding process of raw materials. These activities or processes would necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. These activities may involve outdoor operations as part of the manufacturing process.
123. "Manufacturing (Light)" means the manufacturing, compounding, processing, assembling, packaging, printing, or testing of goods or equipment, including but not limited to newspaper printing and distribution and research activities conducted entirely within an enclosed structure, with no outside storage, serviced by a modest volume of trucks or vans, and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust, or pollutants.
124. "Marina" means a business or recreational facility engaged in the secure mooring of boats, including facilities for storage and repair of boats and sale of boating supplies and fuel.
125. "Medical Adult Day Care Center" means an ambulatory health care facility which provides an organized day program of therapeutic, social, and health maintenance and restorative services and whose general goal is to provide an alternative to twenty-four hour long term institutional care to elderly or disabled adults who are in need of such services by virtue of physical and mental impairment.
126. "Nightclub" means an establishment for evening entertainment, generally open until the early morning that serves liquor and usually food and offers patrons music, comedy acts, a floor show, or dancing but is not characterized as a forum for sexually oriented material.
127. "Non-conforming Building or Structure" means a building or structure lawfully constructed and not otherwise abandoned, existing on the effective date of this code, on the effective date of any amendment thereto, or prior to annexation, which renders such building or structure illegal within a district, or not complying in any fashion with any of the rules, requirements, and regulations of this code or any amendments thereto.
128. "Non-conforming Lot" means a lot or parcel of land that was of record and lawfully established and maintained but which, because of the enactment of this code, no longer conforms to the land-use standards or use regulations of the district in which it is located.
129. "Non-conforming Sign" means any sign which was lawfully erected, maintained, and existing on the effective date of this code, on the effective date of any amendment thereto, or prior to annexation, which renders such existing sign illegal within a district, or not complying in any fashion with any of the rules, requirements, and regulations of this code or any amendments thereto, or any sign which is accessory to a nonconforming use.
130. "Non-conforming Use" means any actual and active use lawfully being made of any land, building, or structure not otherwise abandoned, existing on the effective date of this code, on the effective date of any amendment thereto, or prior to annexation, which renders such existing use illegal within a district, or not

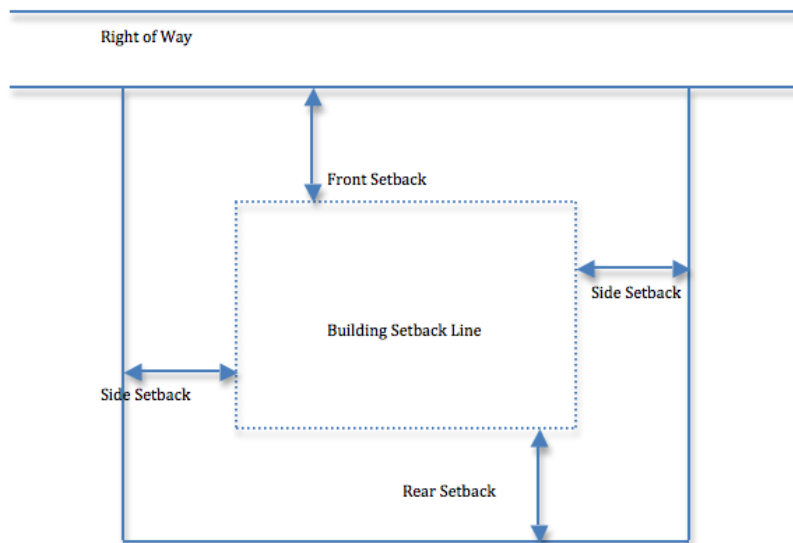
complying in any fashion with any of the rules, requirements, and regulations of this code or any amendments thereto.

131. "Nonintoxicating Beer" means all natural cereal malt beverages or products of the brewing industry commonly referred to as beer, lager beer, ale, and all other mixtures and preparations produced by the brewing industry, including malt coolers and nonintoxicating craft beers with no caffeine infusion or any additives masking or altering the alcohol effect, containing at least one half of one (0.5%) percent alcohol by volume, but not more than nine and six-tenths (9.6) of alcohol by weight, or twelve (12%) percent by volume, whichever is greater.
132. "Office Supply Establishment" means a place of business where stationery, furniture, and other supplies typically used in offices are the main items offered for sale.
133. "Open Space" means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.
134. "Owner" means any individual, firm, association, syndicate, estate, corporation, trust, or any other legal entity having proprietary interest in the land.
135. "Parallel Parking Stall" means an off-street space available for parking of one (1) automobile and having an area not less than eight (8) feet by twenty-two (22) feet and an area exclusive of passageways, accessways, and driveways appurtenant thereto, and having a means to direct access to a street or road.
136. "Parcel Delivery Facility" means an establishment engaged in the delivery, receipt, and transmittal of documents, packages, and parcels.
137. "Park" means land set aside for open space and recreation purposes.
138. "Parking Lot" means an off-street surfaced area used for parking two or more vehicles which is served by an entrance and possibly an accessway connecting the parking lot and a public or private road, but does not include parking for a single-family or two-family dwelling.
139. "Parking Stall" means an off-street space available for parking one (1) automobile and having an area not less than nine (9) feet by twenty (20) feet and an area exclusive of passageways, accessways, and driveways appurtenant thereto, and having a means to direct access to a street or road.
140. "Pennant" means a geometric shaped flag made of flexible materials, suspended from one or two corners fastened to a string, which is secured or tethered so as to allow movement and used as an attention-getting form of media.
141. "Personal Service" means a business providing services to a person, their apparel or personal effects commonly carried on or about their person, including, but not limited to, shoe repair, tailoring, watch repair, beauty shops, barber shops, tanning and nail salons, and dry cleaning and laundry pick-up stations as defined herein.
142. "Pet Shop" means an establishment where animals are bought, sold, exchanged, or offered for sale or exchange to the general public.
143. "Pharmacy" means an establishment in which prescription or nonprescription drugs or devices are compounded, dispensed, or distributed. Ancillary retail items may be sold here.
144. "Photographic Studio" means a retail establishment for the purpose of photographing subjects and processing photographs for commercial purposes, but not including photography requiring professional models.
145. "Places of Worship/Religious Institution" means a building wherein persons regularly assemble for acts of religious devotion and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes a church, synagogue, temple, mosque, or other such place for worship and religious activities. Customary accessory uses include a wide range of religious activities, including a caretaker's residence; fellowship halls, parish halls and similar buildings; rooms used for meetings, religious education, and similar functions; a gymnasium; a playground; the sale of items associated with the practice of religion; and faith-based social services such as homeless shelters, group homes, and soup kitchens.
146. "Porch" means a covered but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes.
147. "Permitted Use (Use Permitted by Right)" means any use requiring no special action by any governmental body, agency, or staff member before the zoning permit is granted by the Zoning Officer, subject to all other applicable provisions of this code.

148. "Private Club" means any corporation or unincorporated association meeting the definition of private club in West Virginia Code Section 60-7-2(a), and licensed and in compliance with West Virginia Code, Chapter 60, Article 7, to sell liquor, beer, and wine.
149. "Professional Services" means any office of recognized professions, other than medical, such as lawyers, architects, engineers, real estate brokers, insurance agents, and others who are qualified to perform services of a professional nature and other offices used primarily for accounting, corresponding, research, editing, or other administrative functions, but not including banks or other financial institutions and personal services.
150. "Public Area" means any public place, public right-of-way, any parking area or right-of-way open to use by the general public, or any navigable body of water.
151. "Public Art" means items expressing creative skill or imagination in a visual form, such as painting or sculpture, which are intended to beautify or provide aesthetic influences to public areas or areas which are visible from the public realm.
152. "Recreation, Private" means an enterprise operated by an individual or non-profit association or corporation, other than a public entity, for the pursuit of sports and recreational activities, including but not limited to such establishments as country clubs, golf courses, sports clubs, golf practice facilities, playing fields, tennis or racquet clubs, swimming pools, and similar facilities.
153. "Recreation, Public" means an enterprise owned and operated by a public entity, available to the general public, whether or not an admission fee is charged, including either indoor or outdoor facilities for the pursuit of sports, recreation, or leisure activities, including but not limited to parks, playgrounds, playing fields, fishing access, golf courses, golf or batting practice facilities, tennis courts, swimming pools, and similar facilities.
154. "Research and Development" means investigative activities a business conducts to improve existing products or services or to lead to the creation of new products and procedures that do not involve the mass manufacture, fabrication, processing, sale of products; or a structure or complex of structures designed or used primarily for research development functions related to industry and similar fields of endeavor.
155. "Resident Brewer" means any brewer or manufacturer of nonintoxicating beer or nonintoxicating craft beer whose principal place of business and manufacture is located in the state of West Virginia and which does not brew or manufacture more than twenty-five thousand barrels of nonintoxicating beer or nonintoxicating craft beer annually, and does not self-distribute more than ten thousand barrels thereof in the state of West Virginia annually.
156. "Restaurant" means a commercial establishment with an equipped kitchen where food and beverages are prepared, served, and consumed primarily on the premises and where food sales constitute more than sixty (60) percent of the gross sales receipts.
157. "Restaurant, Fast Food" means an establishment whose principal business is the sale of foods, frozen desserts, or beverages in ready to consume individual servings, for consumption either within the restaurant building or for carry out, and where either:
- i. Foods, frozen desserts, or beverages are usually served in paper, plastic, or other disposable containers, and where customers are not served their food, frozen desserts, or beverages by a restaurant employee at the same table or counter where the items are consumed; or
 - ii. The establishment includes a drive up or drive through service facility or offers curbside service.
158. "Retail Store" means a business having as its primary function the supply of merchandise or wares to the end consumer. Such sales constitute the "primary function" of the business when such sales equal at least eighty (80) percent of the gross sales of the business. Divided into three classes of retail stores based on gross floor area:
- i. Retail Store/Shop <7,000 feet of gross floor area.
 - ii. Retail Store/Shop 7,000 to 25,000 feet of gross floor area.
 - iii. Retail Store/Shop >25,000 feet of gross floor area.
159. "Right-of-way (R-O-W)" means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another similar use.
160. "Roadside Vendor Stand" means location, trailers, truck beds, or similar facilities offering products for sale which are not produced on the immediate premises.
161. "Salvage Yard" or "Junkyard" means any place which is maintained, operated, or used for the storing, keeping, buying, selling, or processing of junk, scrap material, or similar waste, including the dismantling, demolition, or abandonment of automobiles, other vehicles, machinery, or parts. Junkyard shall be synonymous with salvage yard. Two or more vehicles not in operating condition constitute a salvage yard.

162. “Satellite Signal Receiving Station” means devices commonly parabolic in shape, mounted at a fixed point on a structure, or on rooftops, for the purpose of capturing electronic television or internet signals transmitted via satellite communication facilities and serving the same or similar function as the common television antenna. Such devices are accessory structures.
163. “School, Commercial” means an educational establishment to provide for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to educational establishments that are owned and operated privately for profit.
164. “School, Pre-school to 12” means an educational establishment offering educational between pre-school through twelfth (12th) grade. Schools can be public or private, licensed in accordance with the West Virginia Code.
165. “Screening” means the use of plant materials, fencing, or earthen berms to aid in the concealment of such features as parking areas and vehicles within them, and to provide privacy between two (2) or more different adjoining land uses.
166. “Self-Storage Facility” means a building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time.
167. “Senior Independent Housing” means a single-family or multi-family development intended for, operated for and designed to accommodate residents 55 years of age or older. Senior independent housing communities are designed for seniors who are able to live independently or need assistance with daily care..
168. “Setback” means the minimum distance by which any building or structure must be separated from a street right-of-way or lot line.
- i. “Front Setback” means the shortest distance between the building setback line and the front lot line.
 - ii. “Rear Setback” means the shortest distance between the building setback line and the rear lot line.
 - iii. “Side Setback” means the shortest distance between the building setback line and the side lot line.

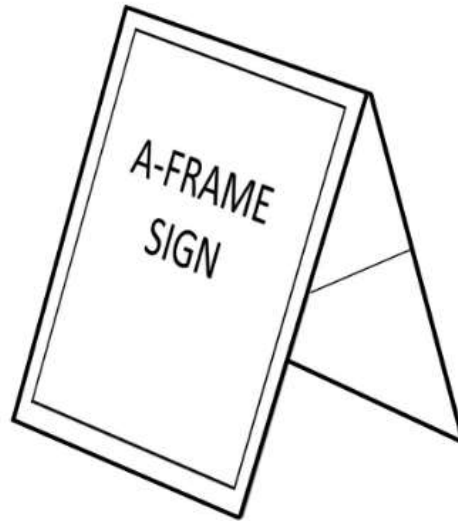
Front Setback, Rear Setback, and Side Setback



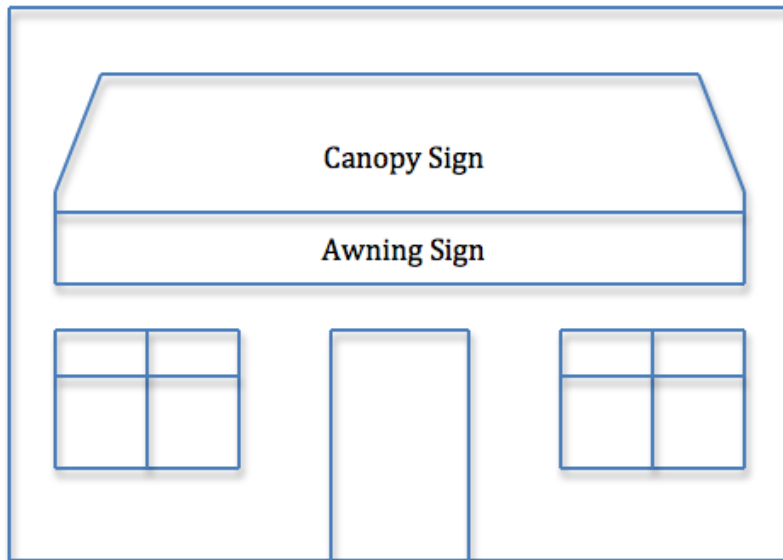
169. “Sewage Treatment Facility” means a facility designed to receive the wastewater from both residential and nonresidential sources and to remove materials that damage water quality and threaten public health and safety when discharged into receiving streams or bodies of water.
170. “Shopping Center” means a group of retail and other commercial establishments that is planned, owned, and managed as a single property.
171. “Sign” means any device (writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag, banner or pennant, or any other device, figure or character)

visible to and designed to communicate information to persons in a public area. However, the term “sign” does not include holiday displays, or architectural features, except those that identify products or services or advertise a business use.

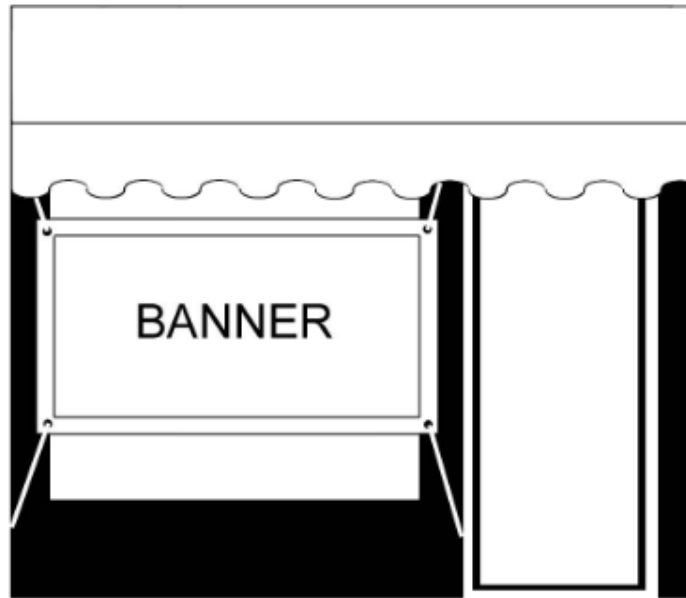
- i. “A-Frame Sign” means a two-faced sign with supports that are connected at the top and separated at the base with an internal angle between the two faces of no more than a forty-five (45) degree angle, forming an “A” shape not more than four (4) feet high. These are also referred to as “sandwich board” signs and are included in the term “portable sign.”



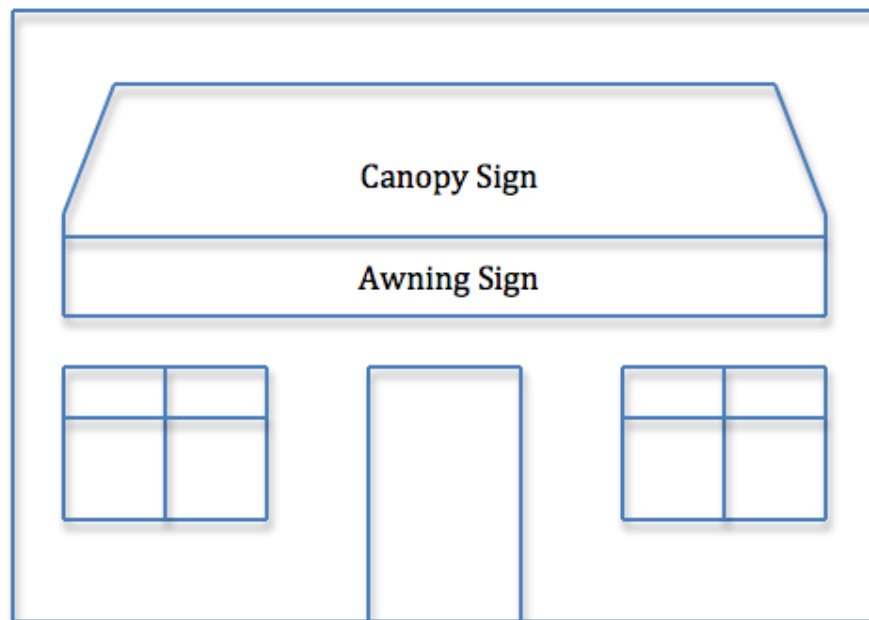
- ii. “Animated Sign” means a sign or part of a sign that is designed to rotate, move, or appear to rotate or move. Such a sign is sometimes referred to as a “moving sign.”
- iii. “Awning Sign” means a sign placed directly on the surface of an awning.



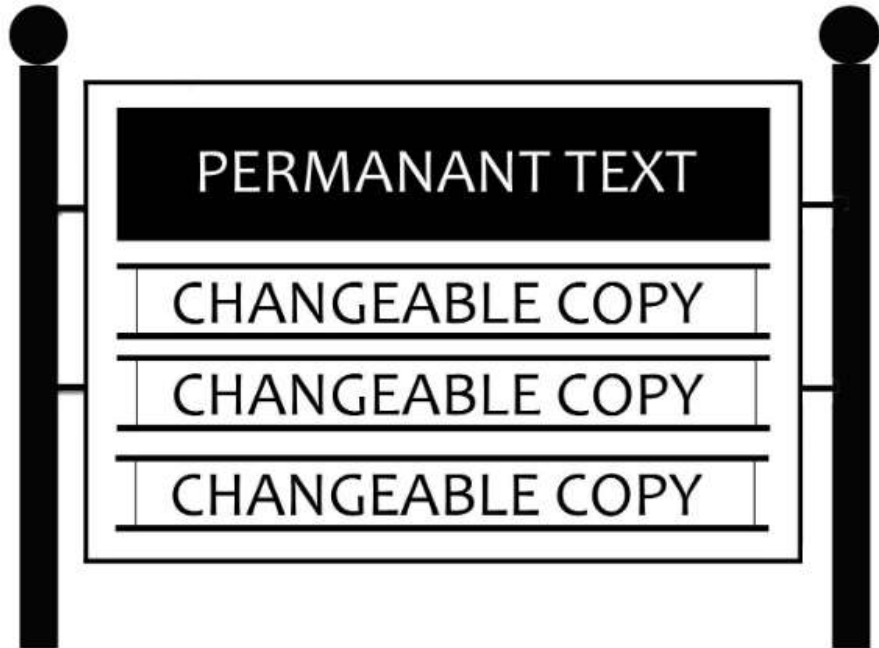
- iv. “Banner” means a temporary sign of flexible material affixed to a framework or flat surface.



- v. “Canopy Sign” means a sign attached to a canopy, which is a roof-like structure either projecting from a building façade and open on three sides, or standing alone and open on four sides, and used for the purpose of protecting pedestrians and motorists from weather related elements.



- vi. “Chalk-Board Sign” means a single-faced, framed slate, or chalk-board that can be written on with chalk or similar markers.
- vii. “Changeable Copy Sign” means a sign or part of a sign that is designed so that characters, letters or illustrations can be changed or rearranged without altering the face or surface of the sign.

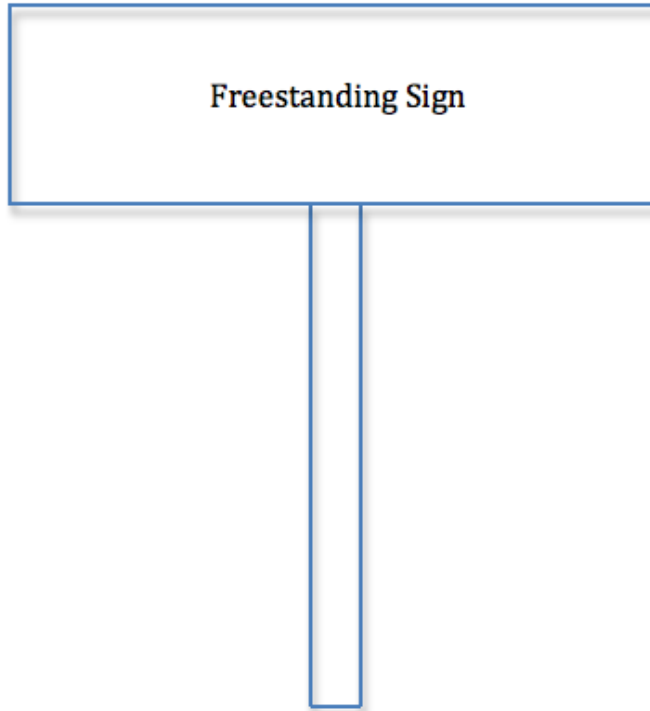


- viii. "Commercial Sign" means any sign that advertises a business.
- ix. "Feather Sign/Feather Flag/Teardrop Flag/Wind Flag" means a lightweight, portable flag made of cloth, plastic, or similar material mounted along one edge on a single, vertical, flexible pole, the physical structure of which may resemble a sail, bow, or teardrop.

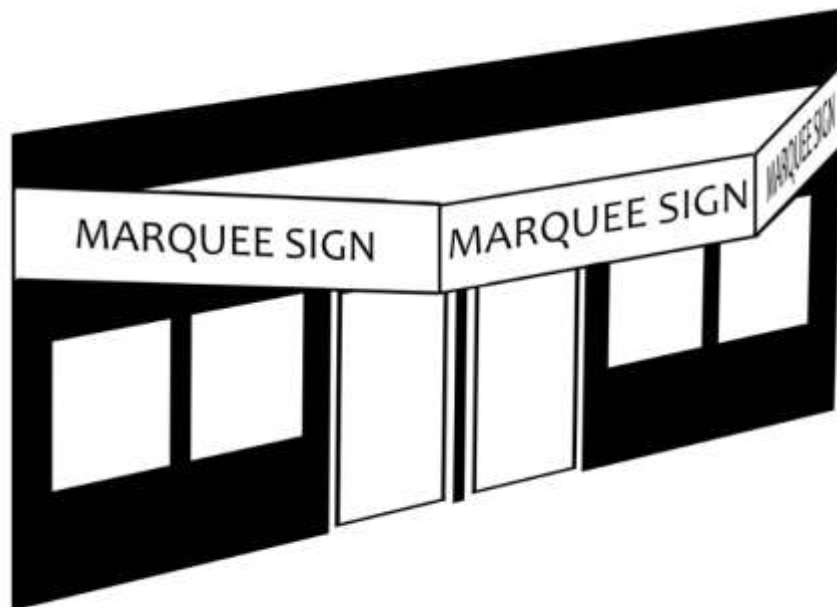


- x. "Flashing Sign" means a sign that includes lights that flash, blink, or turn on and off intermittently.

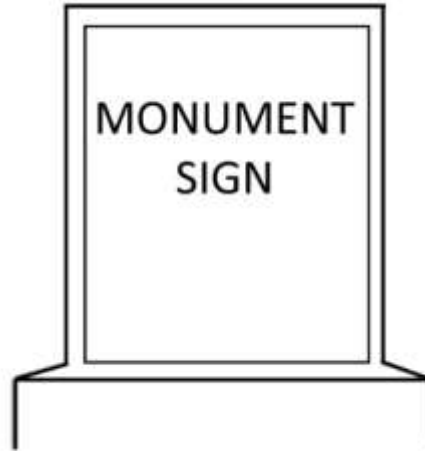
- xi. “Freestanding Sign” or “Ground-mounted Sign” or “Pole Sign” means any non-portable sign supported by a fence, retaining wall, or by pole, upright structural members, or braces on or in the ground and not attached to a building.



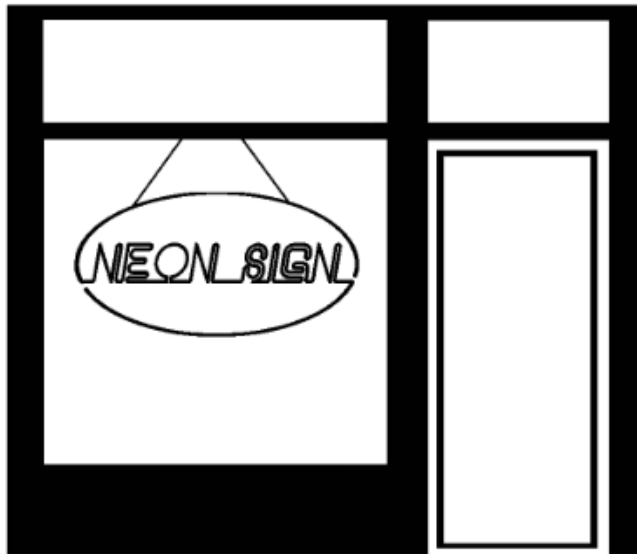
- xii. “Illegal sign” means any sign erected without obtaining a required permit or which otherwise does not comply with any provision of this code.
- xiii. “Marquee Sign” means a sign attached to and made a part of a marquee or any similar projections from a building, with changeable, fixed, or both types of lettering in use.



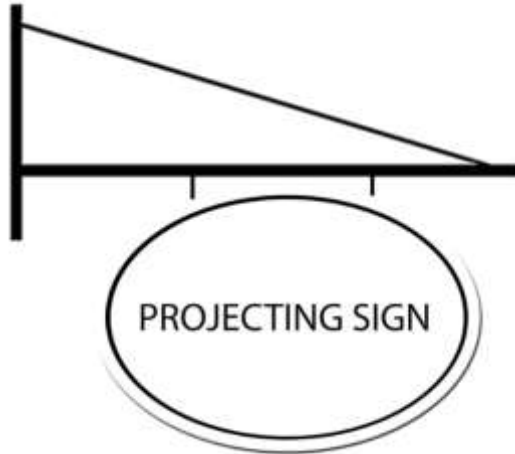
- xiv. "Minor Sign" means a wall or freestanding sign not exceeding one (1) square foot in area, not exceeding four (4) feet in height, and not illuminated.
- xv. "Monument Sign" means a sign affixed to a structure built on grade in which the sign and the structure are an integral part of one another; not a pole sign.



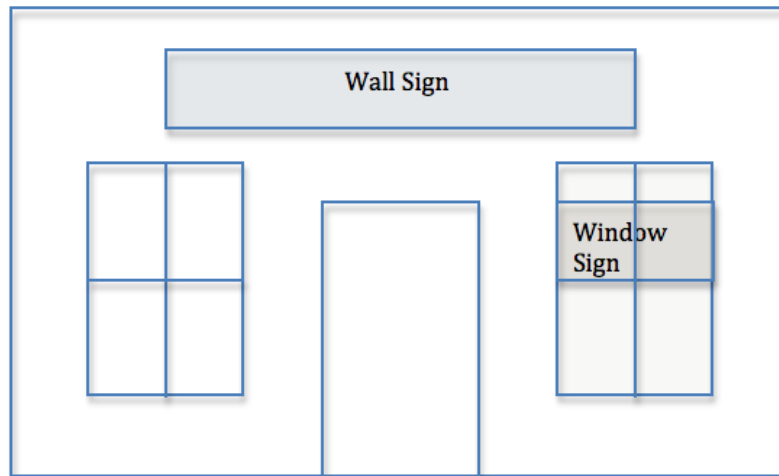
- xvi. "Neon Sign" means a sign containing exposed tubes filled with light-emitting gas.



- xvii. "Non-commercial Sign" means any sign other than a commercial sign.
- xviii. "Off-premises sign" means a sign that directs attention to a business, product, service or activity conducted, sold, or offered at a location other than the premises on which the sign is erected.
- xix. "Portable sign" means any temporary sign not affixed to a building, structure, vehicle, or the ground. It does not include a flag or banner.
- xx. "Projecting Sign" means a sign attached to and projecting more than twelve (12) inches from the face of a wall or building, but does not project above the parapet or eave line of the building and is a minimum of eight (8) feet above any walking surface.



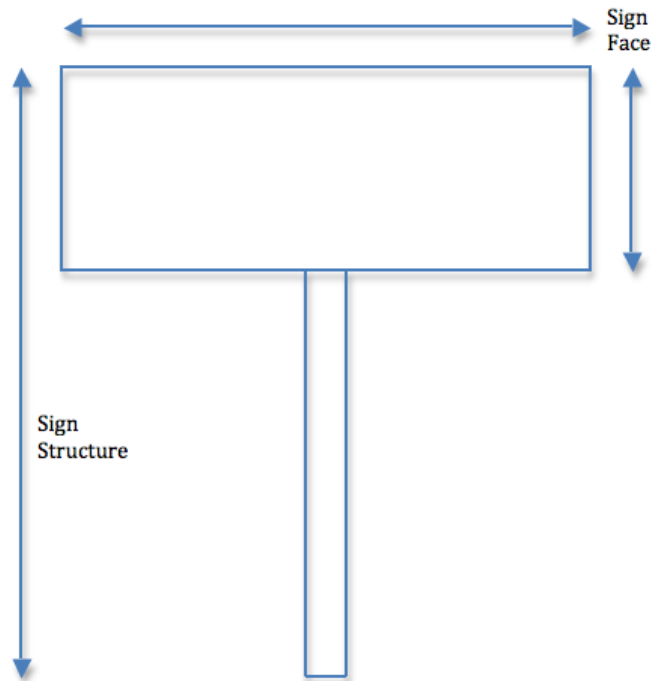
- xxi. “Roof sign” means a sign erected or constructed, in whole or in part, upon or above the highest point of a building with a flat roof, or the lowest portion of a roof for any building with a pitched roof.
- xxii. “Temporary Sign” means any sign intended to be displayed for a limited period of time not to exceed thirty (30) days.
- xxiii. “Vehicle or Trailer Sign” means any sign attached to or displayed on a vehicle, if the vehicle or trailer is used for the primary purpose of advertising a business establishment, product, service, or activity and it fails to display current license plates, inspection sticker, or municipal decal; if the vehicle is inoperable; if evidence of paid-to-date local taxes cannot be made available; or if the sign alters the standard design of such vehicle or trailer.
- xxiv. “Wall Sign” means any sign, inscription, artwork, figure, marking, or design that is attached, painted, drawn, marked, etched, or scratched onto a wall or against a flat vertical exterior surface of a structure.



- xxv. “Wicket Sign” means a sign with an H- or U-shaped frame that is put into the ground or placed above the ground.



- xxvi. “Window Sign” means any sign visible outside the window and attached to or within eighteen (18) inches in front of or behind the surface of a window or door.
172. “Sign Face” means the portion of a sign structure bearing the message.



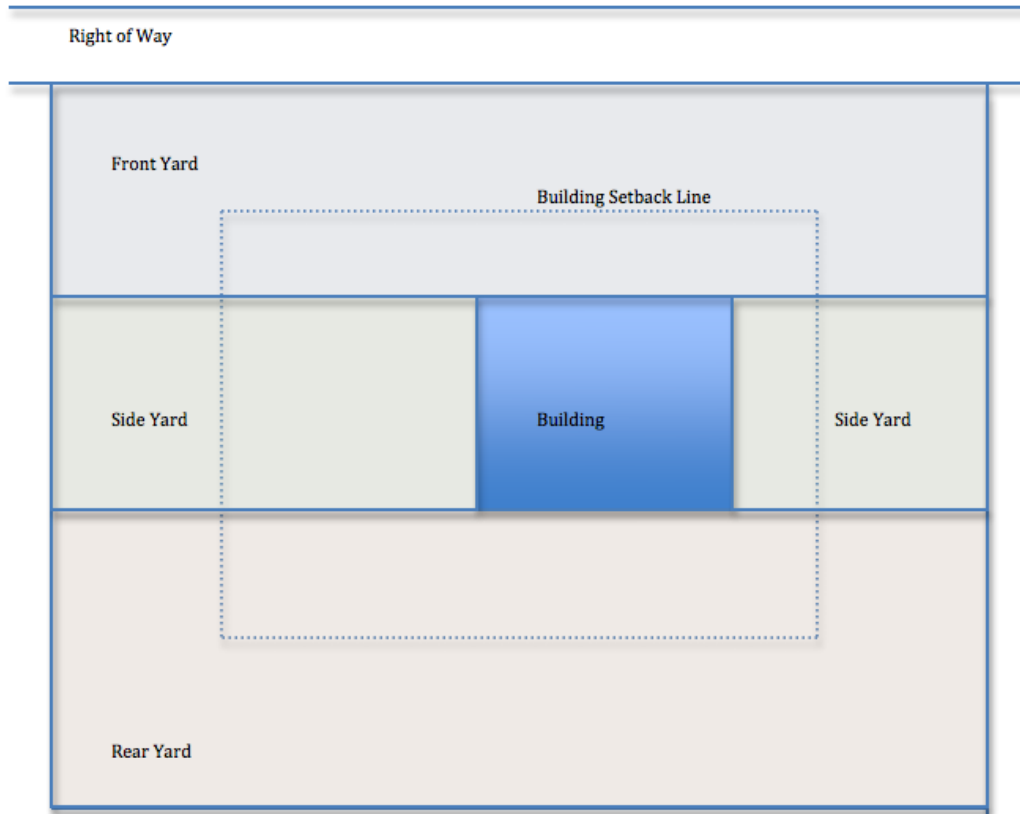
173. “Sign Structure” means any structure bearing a sign face.
174. “Solar Energy System” means an energy conversion system, including appurtenances, which converts solar energy to a usable form of energy to meet all or part of the energy or heating requirements of the on-site user, or which is to be sold to a utility company to be used by others, or sold directly to other users. A Solar Energy System may be ground mounted (i.e., placed on top of the ground surface) or roof mounted (i.e., placed on or as an integral part of a building).
- i. “Small solar energy system” means solar energy systems installed for personal use in residences, commercial properties, and institutions.
 - ii. “Large solar energy system” means solar energy systems installed on large parcels of land for the purpose of generating revenue or utility-scale systems installed to benefit the community or an entire institution.

175. "Solid Waste Disposal Areas/Facility" means any system, facility, land, contiguous land, improvements on the land, structures, or other appurtenances or methods used for processing, recycling, or disposing of solid waste, including landfills, transfer stations, materials recovery facilities, mixed waste processing facilities, sewage sludge processing facilities, commercial composting facilities, and other such facilities not herein specified, but not including land upon which sewage sludge is applied in accordance with the West Virginia Code. Such facility is situated in the county where the majority of the spatial area of such facility is located.
176. "Special Flood Hazard Area" means the area that will be inundated by the flood event having a 1-percent chance of being equaled or exceeded in any given year. The 1-percent annual chance flood is also referred to as the base flood or 100-year flood.
177. "Specified Anatomical Areas" means less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state, even if completely and opaquely covered.
178. "Stealth, Technology" means telecommunications facilities which are designed to be compatible with the surroundings and which camouflage or partially conceal the presence of telecommunications towers and facilities, including telecommunication facilities erected on alternative structures such as ball field light poles, electric utility poles, water towers and similar existing structures.
179. "Street" means a dedicated and accepted public right-of-way for vehicular and pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land place, or however otherwise designated.
180. "Studio, Dancing, Music, or Art" means a facility used for the rehearsal or performance of performing arts, such as music, dance or theatre; teaching classes in creative arts, such as painting, drawing, sculpting, potting, or beading or otherwise creating art; or for the display or sale of art in general or during special events. Food and alcoholic beverages may be served and fees charged as accessory uses during special events.
181. "Tattoo Parlor/Body Piercing Studio" means an establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or both of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.
182. "Tavern/Drinking Establishment/Bar" means an establishment engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises and which may offer food for consumption on premises as an ancillary use.
183. "Telecommunications, Class I" means facilities that include but are not limited to such facilities as ham radio antennas, am/fm reception. No Class I facility may be utilized for cellular phone reception.
184. "Telecommunications, Class II" means facilities that include but are not limited to such facilities as antennas and associated electronic equipment designed expressly for use by cellular phone companies, as regulated under the Federal Telecommunication Act of 1996, that are not intended to be supported by or attached to a new telecommunications tower, as defined. They may be attached to existing, permitted tower structures, or to existing structures not originally intended to support telecommunications facilities, as provided for in this code.
185. "Telecommunications, Class III" means facilities that include but are not limited to such facilities as antennas and associated electronic equipment that is supported by or attached to a new telecommunications tower, as defined herein, and is designed expressly for use by cell phone companies, as regulated under the Federal Telecommunications Act of 1996.
186. "Telecommunications Tower" means any structure that is designated and constructed primarily for the purpose of supporting one or more telecommunication antennas. This includes guyed towers, lattice towers, monopoles, and towers taller than fifteen (15) feet constructed on the top of another building, along with any separate building on the lot used to house any supporting electronic equipment.
187. "Temporary Shelter" means a structure or part thereof, operated on a non-profit basis to temporarily house families or individuals who are victims of disaster, who are affected through action on the part of or on behalf of the municipality other than routine redevelopment related relocation activities, or who have bona fide emergency housing needs.
188. "Theater" means a building or part of a building devoted to presenting motion pictures or live performances.

189. "Tourist Home" or "Boarding House" or "Rooming House" means a dwelling, other than hotel, motel, or restaurant, advertised as supplying overnight lodging wherein one or more persons are sheltered and/or fed for profit. No cooking or dining facilities are provided in individual rooms.
190. "Tourist or Trailer Camp" means an area containing travel trailers, pick-up coaches, and motorized homes designed or intended to be used as temporary living facilities for one or more families.
191. "Trailer, Camping and Recreational Equipment" means travel trailers, pickup coaches, motorized homes and recreational vehicles and equipment as follows:
- i. "Travel Trailer" means a portable structure built on a chassis, designed to be towed and used as a temporary dwelling for travel, recreational, and vacation purposes, and permanently identified as a travel trailer by the manufacturer of the trailer.
 - ii. "Pickup Coach" means a structure designed primarily to be mounted on a pickup or other truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational, and vacation purposes.
 - iii. "Motorized Home" means portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
 - iv. "Boat" means a vessel designed to travel on water.
 - v. "Boat Trailer" means a trailer designed to haul a boat as defined above.
192. "Travel Plaza" means a public facility, located next to a large thoroughfare such as a highway, expressway, or freeway at which drivers and passengers can rest, eat, or refuel without exiting onto secondary roads.
193. "Truck Terminal" means a facility where freight is unloaded from interstate trucks or intermodal trailers and containers carried on the railroad and loaded onto local delivery trucks.
194. "Urban Agriculture" means land used for beekeeping, community gardens, keeping up to six hens, and other small-scale agricultural activities.
195. "Use" means any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied, or any activity, occupation, business, or operation performed in a building or other structure, or on a tract of land.
196. "Variance" means a deviation from the minimum standards of this code, but not permitting land uses that are otherwise prohibited in the zoning district or changing the zoning classifications of a parcel of land.
197. "Vehicle" means any device in, upon, or by which any person or property is or may be transported or drawn upon a street, including automobiles, and excepting tractors, agricultural machinery, devices moved by human power or used upon stationary rails or tracks.
198. "Vehicle Repair/Service/Sales/Rental" means any building, structure, improvements, or land used for the repair or maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler or upholstery work, oil change and lubrication, painting, tire service and sales, or installation of CB radios, car alarms, stereo equipment, or cellular telephones.
199. "Video Gaming or Lottery Establishment" means an establishment at which any form of gambling of chance is permitted or played, including "video lottery" machines licensed by the West Virginia Lottery Commission pursuant to the West Virginia Code, but excluding establishments that only sell lottery tickets.
200. "Warehouse" means a facility characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and odors, but not involved in manufacturing or production.
201. "Water Treatment Plant" means facilities that treat water and produce potable water for public consumption.
202. "Wholesale Establishment" means the sale of commodities to retailers or jobbers, including the sale of commodities for the purpose of carrying on any trade or business even if the said trade or business is the consumer or end user of the commodity.
203. "Wind Energy System" means any electric generation facility whose main purpose is to convert and store wind energy into usable forms of energy which includes the wind turbine(s), structural supports, electrical infrastructure, and other appurtenant structures and facilities. Consisting of a maximum of one (1) wind turbine per parcel of land.
204. "Winery" means an establishment where wine is manufactured or in any way prepared in accordance with the West Virginia Code.
205. "Yard" means open space that lays between the principal building or buildings and the nearest lot line. The minimum required yard is unoccupied and unobstructed from the ground upward except as may be specifically provided in this code. Yards are further classified as front, rear, and side:

- i. “Yard, Front” means a space extending the full width of the lot between the architectural front of a building and the front lot line or the fronting street right-of-way measured perpendicular to the building at the closest point to the front lot line.
- ii. “Yard, Rear” means a space extending across the full width of the lot between the architectural rear of the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line. Rear yards extend from the back of a building to a property line.
- iii. “Yard, Required” means the open space between a lot line and the yard line and the façade of a building within which no structure may be located except as permitted by this code.
- iv. “Yard, Side” means a space extending from the front yard to the rear yard between the principal building façade and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building façade.

Front, Rear, and Side Yard



- 206. “Zoning” means the division of a municipality or county into districts or zones which specify permitted and conditional uses and development standards for real property within the districts or zones.
- 207. “Zoning Officer” means the person designated by the City of Moundsville through the Board of Zoning Appeals to administer and enforce the provisions of this code.
- 208. “Zoning Ordinance” means the Zoning Ordinance of the City of Moundsville, passed [DATE], and amendments thereto.

CHAPTER 5 ZONING DISTRICTS AND REQUIREMENTS

ARTICLE 1351 DISTRICTS ESTABLISHED; CLASSIFICATION OF DISTRICTS

Section 1351.01 Districts Established.

- a. For the purpose of this Zoning Ordinance, the City of Moundsville is hereby divided into the following zoning districts:
 1. R-1: Residential Single-Family
 2. R-2: Residential Multi-Family
 3. C-1: Corridor Commercial
 4. C-2: Historic and Neighborhood Commercial
 5. M: Mixed Use
 6. R-C: Recreation-Conservation
 7. I: Industrial
 8. RO: Riparian Overlay

Section 1351.02 Zoning Map.

[SEE ATTACHED]

Section 1351.03 Use Table.

Section 1351.04 Classification of Districts and District Boundaries.

- a. Except where references on the Zoning Map to a road or street line or other designated line by dimensions are shown on the Zoning Map, the district boundary lines are intended to follow lot lines or the centerlines of roads or streets, as they existed at the time of the adoption of this Zoning Ordinance. To the extent possible, district boundary lines should not be established or interpreted to bisect property lots. Where district boundary lines are shown following creeks, streams, or river channels, it is intended that the district line follow the center of the creek, stream, or river. Where a district line does not coincide clearly with such lines, or where a district line is not designated by dimensions, a district line shall be determined by scaling.
- b. The boundaries of all zoning districts are shown on the Zoning Map, which is the official zoning map for the City.
- c. Unless a use is allowed as a "use permitted by right," "use permitted with conditions," "conditional use," "nonconforming use," "accessory use," or "temporary use," then such use is prohibited.

Section 1351.05 Procedures Relating to Annexed or Vacated Areas.

- a. *Zoning of Annexed Lands.* Zoning classification for any land annexed into the City shall be established by ordinance, pursuant to Chapter 8A, Article 7, simultaneously with the adoption of the annexation resolution required by West Virginia Code, Chapter 8, Article 6, as amended. City Council shall hear zoning recommendations from the Planning Commission for the subject area during the required hearing for annexation. Prior to any hearings, the Moundsville Planning Commission shall submit its written recommendations, to be consistent with the comprehensive plan, to City Council at least thirty (30) days prior to the hearing for annexation.
 1. Prior to the annexation hearing and formal zoning designation of any parcel(s) of land being annexed, the City shall, at least thirty (30) days prior to the enactment of the zoning map amendment:
 - i. Give written notice, by certified mail, to the landowner(s) whose property is directly involved in the proposed amendment; and
 - ii. Publish a notice of the proposed amendment to the zoning ordinance map as a Class II-0 legal advertisement, pursuant to West Virginia Code Chapter 59.
 - a. After the required thirty (30) day notice period ends, and the property owner(s) have been notified by certified mail the City Council shall hold a public hearing regarding the zoning designation of the newly annexed land. After the hearing City Council can, by ordinance, designate the zoning districts for the annexed land.
- b. Whenever any street, place, alley, public right-of-way, railroad right-of-way, waterway, or other similar area is vacated by proper authority, the districts adjoining each side of such street, place, alley, public way, railroad right-of-way, waterway, or similar area shall be extended automatically to the center of such vacation and all area included in the vacation shall then and thenceforth be subject to all appropriate provisions of the extended districts. In the event of a partial vacation, the adjoining district, or district nearest the portion vacated, shall be extended automatically to include all of the vacated area.

Section 1351.06 Uses Not Expressly Permitted or Conditional.

It is recognized that new types or forms of land use will develop within the City of Moundville that are not anticipated by this Zoning Ordinance. In order to provide for such changes and contingencies, the classification of any new or unlisted land use shall be made by the Zoning Officer to determine if the use can reasonably be interpreted to fit into a similar use category described in this code.

ARTICLE 1352 R-1: RESIDENTIAL SINGLE-FAMILY

Section 1352.01 Purpose.

The purpose of the Single-Family Residential District is to provide for single-family dwellings and to preserve the desirable character of existing single-family neighborhoods. The district also encourages the optimal utilization of land appropriate for dwellings by encouraging the clustering of development, while leaving steep slopes and floodplains open and available for recreational and preservation purposes. The district is designed to prevent excessive demands on the existing and planned sewer and water systems, as well as preventing unnecessary traffic congestion and parking issues. This district provides adequate open space, recreational, and cultural amenities conducive to single-family residential development.

Section 1352.02 Uses permitted by right.

- a. The following shall be uses permitted by right in the Single-Family Residential District:
 - 1. Dwelling, Single-Family
 - 2. Dwelling, Two-Family
 - 3. Federal, State, County, Municipal Offices
 - 4. Group Residential Facility
 - 5. Group Residential Home
 - 6. Parking Lot
 - 7. Recreation, Public
 - 8. Solar Energy System, Small
 - 9. Telecommunications, Class I

Section 1352.03 Conditional Uses.

- a. The following shall be conditional uses in the Single-Family Residential District:
 - 1. Bed and Breakfast Inn
 - 2. Cemetery/Mausoleum
 - 3. Child Day Care Facility, Class 1
 - 4. Child Day Care Facility, Class 2
 - 5. Child Day Care Facility, Class 3
 - 6. Child Day Care Facility, Class 4
 - 7. Continuing Care Facility
 - 8. Convenience Store
 - 9. Conversion of Old Schools/Churches
 - 10. Cultural Service
 - 11. Dwelling, Conversion Apartment
 - 12. Dwelling, Garage Conversion
 - 13. Dwelling, Townhouse
 - 14. Home-Based Business (Low-Impact)
 - 15. Medical Adult Day Care Center
 - 16. Park
 - 17. Places of Worship/Religious Institution
 - 18. Recreation, Private
 - 19. School, Pre-school to 12
 - 20. Senior Independent Housing
 - 21. Wind Energy System

Section 1352.04 Lot, Yard, and Height Requirements.

Single-Family Residential Requirements	
Max. Building Height	35 feet
Min. Front Setback	10 feet; or, if the property adjoins at least two properties, the

	average of the two adjoining properties which have pre-existing structures; whichever is less.
Min. Side Setback	6 feet
Min. Rear Setback	15 feet
Min. Lot Size (Sq. Ft.)	3,600 square feet
Min. Lot Width	40 feet
Max. Lot Coverage (as a %)	40%

ARTICLE 1353 RESIDENTIAL MULTI-FAMILY

Section 1353.01 Purpose.

The purpose of the Multi-Family Residential District is to provide for a variety of housing types and accessory uses at a density higher than the Single-Family Residential District. The district is designed to provide for high-density residential land uses in a manner that preserves the necessary open space while providing for adequate off-street parking, outdoor living space, and setbacks. This district will preserve the desirable characteristics of a high-density residential neighborhood while in close proximity to community amenities.

Section 1353.02 Uses Permitted by Right.

- a. The following shall be uses permitted by right in the Multi-Family Residential District:
1. Dwelling, Multi-Family
 2. Dwelling, Single-Family
 3. Dwelling, Townhouse
 4. Dwelling, Two-Family
 5. Federal, State, County, Municipal Offices
 6. Group Residential Facility
 7. Group Residential Home
 8. Parking Lot
 9. Recreation, Public
 10. Senior Independent Housing
 11. Solar Energy System, Small
 12. Telecommunications, Class I

Section 1353.03 Conditional Uses.

- a. The following shall be conditional uses in the Multi-Family Residential District:
1. Bed and Breakfast Inn
 2. Cemetery/Mausoleum
 3. Child Day Care Facility, Class 1
 4. Child Day Care Facility, Class 2
 5. Child Day Care Facility, Class 3
 6. Child Day Care Facility, Class 4
 7. Continuing Care Facility
 8. Convenience Store
 9. Conversion of Old Schools/Churches
 10. Cultural Service
 11. Dwelling, Conversion Apartment
 12. Dwelling, Garage Conversion
 13. Dwelling, Mixed Use
 14. Factory-built Home Rental Community
 15. Home-Based Business (Low Impact)
 16. Medical Adult Day Care Center
 17. Park
 18. Places of Worship/Religious Institution
 19. Recreation, Private
 20. School, Pre-school to 12
 21. Wind Energy System

Section 1353.04 Lot, Yard, and Height Requirements.

Multi-Family Residential Lot Requirements	
Max. Building Height	40 feet
Min. Front Setback	8 feet; or, if the property adjoins at least two properties, the average of the two adjoining properties which have pre-existing structures; whichever is less.
Min. Side Setback	4 feet
Min. Rear Setback	10 feet
Min. Lot Size (Sq. Ft.)	3,200 square feet
Min. Lot Width	38 feet
Max. Lot Coverage (as a %)	60%

ARTICLE 1354 C-1: CORRIDOR COMMERCIAL

Section 1354.01 Purpose.

The purpose of the Corridor Commercial District is to provide areas that encourages a commercial corridor within the City and which is appropriate for most kinds of businesses and services, particularly highly-visible large space users such as chain retail stores. The district will allow for a commercial area within a high traffic corridor that encourages adequate traffic flow and transportation within the district. The district will encourage a higher-intensity commercial area within the City which is accessible and compact, yet distinctive and attractive. The Corridor Commercial District also serves as the primary gateway into the City.

Section 1354.02 Uses Permitted by Right.

a. The following shall be uses permitted by right in the Corridor Commercial District:

1. Amphitheater
2. Amusement and Recreation Center
3. Animal Hospital/Veterinary Office
4. Automobile Car Wash
5. Bakery
6. Bank/Financial Institution
7. Boat and Marine Sales/Services
8. Boat Storage
9. Brewery Pub
10. Broadcasting Studio
11. Building Material Facility
12. Catering Business
13. Child Day Care Facility, Class 1
14. Child Day Care Facility, Class 2
15. Clinic
16. Community Facility
17. Continuing Care Facility
18. Convenience Store
19. Cultural Service
20. Dog Day Care
21. Dry Cleaner
22. Emergency Services
23. Equipment Rental/Repair
24. Fairground
25. Farm/Construction Equipment and Supply Sales
26. Farmer's Market
27. Federal, State, County, Municipal Offices
28. Funeral Home/Mortuary
29. Garage, Public
30. Garden Center

31. Gas Station
32. Greenhouse, Commercial
33. Group Residential Facility
34. Group Residential Home
35. Health Club
36. Hotel/Motel
37. Laundromat
38. Liquor Store
39. Night Club
40. Off-Premises, Freestanding Signs
41. Office Supply Establishment
42. Park
43. Parking Lot
44. Personal Service
45. Pet Shop
46. Pharmacy
47. Photographic Studio
48. Places of Worship/Religious Institution
49. Private Club
50. Professional Services
51. Recreation, Public
52. Restaurant
53. Retail Store/Shop < 7,000 square feet
54. Retail Store/Shop 7,000 to 25,000 square feet
55. Retail Store/Shop > 25,000 square feet
56. Roadside Vendor Stand
57. School, Commercial
58. School, Pre-school to 12
59. Shopping Center
60. Solar Energy System, Small
61. Studio, Dancing, Music, or Art
62. Tattoo Parlor/Body Piercing Studio
63. Tavern/Drinking Establishment
64. Telecommunications, Class I
65. Theater
66. Travel Plaza
67. Vehicle Repair/Service/Sales/Rental
68. Video Gaming or Lottery Establishment
69. Warehouse

Section 1354.03 Conditional Uses.

The following shall be conditional uses in the Corridor Commercial District:

1. Adult Business
2. Bus & Transit Facilities
3. Cemetery/Mausoleum
4. Correctional Facility
5. Distribution Facility
6. Distillery
7. Educational Institution
8. Factory-built Home Rental Community
9. Flea Market
10. Hospital
11. Kennel
12. Laboratory
13. Lumberyard
14. Manufacturing (Light)

15. Medical Adult Day Care Center
16. Parcel Delivery Facility
17. Recreation, Private
18. Resident Brewer
19. Restaurant, Fast Food
20. Self-Storage Facility
21. Telecommunications, Class II
22. Telecommunications, Class III
23. Temporary Shelter
24. Truck Terminal
25. Tourist or Trailer Camps
26. Wind Energy System

Section 1354.04 Lot, Yard, and Height Requirements.

Corridor Commercial District Lot Requirements	
Max. Building Height	60 feet
Min. Front Setback	15 feet; or, if the property adjoins at least two properties, the average of the two adjoining properties which have pre-existing structures; whichever is less.
Min. Side Setback	10 feet
Min. Rear Setback	10 feet
Min. Lot Size (Sq. Ft.)	5,000 square feet
Min. Lot Width	50 feet
Max. Lot Coverage (as a %)	80%

ARTICLE 1355 C-2: HISTORIC AND NEIGHBORHOOD COMMERCIAL

Section 1355.01 Purpose.

The purpose of the Historic and Neighborhood Commercial District is to encourage a centralized commercial area that provides for convenient business uses, which tend to meet the daily shopping and service needs of the residents of an immediate and surrounding neighborhood, preserve structures of historic and architectural value, encourage the establishment and maintenance of local office and trade establishments, and which contain pedestrian-oriented development that is compatible with the surrounding neighborhood character. Because of the proximity to residential neighborhoods, high quality design is essential in order to enhance the community's character and historical significance of those neighborhoods.

Section 1355.02 Uses Permitted by Right.

- a. The following shall be uses permitted by right in the Historic and Neighborhood Commercial District:
 1. Bakery
 2. Bank/Financial Institution
 3. Catering Business
 4. Child Daycare Facility, Class 1
 5. Child Daycare Facility, Class 2
 6. Community Facility
 7. Continuing Care Facility
 8. Convenience Store
 9. Cultural Service
 10. Dog Day Care
 11. Emergency Services
 12. Equipment Rental/Repair
 13. Farmer's Market
 14. Funeral Home/Mortuary
 15. Federal, State, County Municipal Offices
 16. Garden Center

17. Gas Station
18. Greenhouse, Commercial
19. Group Residential Facility
20. Group Residential Home
21. Health Club
22. Hotel/Motel
23. Laundromat
24. Office Supply Establishment
25. Park
26. Parking Lot
27. Personal Service
28. Pet Shop
29. Pharmacy
30. Photographic Studio
31. Places of Worship/Religious Institution
32. Professional Services
33. Recreation, Public
34. Restaurant
35. Retail Store/Shop < 7,000 square feet
36. Retail Store/Shop 7,000 to 25,000 square feet
37. Roadside Vendor Stand
38. School, Pre-school to 12
39. Solar Energy System, Small
40. Studio, Dancing, Music, or Art
41. Tavern/Drinking Establishment
42. Telecommunications, Class I
43. Theater

Section 1355.03 Conditional Uses.

a. The following shall be conditional uses in the Corridor Commercial District:

1. Amphitheater
2. Amusement and Recreation Center
3. Animal Hospital/Veterinary Office
4. Bed and Breakfast Inn
5. Brewery Pub
6. Building Material Facility
7. Bus & Transit Facilities
8. Cemetery/Mausoleum
9. Clinic
10. Dry Cleaner
11. Dwelling/Conversion Apartment
12. Dwelling, Multi-Family
13. Educational Institution
14. Emergency Shelter
15. Flea Market
16. Garage, Public
17. Liquor Store
18. Medical Adult Day Care Center
19. Night Club
20. Private Club
21. Recreation, Private
22. Research and Development
23. Resident Brewer
24. Restaurant, Fast Food
25. Retail Store/Shop > 25,000 square feet
26. Senior Independent Housing

27. Telecommunications, Class II
28. Telecommunications, Class III
29. Temporary Shelter
30. Travel Plaza
31. Vehicle Sales/Rental and Service
32. Video Gaming or Lottery Establishment
33. Wind Energy System

Section 1355.04 Lot, Yard, and Height Requirements.

Neighborhood and Historic Commercial Lot Requirements	
Max. Building Height	50 feet
Min. Front Setback	0 feet
Min. Side Setback	0 feet, unless adjoining residential property then 8 feet
Min. Rear Setback	10 feet
Min. Lot Size (Sq. Ft.)	3,000 square feet
Min. Lot Width	45 feet
Max. Lot Coverage (as a %)	70%

ARTICLE 1356 M: MIXED-USE

Section 1356.01 Purpose.

The purpose of the Mixed-Use District is to provide areas that promote development of a compact, pedestrian-oriented district consisting of vibrant and dynamic small-scale commercial areas, which complement residential living environments that provide a broad range of housing types. These areas also promote a diverse mix of residential, business, commercial, office, and educational activities. The Mixed-Use District also serves as a buffer between residential, commercial, and industrial uses.

Section 1356.02 Uses Permitted by Right.

- a. The following shall be uses permitted by right in the Mixed-Use District:
 1. Bank/Financial Institution
 2. Child Day Care Facility, Class 1
 3. Child Day Care Facility, Class 2
 4. Convenience Store
 5. Cultural Service
 6. Dwelling, Multi-Family
 7. Dwelling, Single-Family
 8. Dwelling, Townhouse
 9. Dwelling, Two-Family
 10. Dwelling, Mixed-Use
 11. Farmer's Market
 12. Federal, State, County, Municipal Offices
 13. Garden Center
 14. Group Residential Facility
 15. Group Residential Home
 16. Office Supply Establishment
 17. Park
 18. Parking Lot
 19. Places of Worship/Religious Institution
 20. Professional Services
 21. Recreation, Public
 22. Restaurant
 23. Retail Store/Shop < 7,000 square feet
 24. School, Pre-school to 12
 25. Solar Energy System, Small
 26. Telecommunications, Class I

27. Theater

Section 1356.03 Conditional Uses.

a. The following shall be conditional uses in the Mixed-Use District:

1. Amusement and Recreation Center
2. Animal Hospital/Veterinary Office
3. Automobile Car Wash
4. Bakery
5. Bed and Breakfast Inn
6. Tourist Home, Boarding House, or Rooming House
7. Brewery Pub
8. Catering Business
9. Cemetery/Mausoleum
10. Child Care Facility, Class 3
11. Child Care Facility, Class 4
12. Clinic
13. Community Facility
14. Continuing Care Facility
15. Dwelling, Conversion Apartment
16. Dwelling, Garage Conversion
17. Educational Institution
18. Emergency Services
19. Emergency Shelter
20. Equipment Rental/Repair
21. Garage, Public
22. Gas Station
23. Greenhouse, Commercial
24. Health Club
25. Home-based Business (Low-Impact)
26. Hotel/Motel
27. Laundromat
28. Liquor Store
29. Medical Adult Day Care Center
30. Night Club
31. Personal Service
32. Pharmacy
33. Photographic Studio
34. Private Club
35. Recreation, Private
36. Restaurant, Fast Food
37. Retail Store/Shop 7,000 to 25,000 square feet
38. Retail Store/Shop > 25,000 square feet
39. Roadside Vendor Stand
40. Senior Independent Housing
41. Shopping Center
42. Studio, Dancing, Music, or Art
43. Tavern/Drinking Establishment
44. Telecommunications, Class II
45. Truck Terminal
46. Vehicle Repair/Service/Sales/Rental
47. Video Gaming or Lottery Establishment
48. Wind Energy System

Section 1356.04 Lot, Yard, and Height Requirements.

Mixed Use Lot Requirements	
Max. Building Height	50 feet

Min. Front Setback	5 feet
Min. Side Setback	4 feet
Min. Rear Setback	10 feet
Min. Lot Size (Sq. Ft.)	4,000 square feet
Min. Lot Width	35 feet
Max. Lot Coverage (as a %)	60%

ARTICLE 1357 R-C: RECREATION-CONSERVATION

Section 1357.01 Purpose.

The purpose of the Recreation-Conservation District is to provide permanent open space to protect the natural beauty and scenic value of the City, and also to provide for a recreational area within the City for the enjoyment of the river and other related activities. It is also intended to preserve natural resources; prevent erosion, pollution, flood damage and siltation; and safeguard the health, safety, and welfare of persons and property.

Section 1357.02 Uses Permitted by Right.

- a. The following shall be uses permitted by right in the Recreation-Conservation District:
1. Agriculture
 2. Amphitheater
 3. Federal, State, County, Municipal Offices
 4. Group Residential Facility
 5. Group Residential Home
 6. Office Supply Establishment
 7. Park
 8. Parking Lot
 9. Recreation, Private
 10. Recreation, Public
 11. Telecommunications, Class I
 12. Tourist or Trailer Camps

Section 1357.03 Conditional Uses.

The following shall be conditional uses in the Recreation-Conservation District:

1. Amusement and Recreation Center
2. Campground
3. Fairground
4. Farm
5. Marina
6. Roadside Vendor Stand
7. Water Treatment Plant
8. Wind Energy System

Section 1357.04 Lot, Yard, and Height Requirement.

Recreation-Conservation Lot Requirements	
Max. Building Height	30 feet
Min. Front Setback	20 feet
Min. Side Setback	15 feet
Min. Rear Setback	20 feet
Min. Lot Size (Sq. Ft.)	8,000 square feet
Min. Lot Width	50 feet
Max. Lot Coverage (as a %)	25%

ARTICLE 1358 I: INDUSTRIAL

Section 1358.01 Purpose.

The purpose of the Industrial District is to provide for the City's industrial base. The Industrial District is designed to allow for the development of research and industrial parks, wholesale businesses, and the like, while ensuring the safety of the City's residents. This District is intended for the location of both heavy and light industrial uses compatible with one another. Industrial developments are intended to become complementary assets to the community.

Section 1358.02 Uses Permitted by Right.

a. The following shall be uses permitted by right in the Industrial District:

1. Animal Hospital/Veterinary Office
2. Automobile Car Wash
3. Bakery
4. Bank/Financial Institution
5. Boat and Marine Sales/Service
6. Boat Storage
7. Brewery Pub
8. Broadcasting Studio
9. Building Material Facility
10. Catering Business
11. Cemetery/Mausoleum
12. Community Facility
13. Convenience Store
14. Distribution Facility
15. Dog Day Care
16. Dry Cleaner
17. Emergency Shelter
18. Equipment Rental/Repair
19. Farm/Construction Equipment and Supply Sales
20. Federal, State, County, Municipal Offices
21. Freight Terminal
22. Garden Center
23. Gas Station
24. Greenhouse, Commercial
25. Group Residential Facility
26. Group Residential Home
27. Industrial Park
28. Kennel
29. Laboratory
30. Laundromat
31. Lumberyard
32. Manufacturing (Heavy)
33. Manufacturing (Light)
34. Marina
35. Off-Premises, Freestanding Signs
36. Office Supply Establishment
37. Parcel Delivery Facility
38. Park
39. Parking Lot
40. Pharmacy
41. Places of Worship/Religious Institution
42. Private Club
43. Recreation, Public
44. Resident Brewer
45. Retail Store/Shop < 7,000 square feet
46. Retail Store/Shop 7,000 to 25,000 square feet
47. Retail Store/Shop > 25,000 square feet
48. Roadside Vendor Stand

49. School, Commercial
50. Self-Storage Facility
51. Tavern/Drinking Establishment
52. Telecommunications, Class I
53. Travel Plaza
54. Truck Terminal
55. Vehicle Repair/Service/Sales/Rental
56. Warehouse
57. Wholesale Establishment

Section 1358.03 Conditional Uses.

- a. The following shall be conditional uses in the Industrial District:
 1. Adult Business
 2. Correctional Facility
 3. Distillery
 4. Extractive Industry
 5. Factory-built Home Rental Community
 6. Hospital
 7. Hotel/Motel
 8. Recreation, Private
 9. Research and Development
 10. Salvage Yard
 11. Sewage Treatment Facility
 12. Solar System, Small
 13. Solar System, Large
 14. Solid Waste Disposal Areas/Facility
 15. Telecommunications, Class II
 16. Telecommunications, Class III
 17. Tourist or Trailer Camps
 18. Video Lottery Establishment
 19. Water Treatment Plant
 20. Winery
 21. Wind Energy System

Section 1358.04 Lot, Yard, and Height Requirements.

Industrial District Lot Requirements	
Max. Building Height	70 feet
Min. Front Yard Setback	50 feet if adjoining an R-1 or R-2 zoned property; otherwise 25 feet
Min. Side Yard Setback	50 feet if adjoining an R-1 or R-2 zoned property; otherwise 15 feet
Min. Rear Yard Setback	50 feet if adjoining an R-1 or R-2 zoned property; otherwise 15 feet
Min. Lot Size (Sq. Ft.)	7,000 square feet
Min. Lot Width	50 feet
Max. Lot Coverage (as a %)	90%

ARTICLE 1359 RO: RIPARIAN OVERLAY

Section 1359.01 Purpose.

The purpose of the Riparian Overlay District is to provide permanent open space for its natural beauty and recreational value. It is also intended to preserve natural resources, limit damage from flood events, prevent erosion and pollution, and safeguard the health, safety, and welfare of persons and property by limiting development in areas that are flood prone, that have poorly drained lands, or on other areas where lack of protection against natural dangers to life and property to members of the community. The width of the Riparian Overlay District is measured

horizontally on a line perpendicular from the top of a streambank to a distance of 50 feet, on either side of the waterbody.

Section 1359.02 Uses Permitted by Right.

- a. The uses permitted by right in the Riparian Overlay shall be:
 - 1. Park

Section 1359.03 Conditional Uses.

- 1. Agriculture
- 2. Campground
- 3. Marina
- 4. Parking Lot
- 5. Recreation, Private
- 6. Recreation, Public
- 7. Solar Energy System, Small

Section 1359.04 Lot, Yard, and Height Requirements.

Riparian Overlay Lot Requirements	
Max. Building Height	20 feet
Min. Front Yard Setback	Same as base zone
Min. Side Yard Setback	Same as base zone
Min. Rear Yard Setback	Same as base zone
Min. Lot Size (Sq. Ft.)	not applicable
Min. Lot Width	not applicable
Max. Lot Coverage (as a %)	15%

ARTICLE 1361 CONDITIONAL USE STANDARDS

Section 1361.01 Purpose.

The conditional use permit procedure is intended to provide the Board of Zoning Appeals with review of requests to establish uses which may be appropriate in a zoning district, but which may have the potential for negative impacts on the health, safety, and welfare of the public. The conditional use standards provided in this article are intended to avoid, minimize, or mitigate adverse impacts such uses may have on the health, safety, and welfare of the public.

Section 1361.02 General Standards.

- a. All applications for a conditional use permit shall demonstrate that:
 - 1. The use is consistent with the policies and intent of the corresponding purpose for the zoning district in which it lies and the City’s comprehensive plan.
 - 2. The use is physically and operationally compatible with the surrounding neighborhood and surrounding existing uses.
 - 3. The use will be designed, constructed, operated, and maintained so that it does not cause substantial injury to adjoining property.
 - 4. The use will be adequately served by public facilities and services which include, but are not limited to, water, sewer, electric, schools, streets, fire and police protection, storm drainage, public transit, and public parks/trails.
 - 5. Adequate off-street parking will be provided on the same property as the permitted conditional use as well as adequate ingress and egress to the property in compliance with the standards set forth in this code.
 - 6. Any storage of hazardous material will comply with all state, federal, and local regulations, including but not limited to Part 11, Health and Sanitation Code of the City of Moundsville Municipal Code, and all such material will be listed and made known to the Chief of the City of Moundsville Fire Department and Chief of the City of Moundsville Volunteer Fire Department.
 - 7. The use will not endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved.

8. The use will not conduct operations in connection with the use which are offensive, dangerous, or destructive of the environment.
- b. Conditions may be imposed on a proposed conditional use to ensure that potential significant adverse impacts on surrounding uses will be reduced to the maximum extent feasible, including but not limited to conditions or measures addressing:
 1. Location on a site of activities that generate potential adverse impacts such as noise and glare;
 2. Hours of operation and deliveries;
 3. Location of loading space and delivery zones;
 4. Light intensity and hours of full illumination;
 5. Placement of outdoor vending machines;
 6. Loitering;
 7. Litter control;
 8. Placement of trash receptacles;
 9. On-site parking configuration and facilities;
 10. On-site circulation; and
 11. Privacy concerns of adjacent uses.
- c. Conditional use permit decisions are made by the Board of Zoning Appeals (BZA). In considering the proposed conditional use, the BZA must determine whether the applicable General Standards under Section 1361.02 have been met. The BZA may impose additional conditions and safeguards deemed necessary.
- d. The breach of any condition, safeguard, or requirement shall be considered a violation of the conditional use permit approval. If the applicant fails to comply with any of the applicable requirements of this Zoning Ordinance, the BZA shall have the authority to revoke any conditional use permit after providing notice to the property owner and after public hearing is held in the same manner as the original approval.
- e. *Validity of approval.* Any conditional use approved by the Board of Zoning Appeals under which the premises are not used, work is not started within six (6) months, or the use or work has been abandoned for a period of one (1) year, shall lapse and cease to be in effect. The BZA may permit one (1) six (6) month extension if the extension is applied for in writing by the applicant prior to the expiration of the approval, provided that the BZA finds that the extension is warranted due to circumstances beyond the control of the applicant.
- f. No application which has been denied wholly or in part by the Board of Zoning Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, unless permitted by the BZA after demonstration by the applicant of a change of circumstances from the previous application.

ARTICLE 1362 SUPPLEMENTAL REGULATIONS

Section 1362.01 Purpose.

Provide for special situations that must be regulated in such a manner as to promote orderly development and to protect the public health, safety, and general welfare of the community. The following supplemental regulations have been deemed necessary to clarify and carry out the overall intent of this ordinance.

Section 1362.02 Accessory Uses and Structures.

- a. All accessory uses and accessory structures shall require a Zoning Permit. Accessory uses and accessory structures shall be permitted in all districts, provided each is customarily incidental and subordinate to a principal use. There must be a principal use or structure on the lot prior to the issuance of a Zoning Permit for an accessory use or structure.
- b. No use that is to be carried on in an accessory structure shall be in violation of the permitted uses in that zoning district, and in no case shall the maximum lot coverage permitted in a zoning district be exceeded.
- c. Except as provided elsewhere in this code, no accessory structure shall be constructed and used as a dwelling. Provided, however, that one residential unit for a caretaker may be permitted in conjunction with any active industrial establishment.
- d. Accessory structures shall be no more than 75% the height of the principal structure height and in no circumstance be higher than the applicable zoning district's maximum height requirement.
- e. Accessory structures such as sheds and detached garages shall not be placed in the front yard and shall be situated no closer than 3 feet from any lot line.
- f. In no situation shall an accessory structure be larger than the principal structure or greater than 600 square feet, not including fences and other permitted screening devices, whichever is less.

Section 1362.03 Additional Principal Buildings.

- a. *Dwellings.* Individual lots or subdivided parcels ten acres or less in size shall have no building or buildings used for living purposes in addition to the principal building on the same lot, except garage apartments where permitted in a zoning district. Undivided land parcels of ten acres or greater in size shall be limited to one residential structure per ten-acre unit of undivided land area. This provision does not apply to factory-built home rental communities.
- b. *Non-dwellings.* Where a lot is not used as a dwelling, more than one principal building may be located upon the lot or tract, but only when such buildings conform to all open space and yard requirements around the lot for the district in which the lot or tract is located. A lot is not used as a dwelling for purposes of this subsection when the lot contains a caretaker's residence used in conjunction with an active industrial establishment or a place of worship or religious institution as provided in this code.

Section 1362.05 Orientation of Principal Structures.

All principal structures shall be required to have a front door facing the street unless the Zoning Officer determines that the prevailing condition of the developed lots fronting the same street would warrant a different orientation, or another orientation is necessary for emergency services access.

Section 1362.06 Height Exceptions.

- a. Special industrial structures such as cooling towers, elevator bulkheads, fire towers, tanks, and water towers, which require a greater height than provided in the district, may be erected to a greater height than permitted providing:
 1. The structure shall not occupy more than twenty-five percent (25%) of the lot area; and
 2. The setback requirements of the district in which the structure is erected shall be increased by one foot for each foot of height over the maximum height permitted, and
 3. Is necessary to comply with state or federal statutes or regulations
- b. The height limitations of this code shall not apply to flagpoles, church spires, belfries, chimneys, antennas, or water tanks.

Section 1362.07 Lot Lines and Irregular Lots.

- a. *Corner lots.* Corner lots shall have no rear lot line.
- b. *Flag Lots.* When the handle of a flag lot is less than the minimum width for a lot in the zoning district in which it is located, the handle is not to be used in delineating the minimum required lot width. The minimum lot width shall be taken from the front building setback line. However the handle shall be used in computing the required minimum lot size, except that in no case shall the area of the handle constitute more than 50% of the entire lot. Additionally no structures whether primary or accessory shall be placed in the handle.
- c. *Lot Width.* In a case where there is only one side lot line, lot width shall be measured between such side lot line and the opposite rear lot lines or street line.
- d. *Irregular Lots.* Front setbacks for irregular lots shall be measured from the front lot line adjacent to the street right of way with the greatest frontage in linear feet.
- e. *Pie-Shaped Lots.* Setbacks on pie-shaped lots shall be measured at the closest point between the building and the angled lot line.
- f. *Rear lot line (Irregular)* In the case of a lot having no street frontage or a lot of an odd shape, only the one lot line farthest from any street shall be considered a rear lot line. Where there is only one lot line other than street lot lines, it shall be considered the rear lot line.

Section 1362.08 Swimming Pools.

Private swimming pools are permitted accessory uses only when located in rear yards, and when completely enclosed with a protective barrier at least four (4) feet in height to protect persons or animals from trespassing and to assure that they are not subject to danger or harm. All openings in the barrier shall be equipped with gates or doors that shall be securely closed when not in use. Such swimming pools shall be considered accessory uses in all districts. For the purpose of this section, "swimming pools" refer to any structure intended for swimming or recreational bathing, that is capable of containing water over twenty-four (24) inches deep, including in-ground, above-ground, and on-ground swimming pools, hot tubs, and spas. Swimming pools and protective barriers must adhere to setback requirements within the zoning district where the pool is to be located.

Section 1362.09 Yard Requirements.

- a. All yards required to be provided under this code shall be open to the sky and unobstructed by any building or structure except for accessory buildings in the rear yard and fences and the following which may project into the required yards as established in this code:
 1. Steps and stoops not exceeding twenty-four (24) square feet;
 2. Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projection of chimneys and flues into the rear or side yard not exceeding three and one-half (3.5) feet in width and placed so as not to obstruct light or ventilation; and
 3. Sills, eaves, belt courses, cornices, and ornamental features not exceeding two (2) feet in width.
- b. Where any main wall of a structure located on an irregularly shaped lot does not parallel the lot line which the wall faces, the yard or minimum distance to the lot line at every point shall be at least equal to the minimum dimension required for the yard or distance to the lot line.
- c. For purposes of determining the required yard for townhouse developments, setbacks shall only apply from the perimeter of the main building to the perimeter of the parent parcel upon which the building is situated.

Section 1362.10 Fences, Landscaping, and Screening.

Subject to the following conditions, fences and walls may be erected, and hedges and other plantings may be grown along the boundaries of a lot:

- a. *Clear sight triangle.* Fences, hedges, other plantings, or walls at street corners shall not interfere with any clear sight triangle. The height of such objects is restricted to three and one-half (3.5) feet within the clear sight triangle. No fence, hedge, other plantings, or walls shall otherwise impose a threat to the public safety, including by obstructing the view of motorists to oncoming traffic or pedestrians.
- b. *Height restrictions.* Fences, walls, hedges, and other plantings used for the purpose of screening shall not exceed four (4) feet in height from the front building line extending to the front lot line, and shall not exceed six (6) feet in height extending behind the front building line of the main structure, excluding porches and stairs.
- c. *Fences and walls.*
 1. Fences and walls shall be durably constructed and well maintained.
 2. Fences and walls that have deteriorated shall be replaced or removed immediately.
 3. Fence and walls shall not be constructed out of fabric, junk, junk vehicles, appliances, tanks, barrels, razor wire, barbed wire, or electric fencing.
- d. *Landscaped buffer areas.*
 1. Five (5) foot landscaped buffer areas are the preferred method of buffering. However, where a buffer strip is considered to be impracticable or inappropriate, an opaque fence at least six (6) feet in height, in the rear or side yard, or 4 feet in height in the front yard so as to restrict a clear view beyond said buffer may be substituted in whole or in part for a natural buffer, provided it is approved by the Zoning Officer.
 2. Landscaped buffer areas shall be continually maintained by the landowner. Any plant material that does not survive shall be replaced within six (6) months. All landscaping shall be kept free of refuse and debris.
 3. Landscaped buffer areas may be required by the Board of Zoning Appeals as a condition of a conditional use permit.
 4. Landscaped buffer areas shall not be required where the lot abuts an area of existing natural vegetation that effectively screens the lot from casual observation to a height of at least six (6) feet.
 5. All species within the screen planting shall be indigenous or otherwise well-suited to the City, except that trees with large leaves which could clog storm drains and trees which are brittle, disease-prone, have low, spreading branches or shallow root systems; which drop large fruit or much sap; or which are otherwise messy shall also be avoided.
 6. Hedges shall be kept trimmed so that their branches shall not extend into the public road, or upon the lands of an adjoining owner, more than eighteen inches over the dividing line.
- e. *Property adjacent to dwellings and zoned or existing single-family residential property.* Landscaped buffer areas shall be provided between any new development adjacent to single-family residential property (existing or zoned) or adjacent to any dwelling, which landscaping shall be at least five (5) feet wide and at least three and one half (3.5) feet high, subject to height limitations contained within this section.
- f. *Parking lot screening.* A landscaped buffer area of at least five (5) feet in width shall be required between parking areas and abutting property lines which are not a right of-way, except where accessways or other openings may be required.
 1. At least one (1) tree for each fifty (50) linear feet shall be planted in a landscaping strip in addition to other planting materials.

2. Landscaped areas shall be protected from the encroachment of vehicles by use of curbing, wheel stops, bollards, fencing, or other approved barriers.
- g. *Ground-mounted and monument signs.* All non-temporary ground-mounted or monument signs shall be installed with a minimum surround of three (3) feet of regularly maintained floral and shrubbery landscaping in every direction.

Section 1362.11 Lighting.

- a. All lighting shall be low intensity and shielded so there is no illumination of adjoining residential properties. All lighting shall be erected and maintained so that light is confined to the property and will not cast direct light or glare upon adjacent properties or public rights of ways. Bare, un-shaded bulbs are prohibited.
- b. Building, parking, and all other exterior lighting shall be shielded and directed in a manner that lighting does not reflect or cause glare onto adjacent properties or adversely interfere with street traffic.
- c. Lighting is required for all off-street parking areas, off-street loading areas, and for driveways providing ingress and egress for nonresidential and multi-family developments.
- d. Feature lighting, such as up lighting of trees or other plant material or seasonal lighting, shall be so arranged to reflect away from any residential structure. Such lighting shall not create a glare on adjacent streets or properties.
- e. For all uses, except dwellings, exterior wall-mounted floodlights shall be prohibited except for security lighting.

Section 1362.12 Clear Sight Triangle.

In a clear sight triangle, the entire area shall remain clear of obstructions to sight, including but not limited to fences, hedges, other landscaping, and signs, above a plane established three and one-half (3.5) feet in elevation to a height of ten (10) feet from grade level at the intersection of any street, alley, or other public right-of-way centerline.

Section 1362.13 Parking.

- a. *Off-street parking.*
 1. General. Off-street parking shall be provided in compliance with this section whenever any building is erected, enlarged, converted, or increased in size or capacity.
 2. Required number. The off-street parking spaces required for each use permitted by this code shall not be less than that found in Table 1362.13(b), provided that any fractional parking space be computed as a whole space. Any commercial building not listed Table 1362.13(b), including libraries and museums, which are built, converted, modified, or structurally altered shall provide one parking space per 200 square feet of gross floor area and one parking space for each regular, full-time employee or full-time equivalent in the building or on the premises whose primary duties are in the building or on the premises.
 3. Combination of uses. Where there is a combination of uses on a lot, the required number of parking spaces shall be the sum of that found for each use, dividing the gross floor area proportionately between the different uses.
 4. Location of lot. The parking spaces required by this code shall be provided on the same lot as the use or on another lot not more than five hundred (500) feet radially from the lot where the use is located only if the Zoning Officer deems it impractical to provide space on the same lot with the building.
- b. *Off-street parking table.*

USE	NUMBER OF PARKING SPACES REQUIRED
Administrative Office	3 spaces per 1,000 feet of gross floor area
Adult Business	5 spaces per 1,000 feet of gross floor area
Amphitheater	1 space per 4 at maximum capacity
Assembly (Places of Worship, theaters, auditoriums)	1 per 300 feet of gross floor area
Athletic Field	4 spaces per 1,000 feet of gross floor area
Automobile Sales & Repair/Service	Parking spaces required for vehicles offered for sale, repair, storage, and servicing plus 1 space for each employee
Bakery	3 spaces per 1,000 feet of gross floor area and 1 space per employee
Bank	4 spaces per 1,000 feet of gross floor area plus 4 stacking spaces per drive-in land, plus 1 per employee

Barber Shop/Beauty Salon	1 space per 2 client chairs and 1 space per employee
Bed and Breakfast Inn	2 spaces per dwelling unit and one for each guest bedroom
Car Wash/Detailing	1 space per employee plus 1 space for every dryer
Cemetery/Mausoleum	1 space per employee plus provision of space for parking along internal drives
Continuing Care Facility	1 space per 3 beds and 1 space for each employee
Cultural Service	1 space per 300 feet of gross floor area
Day Care Facility	1 space per 4 clients and 1 space per employee
Dog Day Care	1 space per 250 feet of gross floor area
Drug Store	2.5 spaces per 1,000 feet of gross floor area
Dry Cleaners and Laundry Pick-Up Stations	1 space per employee plus 1 space per 200 feet of gross floor area
Dwelling unit (residential)	2 per dwelling unit
Funeral Home and Mortuaries	1 space per 25 feet of gross floor area
Gasoline Service Station/Convenience Store	1.5 spaces per fuel nozzle plus 3 spaces per 1,000 feet of gross floor area
Golf Course	1 space per 2 employees plus 2 spaces per hole
Health/Sport Club	1 space per 100 feet of gross floor area
Home-Based Business	2 per dwelling unit plus 1 space for customers
Hotel/motel	1 space per sleeping unit plus 1 space per 500 feet of square feet of common area
Industry	1 per 500 feet of gross floor area
Kennel	3 spaces per 1,000 gross floor area
Liquor Store	3 spaces per 1,000 gross floor area
Marina	1 space per boat slip plus 8 boat-trailer spaces per boat launching ramp
Medical office	1 space per 200 feet of gross floor area
Night Clubs/Taverns/Brewery Pubs	1 space per 100 feet of gross floor area
Office	1 space per 300 feet of gross floor area
Outdoor Storage	1 space per 2,000 feet of gross storage area
Personal Services Establishment	1 space per 250 feet of gross floor area
Professional Services Establishment	3 spaces per 1,000 feet of gross floor area plus 1 per employee
Recyclable Collection Center/Solid Waste Transfer Station	1 space per employee plus 5 spaces for drop-off customers
Restaurant	1 space per 100 feet of gross floor area
Restaurant with Drive-Through	1 space per 3 seats and 1 space per 2 employees plus 7 to 8 stacking spaces per window
Retail	1 space per 200 feet of gross floor area
Salvage Yard	1 space per employee, plus 1 space per vehicle used in the operation, plus 3 customer/visitor spaces
School	1 space per 3.5 seats in assembly rooms plus 1 space per faculty member
Studio	3 spaces per 1,000 feet of gross floor area
Swimming Pool	1 space per 4 persons lawfully permitted in the pool at one time, plus one space per employee

Telecommunications Tower	1 space for maintenance
Video Gaming/Lottery Establishment	1 space per 100 feet of gross floor area
Warehouse	1 space per 500 feet of gross floor area

c. *Parking stall dimension.*

1. Width. A minimum width of nine (9) feet shall be provided for each parking stall, except:
 - i. Compact parking stalls shall be a minimum width of eight (8) feet wide.
 - ii. Parallel parking stalls shall be a minimum width of eight (8) feet wide.
 - iii. The width of a parking stall shall be increased ten (10) inches for obstructions located on either side of the stall within fourteen (14) feet of the access aisle.
2. Length. A minimum length of twenty (20) feet shall be provided for each parking stall, except:
 - i. Compact parking stalls shall be a minimum length of eighteen (18) feet.
 - ii. Parallel parking stalls shall be a minimum length of twenty-two (22) feet in length.
3. Aisle access. The minimum width of aisles providing access to stalls shall be measured exclusive of interior drives or maneuvering areas and shall be provided as follows in Table 1362.13(d) Parking Standards:

d. *Parking standards table.*

Table 1362.13(d): Parking Standards		
<i>Angle of Parking</i>	<i>Minimum Aisle Width (Double-Sided Parking)</i>	<i>Minimum Aisle Width (Single-Sided Parking)</i>
Parallel	12'	12'
45	12' 8"	12' 8"
60	16'	16'
75	20'	18'
90	24'	18'

e. *Design of parking facilities.*

1. General driveway and accessway provisions.
 - i. Driveways and accessways should be located to minimize traffic conflicts with traffic entering the street from either the same or the opposite side of the street.
 - ii. All accessways and driveways shall be designed to conform to West Virginia DOT specifications with regard to roads.
 - iii. For dwellings, only one (1) driveway access per unit is permitted. A lot with at least one hundred (100) feet of frontage along a street may be permitted one (1) additional driveway access points. Regardless of frontage, a development may be restricted to a single accessway depending on usage and interior and exterior traffic patterns.
 - iv. On any lot, no wall, fence, hedge, tree, shrub, or other obstruction shall be allowed which dangerously obscures the view of approaching traffic along the street, or at any intersection, including driveways and accessways.
2. Driveway and accessway width.
 - i. Commercial parking shall provide one or more accessway, the width of which shall be twelve (12) feet for one-way enter/exit or twenty-four (24) feet for two-way enter/exit.
 - ii. Residential driveways and accessways shall be at least nine (9) feet in width.
3. Driveway and ramp slopes. The maximum slope of any driveway, accessway, or ramp shall not exceed twenty (20) percent.
4. Stall access. Each required parking stall shall be individually and easily accessed. No automobile shall be required to back onto any public street or sidewalk to leave any parking stall when such stall serves more than two dwelling units. All portions of a public lot or garage shall be accessible to other portions thereof without requiring the use of any public street.
5. Screening. A three (3)-foot-high buffer at the public way shall be provided for all parking areas of five (5) or more parking spaces. However, on any lot, no wall, fence, hedge, tree, shrub, or other obstruction shall be allowed which dangerously obscures the view of approaching traffic along the street, or at any intersection, including driveways and accessways.

6. **Striping.** All parking stalls shall be striped. Parking spaces shall be clearly delineated by suitable markings. Short-term visitor parking spaces shall be differentiated from long-term employee spaces by suitable markings or signage.
7. **Surfacing.**
 - i. All parking areas and driveways for all uses shall be paved with a permanent surface material, which includes asphalt, concrete, brick, or concrete pavers or with a similar material approved by the Zoning Officer. Pervious surfaces including pervious asphalt and concrete as well as brick pavers shall be encouraged in residential parking facilities if found to be structurally sound by a certified engineer.
 - ii. In residential districts, no more than forty (40) percent of the front yard may be used for parking, including driveways. Vehicles may not be parked or stored upon any lawn, vegetated, or otherwise landscaped area. All driveways and parking areas must be paved with a permanent surface material unless in the side or rear yard, where gravel or other pervious materials may be used.
8. **Compact car parking spaces.** If twenty (20) or more parking stalls are required for a parking lot, ten (10) percent of those spaces may be designated for compact car parking stalls. Each compact car parking stall shall be marked as "Compact Car Parking."
9. **Retail parking.** Off-street parking areas for all new retail businesses over 7,000 square feet shall be designed to include bollards to prevent vehicles from driving into the business.
- f. **Ingress and egress.** Adequate ingress and egress to a parking facility shall be provided by clearly defined accessways in accordance with any access management requirements of the City of Moundsville.
- g. **Accessible Parking.** Accessible parking spaces and passenger loading zones shall be provided in accordance with all applicable federal, state, and local laws, including but not limited to the Americans with Disabilities Act (ADA), ICC A117.1, and West Virginia Code Section 17c-13-6, and any amendments thereto.
- h. **Bicycle parking.** One bicycle parking space shall be provided for each fifteen vehicular parking spaces. Bicycle spaces shall not be located within the required sidewalk or in a manner that impedes pedestrian access to the building and may be located within the landscape buffer area provided that it occupies less than ten (10%) percent of the length of the required buffer, or may be located at the side or rear of the building.

Section 1362.14 Off Street Loading Space and Facilities Requirements.

In connection with any building or structure which is to be erected or substantially altered and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading berths not less than the minimum requirements specified in this section:

- a. Loading space provided for the loading and unloading of delivery trucks and other vehicles and for the servicing of shops by refuse collection, fuels, and other service vehicles shall be arranged so that they may be used without:
 1. Blocking or interfering with the use of accessways, automobile parking facilities, or pedestrian ways, or
 2. Backing out into a street.
- b. All required loading space shall be located on the same lot as the use to be served, and shall be constructed and sized such that no portion of the vehicle projects into any traffic lane. No loading space located outside of a residential district for vehicles of more than two (2) ton capacity shall be located less than one hundred (100) feet from any residential district. No loading space shall be located within fifty (50) feet of any property line.
- c. All off-street loading areas shall be adequately buffered from adjacent streets and properties and landscaped in accordance with the provisions of this code.
- d. No loading facilities shall be constructed between the building setback line and a street right-of-way line or within a required yard.

Section 1362.15 Storage, General.

- a. No lot or premise shall be used as a storage area for inoperable automobiles, appliances, or the storage or collection of any other miscellaneous items unless permitted in this code or by state statute. No lot or premise shall be used as a garbage dump or a dead animal rendering plant nor may manure, rubbish, or unauthorized miscellaneous refuse be stored in the open.
- b. **Hazardous materials.** Any storage of hazardous material that is ancillary to a permitted use or a conditional use shall meet the following conditions:
 1. All storage shall comply with all state, federal, and local regulations, including Part 11, Health and Sanitation Code of the City of Moundsville Municipal Code.

2. Such material shall be listed and made known to the Chief of the City of Moundsville Fire Department and Chief of the City of Moundsville Volunteer Fire Department.

Section 1362.16 Storage of Trailers, Camping and Recreational Equipment.

Trailers and camping and recreational equipment may be parked or stored subject to the following requirements:

- a. Permanent parking and storage of trailers or camping and recreational equipment shall be limited to the interior of automobile garages, other available on-lot accessory buildings, or that portion of the lot behind the rear building line of the principal building and in compliance with Section 1362.13 of this code.
- b. Trailers or camping and recreational equipment may be temporarily parked on a residential property provided a temporary trailer-parking permit is obtained from the Zoning Officer. Temporary trailer parking permits shall be limited to a maximum of one (1) consecutive two (2) week period in any one (1) calendar year.
- c. At no time shall trailers or camping and recreational equipment be occupied or used for living, sleeping, or housekeeping purposes while being temporarily or permanently parked or stored on a residential property.

Section 1362.17 Satellite Signal Receiving Stations.

- a. *General requirements.*
 1. Satellite signal receiving stations shall be for the personal use of residents, occupants, and their guests only.
 2. Satellite signal receiving stations shall contain no graphic message or advertising other than to identify the name of the company that provided the satellite.
 3. Only one Satellite signal receiving station is permitted per lot, unless there is documentation provided to the Zoning Officer from the installer or satellite company that suggests that more than one satellite is necessary in order to receive the signals for the use and enjoyment of the property owner.
 4. Satellite signal receiving stations shall comply with all other provisions of this code not otherwise in conflict with this section pertaining to accessory structures for the particular zoning district in which such stations are to be installed.
 5. Satellite signal receiving stations shall be designed to withstand a wind force of up to seventy (70) miles per hour without the use of supporting guy wires.
- b. *Ground-mounted stations.* Within all zoning districts, the following provisions shall apply to satellite signal receiving stations:
 1. Ground-mounted stations shall only be mounted in the rear yard behind the principal building or structure, shall not exceed an above grade height of fifteen feet, and shall not be located closer than five feet to any lot line.
 2. If a lot or parcel cannot receive a signal for a ground station mounted in the rear yard, the Zoning Officer may permit a ground-mounted station in the side yard or front yard, subject to the following:
 - i. Ground-mounted stations shall not exceed an above grade height of five feet.
 - ii. Ground-mounted stations shall not be located closer than five feet to a side lot line or front lot line.
 - iii. Ground-mounted stations shall be shielded or screened from view from the front lot line with natural vegetation or fencing to provide maximum screening or shielding without interfering with the signal.
 - iv. Ground-mounted stations shall be mounted in a concrete base in line with grade, utilizing only metal supports of galvanized construction.
 3. Wiring between ground-mounted stations and any other structure shall be placed underground.
- c. *Roof-mounted and side-mounted stations.* Within all zoning districts, the following shall apply to roof-mounted signal receiving stations or signal receiving stations affixed to the side of a primary or accessory structure (“side-mounted station”):
 1. Roof-mounted stations shall be mounted directly on the roof of a primary or accessory structure located in the rear yard and shall not be mounted on appurtenances such as chimneys, towers, or spires.
 2. Side-mounted stations shall be mounted directly on the side of a primary or accessory structure located in the rear yard and shall not be mounted on appurtenances such as chimneys, towers, or spires..
 3. Roof-mounted stations mounted on the roof of a primary or accessory structure shall not exceed a height of greater than five (5) feet above the roof on which it is mounted. The height shall be measured vertically from the point at which such station is mounted on the roof.
 4. No portion of a side-mounted station mounted on the side of a primary or accessory structure shall be lower than seven (7) feet from the ground on which the primary or accessory structure stands and shall not exceed

a height greater than five (5) feet above the location at which the station is mounted onto the side of the primary or accessory structure.

Section 1362.18 Restricted Use Zone Established Prohibiting Drilling Into or Extraction of Ground Water.

- a. There is hereby established within the City of Moundsville a Restricted Use Area in which the drilling into or extraction of ground water is prohibited. The Restricted Use Area is defined as the approximate 280 feet segment of Second Street from its intersection with Grant Avenue west, to its intersection with Washington Avenue, as depicted in the map attached as Exhibit 1 hereto. This area represents the maximum predicted extent of contamination migration (100 feet) plus a conservative safety factor of 180 feet.
- b. Ground water is defined as water occurring in the zone of saturation beneath the seasonal high water table, or any perched water zone.
- c. This prohibition applies to any excavation or penetration in the ground, whether drilled, bored, cored, driven, or jetted that enters or passes through ground water for purposes that include, but are not limited to, a water supply, exploration for water, dewatering, or heat pump wells.
- d. Nothing contained in this section shall prohibit the extraction of ground water from installation, modification, operation, or repair or removal of monitoring and/or remediation wells when operated with the authorization of or at the direction of state or federal environmental officials or agencies.
- e. Nothing contained in this section shall prevent any construction activity within the Restricted Use Area which is not for the purpose of using ground water and does not contemplate the disruption of ground water during construction. Additionally, nothing in this section shall prohibit any construction activity within the Restricted Use Area which is not for the purpose of using ground water but that may result in incidental disturbance of ground water, provided all state laws and regulations applicable to construction under such conditions, including, but not limited to, all laws and regulations enforced and promulgated by the DEP, are verifiably met. If incidental disturbance of ground water occurs, the contractor shall provide notice of the disturbance to the Office of Environmental Remediation of the Department of Environmental Protection (304-926-0455), and reference Voluntary Remediation file #260944.
- f. Nothing contained in this section shall prevent the use of ground water in the Restricted Use Area if the ground water has been treated to meet state standards appropriate for its intended use prior to any use.

Section 1362.19 Telecommunication Facilities.

- a. *General.* All wireless telecommunications facilities and freestanding telecommunications towers shall comply with any and all Federal Aviation Administration, Federal Communication Commission, and any other applicable federal and state regulations.
- b. *Illumination.* Telecommunication Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA).
- c. *Exterior finish.* Telecommunication Towers not requiring FAA painting or marking shall have an exterior finish, which enhances compatibility with adjacent land uses as approved by the City.
- d. *Landscaping.* The City may require landscaping on properties with telecommunication facilities/towers in excess of other requirements in this code in order to enhance compatibility with adjacent land uses. Landscaping shall be installed on the outside of any fencing required in this code, yet still within the property boundary where the telecommunication facility/tower is located.
- e. Nothing in this section is construed to regulate satellite signal receiving stations, known as home satellite dishes, whether such dish is used for television reception or other purposes.
- f. Any owner of property used as the location for telecommunication facilities shall maintain such site and all structures in good condition and free from trash, outdoor storage, weeds, and other debris.
- g. If applicable, a copy of the applicant's Federal Communications Commission (FCC) license, or, if the applicant is not an FCC license holder, a copy of at least one letter of commitment from an FCC license holder to locate at least one antenna on the applicant's tower shall be submitted with the permit application, including a pictorial representation, such as a silhouette drawing or photograph, of the proposed telecommunications facility.
- h. Unless co-locating as a Class II facility, certification, supported by evidence, that co-locations of the proposed telecommunications facility with an existing approved tower or facility cannot be accommodated is required. Reasons for not co-locating on a site would include, but not be limited to, the following:
 1. No existing towers or facilities are located within a 2,000-foot radius;
 2. Existing towers or facilities are not of sufficient height to meet the applicant's engineering requirements;
 3. Existing towers or facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment;

4. Applicant's planned equipment would cause radio frequency interference with other existing or planned equipment of the tower, or facility would cause interference with the applicant's planned equipment which cannot be reasonably prevented;
 5. Unwillingness of the owner of the existing tower or facility to entertain a co-location proposal;
 6. Existing towers or facilities do not provide an acceptable location for requisite coverage for the applicant's communications network.
- i. *Class I telecommunications facilities.* The following shall apply to all Class I telecommunications facilities:
 1. Class I telecommunications facilities shall not exceed a height of sixty (60) feet above grade;
 2. A building permit is required prior to constructing a Class I facility over six (6) feet in height.
 3. A West Virginia licensed engineer shall certify that the design of a Class I facility is such that in the event of structural failure or collapse, no part of the structure will encroach upon any adjoining property or public right-of-way.
 - j. *Class II telecommunications facilities.* The following shall apply to all Class II telecommunications facilities:
 1. Antennas or associated electronic equipment shall be designed for co-location on an existing, permitted telecommunications tower, or attached to an existing building, water tank, or other existing support structure whose main function is not the support of telecommunication facilities, provided stealth technology is utilized to the fullest extent possible. Unless specifically being attached to an existing, permitted telecommunications tower, these facilities must be designed utilizing the latest stealth technologies as defined in this code.
 2. All Class II facilities, not to be co-located on an existing telecommunication tower, are required to be screened by natural vegetation or otherwise camouflaged by stealth technology to conform with existing site color, architecture, and landscaping characteristics so as to minimize visual impact, provided the efficacy of the telecommunication facility is not compromised.
 3. A zoning permit is required that shows the siting, placement, screening, co-location or stealth design, camouflage, height, and setback of the Class II facility.
 4. Class II telecommunications facilities which are not co-located on an existing telecommunications tower may be permitted on existing structures if such facilities meet all other requirements of this code. The owner of such structure shall, by written certification to the Zoning Officer, establish the following when plans are submitted for a zoning permit:
 - i. Sign an affidavit acknowledging that they understand that the structure will be used to support telecommunication facilities and any ancillary equipment.
 - ii. The height from grade of the telecommunications facilities shall not exceed the height from grade of the support structure by more than twenty (20) feet.
 - iii. Any telecommunications facilities and their appurtenances, located above the primary roof of a support structure, are set back one (1) foot from the edge of the primary roof for each one (1) foot in height above the primary roof of the telecommunications facilities. This setback requirement shall not apply to telecommunications facilities and their appurtenances located above the primary roof of a structure if such facilities are appropriately screened from view through the use of panels, walls, fences, or other screening techniques consistent with the code. Setback requirements shall not apply to stealth antennas mounted to the exterior of structures below the primary roof but which do not protrude more than eighteen (18) inches from the side of such a structure.
 - k. *Class III telecommunication facilities.* The following shall apply to all Class III telecommunications facilities:
 1. Class III is reserved for applicants seeking to erect a new telecommunications tower or facility, with associated antennas and electronic equipment. All Class III telecommunication facilities must adhere to the City's building code standards.
 2. Towers are exempt from the maximum height restrictions of the zoning districts where located. Towers shall be permitted to a height of one hundred (100) feet, unless the applicant can show good cause to construct a tower exceeding one hundred (100) feet. Under no circumstance shall a tower be greater than two hundred (200) feet above grade.
 3. Towers shall be designed in such a manner so as to permit future co-location of other carrier's antennas, rather than construction of additional single-use towers.
 4. A Class III telecommunications facility application is required, in which the applicant must show that the new tower is built to minimize visual impact of the tower through careful design, siting, landscaping, and innovative camouflaging and stealth techniques.

5. Security fencing, no less than six (6) feet in height shall be provided around the equipment shed. The fencing shall conform to the requirements found under Section 1362.10 of this Zoning Ordinance.
 6. Towers shall be setback from all residential property lines a minimum of one hundred (100) feet or one hundred (100) percent of the height of the proposed Tower, whichever is greater.
 7. Avoid potential damage to property caused by towers and telecommunications facilities by ensuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or when determined to be structurally unsound.
1. *Application to develop a Class III telecommunications facility.* An application to develop a Class III telecommunications facility shall include:
1. The name, address, and telephone number of the owner and lessee of the parcel of land upon which the tower is situated. If the applicant is not the owner of the parcel of land upon which the tower is situated, the written consent of the owner shall be evidenced in the application.
 2. The legal description, book and page number from the record of such land kept in the Office of the Clerk of Marshall County, and address of the parcel of land upon which the tower is situated.
 3. The names, addresses, and telephone numbers of all owners of other towers or usable antenna support structures within a one-half mile radius of the proposed new tower site, including City-owned property. The applicant must notify such property owners by certified mail in writing and supply the City with copies of such notices.
 4. The names, addresses, and telephone numbers of adjacent property owners and those property owners within two hundred (200) linear feet of the property line of the proposed new tower site, including City-owned property. The applicant must notify such property owners, by certified mail in writing and supply the City with copies of such notices. Tower separation distances from residentially zoned lands shall be measured from the base of a tower to the closest point of residentially zoned property.
 5. A description of the design plan proposed by the applicant in the City. Applicant must identify its utilization of the most recent technological design, including microcell or small cell design, as part of the design plan. The applicant must demonstrate the need for towers and why design alternatives, such as the use of microcell or small cell, cannot be utilized to accomplish the provision of the applicant's telecommunications services.
 6. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to obtain permission to install or co-locate the applicant's telecommunications facilities on another usable tower located within a one-half mile radius of the proposed Tower site.
 7. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install the applicant's telecommunications facilities on a support structure, as a Class II telecommunication facility, owned by other persons located within a one half mile radius of the proposed tower site.
 - a. Written technical evidence from a West Virginia licensed engineer that the proposed tower or telecommunications facilities cannot be installed or co-located on another person's tower or usable antenna support structure (as a Class II telecommunication facility) owned by other persons located within one-half mile radius of the proposed tower site.
 8. A written statement from the telecommunications provider that the construction and placement of the tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties.
 9. Written, technical evidence from a licensed engineer(s) acceptable to the Fire Marshal and the building official that the proposed site of the tower or telecommunications facilities does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.
 10. In order to assist the City in evaluating visual impact, the applicant shall submit color photo simulations showing the proposed site of the Tower with a photo-realistic representation of the proposed tower as it would appear viewed from the closest residential property and from adjacent roadways.
 11. The Zoning Officer may require an applicant to supplement any information that the Zoning Officer considers inadequate or that the applicant has failed to supply. The City or any of its duly authorized designees may deny an application on the basis that the applicant has not satisfactorily supplied the information required in this subsection. The City shall review applications in a prompt manner and set forth the reasons for approval or denial.

12. A fee for management of the application in the amount of two hundred dollars (\$200.00) must be included with the application. Such fee includes administrative costs for processing this application including but not limited to expenses incurred for inspections, document review, and mapping. This fee is non-refundable.
- m. In January of each year, the owner or operator of a communications tower within the City of Moundsville shall submit written report to the City that there have been no changes in the operating characteristics of the communications tower as approved at the time of approval, including, at a minimum:
 1. Copy of the current Federal Communications license, if applicable;
 2. Name, address, and emergency telephone number for the operator of the communications tower;
 3. Copy of Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence covering the communications tower and communications antennas;
 4. At any time during the calendar year, if an amendment to the Federal Communications Commission license is issued, a copy of the amended license shall be submitted to the City.
- n. *Bond for Removal Costs.*
 1. At the time of issuance of the permit or application approval for construction of the telecommunication facility, a bond or escrow account shall be posted with the City in an amount certified by the applicant's engineer to be sufficient, but in no case shall be less than \$20,000, to cover the costs of removing such wireless communications facility and disposing of all of its components, together with a financial security agreement authorizing the City to use the funds to remove the facility if the facility is abandoned, and further authorizing the City to place a lien on the premises in the event the escrow or bond is insufficient to cover the costs of removal and disposal.
 2. The financial security agreement shall be executed by both the applicant and the landowner.
 3. At the time of filing of the Annual Report required in Section 1362.19(m), above, any new owner of the land or of the facility, as well as an organization utilizing the facility, shall reaffirm the validity of the financial security agreement and/or execute a new financial security agreement as may be required by the City Solicitor.
 4. If the Zoning Officer finds that an abandoned telecommunications facility has not been removed within ninety (90) days of the cessation of use, said officer shall give written notice to the owner of the building or premises on which such facility is located.
 5. Removal of the facility shall be effected within fifteen (15) days after receipt of the notice. If such facility is not removed after the conclusion of the fifteen (15) day period, the Zoning Officer is hereby authorized to cause the antenna to be removed at the expense of the owner of the building or premises on which such antenna is located.
 6. If the escrow or bond is insufficient to cover the entire cost of removal and disposal, the City may place a lien upon the premises that may be collected in accordance with the rules for collection of municipal liens.

Section 1362.20 Wind Energy Systems.

- a. *Purpose.* The purpose of this section is to regulate the placement, construction, and modification of small wind energy systems while promoting the safe, effective, and efficient use of such systems.
- b. *Applicability.* The requirements set forth in this section shall govern the siting of wind energy systems used to generate electricity or perform work which may be connected to the utility grid pursuant to West Virginia's net metering laws, serve as an independent source of energy, or serve in a hybrid system.
- c. *Siting requirements.* The requirements for siting and construction of all small wind energy systems regulated by this section shall include the following:
 1. Small wind energy towers shall maintain a galvanized steel finish, unless FAA standards require otherwise, or if the owner is attempting to conform the tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. A wind energy tower may be erected, maintained, or operated on or as an attachment to a building on a lot. A photo simulation may be required by the City.
 2. Wind energy systems shall not be artificially lighted unless required by the Federal Aviation Administration (FAA) or appropriate authority.
 3. No tower shall have any sign, writing, or image that may be construed as advertising by the Zoning Officer or designee.
 4. The applicant shall provide evidence that the proposed height of the wind energy system tower does not exceed the height recommended by the manufacturer or distributor of the system. The tower height shall not exceed a maximum height of seventy (70) feet on a parcel. When situated on or attached to a building

the total height shall not exceed seventy (70) feet. The building itself shall otherwise conform with the applicable height requirement under this ordinance.

5. The applicant shall provide evidence that the provider of electric utility service to the site has been informed of the applicant's intent to install an interconnected, customer-owned electricity generator, unless the applicant intends, and so states on the application, that the system will not be connected to the electricity grid. Notification will take place by having the electric utility provider sign the conditional use permit application, but such signature does not construe approval for net metering by the electric utility.
 6. Wind energy systems shall adhere to noise limits as delineated in Article 527 of the City of Moundsville Municipal Code. These levels, however, may be exceeded during short-term events such as utility outages or severe windstorms.
 7. The applicant will provide information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.
 8. The minimum distance between the ground and any protruding blade utilized on a small wind energy system shall be fifteen (15) feet, as measured at the lowest point of the arc of the blades. The lowest point of the arc of the blades shall also be ten feet above the height of any structure within seventy-five (75) feet of the base. The supporting tower shall also be enclosed with a six-foot tall fence or the base of the tower shall not be climbable for a distance of ten (10) feet.
 9. The applicant will provide proof of adequate liability insurance for a small wind energy system. Whether or not the applicant is participating in the net metering program, the applicant will be required to meet the insurance coverage requirements as set forth in W. Va. Code R. 150-33-4 (2011).
 10. The small wind energy system generators and alternators should be constructed so as to prevent the emission of radio and television signals and shall comply with the provisions of Section 47 of the Federal Code of Regulations, Part 15 and subsequent revisions governing said emissions.
- d. *Federal and state requirements.*
1. Compliance with the Moundsville Building Code. Building permit applications for wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including tower, base, and footings. An engineering analysis of the tower showing compliance with the Moundsville Building Code and certified by a licensed professional engineer shall also be submitted.
 2. Compliance with FAA Regulations. Wind energy systems must comply with applicable FAA regulations.
 3. Compliance with National Electric Code. Building permit applications for wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
 4. Compliance with regulations governing energy net metering. Wind energy systems connected to the utility grid must comply with West Virginia Code Section 24-2F-8 and West Virginia Administrative Code Title 150, Series 33.
- e. *Setbacks.* The wind energy system shall be setback a distance at least equal to one hundred ten (110) percent of the height of the tower plus the blade length from all adjacent property lines and a distance equal at least to one hundred fifty (150) percent of the tower height plus blade length from any dwelling inhabited by humans on neighboring property. Additionally no portion of the wind energy system, including guy wire anchors, may be extended closer than ten (10) feet to the property line.
- f. *Removal of defective or abandoned wind energy systems.* Any wind energy system found to be unsafe by the building official shall be repaired by the owner to meet federal, state, and local safety standards or removed within six (6) months. Any wind energy system that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of the system shall remove the turbine within ninety (90) days of receipt of notice from the City instructing the owner to remove the abandoned wind energy system.

Section 1362.21 Temporary Uses.

- a. Only the following uses are permitted temporarily, for up to four consecutive weeks in one calendar year:
 1. Seasonal sales of such items as pumpkins, Christmas trees, fireworks stands, etc. in commercial districts;
 2. Carnival, circus, and street fairs in commercial or industrial districts; and
 3. Mobile amusements and lighting equipment for promotion, advertisement, and grand openings in commercial and industrial districts.
- b. A permit is required to be completed, returned to the Zoning Officer, and approved before any temporary use may commence, in addition to any other requirements of the Code of the City of Moundsville, including but not limited to obtaining a business license.

Section 1362.22 Adult Business.

- a. No such adult establishment shall be located less than one thousand (1,000) feet from a school zone, place of worship, library, day care center, civic building, park, historic district, dwelling, lot with residential districting, or other adult establishment as measured from front door to front door along the curb line of public streets providing access.
- b. All doors, windows, and other apertures shall be located and covered or screened with opaque glazing to discourage and prevent visibility or viewing of the interior.
- c. No exterior signage, building element, advertisement, display, or other promotional material shall be pornographic in nature or convey any such idea or element to specified anatomical areas, as defined in this code, and shall not be visible from a public right of way or pedestrian walk.
- d. In the event that an activity or business which might fall under a use category other than adult business is combined with or includes activities which constitute an adult bookstore, adult movie theater or movie house, or adult entertainment, as defined herein, then such activity or business shall constitute an adult business and shall be governed by those provisions in this code applicable to adult business uses.

Section 1362.23 Bed and Breakfast Inn.

- a. Homes used as bed and breakfast inns shall have a minimum heated gross floor area of two thousand and five hundred (2,500) square feet.
- b. Bed and breakfast inns shall be owner-occupied.
- c. Homes used as bed and breakfast inns shall be virtually indistinguishable from surrounding residential units.
- d. Cooking facilities within bedrooms is prohibited.
- e. Not more than two identification signs with a total area of two (2) square feet may be used. Signs shall not be internally illuminated.
- f. All bed and breakfast inns shall comply with the provisions of West Virginia Code Section 29-3-16c, Safety Standards for Bed and Breakfast Establishments.

Section 1362.24 Cemetery/Mausoleum.

- a. Brick or stone walls between one and one-half (1.5) and four (4) feet are permitted.
- b. Wood or wrought iron fences between two (2) and eight (8) feet are permitted.
- c. Setbacks from all street rights-of-way and adjacent properties to a wall or grave shall be a minimum of eight (8) feet.
- d. One sign per road frontage may be permitted.
- e. Access to the site must be provided using paved accessways clearly defined and designed so as not to interfere with the character of the neighborhood.

Section 1362.25 Child Day Care Facility.

- a. All child care providers, whether state or privately operated, shall obtain a license from the West Virginia Secretary of State and the Department of Health and Human Resources. Each facility shall also be inspected by the City Building Inspector and Fire Marshal to ensure the safety of children and employees.
- b. A facility shall provide a minimum of (35) square feet of usable space per child. Any rooms or areas that have not been approved for the use of children shall be inaccessible. No activity space may be created in the basement of a structure unless expressly approved by the Fire Marshal.
- c. A secured outdoor activity area must be provided by the facility allowing a minimum of seventy-five (75) square feet of space per child. Should the minimum space not be available, a rotating outdoor activity schedule shall be established to meet the minimum requirements and ensure that each child be afforded outdoor playtime every day, weather permitting.
- d. The outdoor activity area noted above shall be fenced with a minimum of six (6) foot high fence. All play equipment shall be located in the fenced area.
- e. Parks may be used to meet outdoor activity requirements if located immediately adjacent to the facility.

Section 1362.26 Dog Day Care.

All Dog Day Care facilities must comply with the following criteria:

- a. The hours of operation shall be limited daily any time between 7 a.m. and 9 p.m.
- b. Dogs may be groomed, trained, exercised, and socialized, but not kept or boarded overnight, bred, sold, or let for hire.
- c. There shall be no more than thirty (30) dogs on the premise at one time.

- d. *Provide indoor and outdoor recreational areas for dogs.* Indoor recreational area shall be at least one hundred (100) square feet per dog, and outdoor recreational area shall be at least one hundred and fifty (150) square feet per dog.
- e. *Provide sight-obscuring fencing for all on-site outdoor recreation areas.* The fence shall provide full containment for the dogs and be secured at all times. The fence structure shall be deep enough and secured to the ground to prevent escape and high enough to prevent dogs from jumping or climbing over. The fence shall comply with all fence provisions in this ordinance.
- f. If there is a grooming facility on site, it must be physically separated from primary enclosure areas and food storage.
- g. A person must be physically present at all times to monitor dogs.
- h. Feces, hair, dirt, debris, and food waste must be removed at least daily or more often if necessary to prevent accumulation and to reduce disease hazards, insects, pests and odors.
- i. Tethering is prohibited. Restraining or confining dogs shall comply with the Code of the City of Moundsville Section 505.04.
- j. Dogs shall display all required licensing, vaccination, and identification tags. Current records of required licensing and vaccination shall be kept by the dog day care.
- k. Dog day cares may not provide services to dogs over the age of 6 months which are not spayed or neutered.

Section 1362.27 Garage Sales.

- a. No more than four (4) garage sales, yard sales, or rummage sales are permitted within any twelve (12) month period for each residence or household.
- b. For the purpose of this subsection, garage sale, yard sale, and rummage sale shall be deemed to mean the same thing.
- c. Sales must be contained within the individual's property and may not encroach into a public right-of-way.
- d. Each garage sale shall not be permitted to last more than 48 hours.
- e. A garage sale shall not include the sale of new merchandise.
- f. Tents may be used during the event subject to subsection (c) above and must be removed immediately following the conclusion of each event.
- g. All items must be removed from the exterior of the premise at the end of the sales event.
- h. All persons desiring to conduct a garage sale, yard sale, or rummage sale must first obtain, at no cost, a permit from the City Clerk's Office.

Section 1362.28 Home-Based Business (Low-Impact).

The business or commercial activity conducted as a home-based business must satisfy the following criteria:

- a. Customer, client, patient, or other traffic shall be restricted to 8 a.m. to 6 p.m.
- b. No more than twelve (12) visits to the home-based business shall be allowed per day, except as necessary to operate childcare facilities in accordance with the West Virginia Code; such visits may be addressed in a conditional use permit. A "visit" is defined as a stop at the business premises by one automobile transporting one or more customers, clients, patients, packages/parcels or other business associates. A visit does not include the operator of the business, members of his/her family, or the business employee.
- c. The business or commercial activity shall be compatible with the use of the property as a residence and surrounding residences.
- d. The home-based business shall only employ individuals residing in the dwelling.
- e. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- f. The business or commercial activity may not use any equipment or processes, which create noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the surrounding neighborhood.
- g. The business or commercial activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with the use of a dwelling in the neighborhood.
- h. The business activity may not occupy more than 25% of the gross floor area of the residence.
- i. The business may not involve any illegal activity.

Section 1362.29 Night Clubs, Taverns, Brewery Pubs.

- a. The total number of such establishments in concurrent operations within any zoning district where permitted cannot exceed ten (10).

- b. The gross floor area to customer ratio shall be one (1) customer for every fifty (50) square feet of gross floor area.

Section 1362.30 Recreation Facilities.

- a. Public and private recreational facilities shall be treated as parks in design and landscaping.
- b. Recreational facilities are encouraged to be built adjoining school campuses, parks, greenbelts, parkways, greenways, or waterfronts.
- c. Parking shall be located behind structures, or along the perimeter of the lot.

Section 1362.31 Salvage Yards.

Salvage yards shall be subject to the following regulations:

- a. The minimum lot area shall be one (1) acre.
- b. A landscaped or fenced buffer shall be placed along the entire perimeter of the property at the highest allowable heights pursuant to this code. Fencing or landscaped buffers shall be at least ninety (90%) percent opaque

Section 1362.32 Tourist or Trailer Camp.

Tourist or trailer camps shall be located on at least one acre of land and shall provide usable plots measuring no less than 1,200 square feet.

Section 1362.33 Urban Agriculture.

a. *Definitions for this section.*

- 1. "Beekeeping" means the keeping or propagation of honeybee hives for collection of honey or other bee products.
- 2. "Community Garden" means a neighborhood-based development with the primary purpose of providing space for members of the community to grow plants for beautification, education, recreation, community distribution, or personal use.
- 3. "Composting" means accumulating a mixture of various decaying organic substances, such as dead leaves or manure, intended to be used for fertilizing soil.
- 4. "Fowl" means any chicken, duck, goose, turkey, or pigeon.
- 5. "Home Agriculture" means the gardening or production, principally for use or consumption of the property owner or resident, of plants or their products including but is not limited to fruits of all kinds including grapes, nuts, and berries; vegetables; floral, ornamental, and other non-commercial greenhouse products; and bees and apiary products.
- 6. "Hydroponics" means the cultivation of plants in nutrient solution rather than soil.
- 7. "Livestock" means any hog, pig, goat, cow, horse, pony, emu, alpaca, or other hoofed animal.

b. *Beekeeping.* Beekeeping is permitted as an accessory use to a dwelling provided that:

- 1. No more than three (3) hives, each with only one swarm, are allowed on lots of less than ten thousand (10,000) square feet; and
- 2. Hives shall not be located within twenty-five (25) feet of any lot line except when situated eight (8) feet or more above the grade immediately adjacent to the grade of the lot on which the hives are located or when situated less than eight (8) feet above the adjacent existing lot grade and behind a solid fence or hedge six (6) feet high parallel to any lot line within twenty-five (25) feet of a hive and extending at least twenty (20) feet beyond the hive in both directions.

c. *Community gardens.* The responsibility of managing, maintenance, and operations of community garden sites shall be that of the land owner or designated public or civic entity, nonprofit organization, or other community-based organization. Processing and storage of plants or plant products are prohibited on site. Garden tools and supplies may be stored within an accessory structure.

d. *Composting.* Composting shall take place at least fifty (50) feet from any dwelling, except a dwelling associated with the use.

e. *Keeping of fowl and rabbits.* The keeping of fowl or rabbits is permitted as an accessory use to a dwelling, provided that the number of fowl or rabbits on property less than one (1) acre shall not exceed six (6) and the number of fowl or rabbits kept on property greater than (1) acre shall not exceed (12) twelve, subject to the following provisions:

- 1. A dwelling shall be located on the same lot as the fowl or rabbits.
- 2. Fowl or rabbits shall be kept within a building, coop, or enclosure, and within a fully enclosed and fenced rear or side yard such that fowl or rabbits may not be at large within the City. The building, coop, or

enclosure in which the fowl or rabbits are kept must be at least twenty-five (25) feet from any dwelling, except the primary dwelling situated on the property. The building, coop, or enclosure shall be durably constructed and maintained in conformance with the West Virginia State Building Code.

3. A permit is required for keeping fowl or rabbits within the City. A permit may be obtained from the City Clerk after application to the Zoning Officer and an inspection performed by the Zoning Officer.
- f. *Incidental sales.* Any sale resulting from beekeeping, composting, home agriculture, or keeping of fowl or rabbits shall constitute a home-based business and is subject to all applicable provisions of this code.
- g. *Location.* Beekeeping, composting, home agriculture, and keeping of fowl shall not take place in the front yard of any lot, except:
 1. Plants are integrated with the principal structure's landscaping and primarily serve an ornamental purpose; and
 2. Ten (10) plants grown for use or consumption may be cultivated in a front yard, separate from the principal structure's landscaping, provided such plants do not exceed four (4) feet in height and the planted area does not exceed twelve (12) square feet.
- h. *Prohibitions.*
 1. Livestock shall not be kept within the City.
 2. Roosters shall not be kept within the City.
 3. Slaughtering and processing more than twelve (12) fowl or rabbits per year is prohibited within the City.

Section 1362.34 Vehicle, Boat, and Marine Repair/Service/Sales/Rental.

Vehicle, Boat, and Marine repair, service, sales, and rental uses shall be subject to the following conditions:

- a. Outdoor storage areas shall be located within the side or rear yards and screened from adjacent properties with fencing or with a landscape buffer area, except that new and used vehicles and boats currently being offered for sale, rent, or lease may be located in the front yard, subject to yard, setback, and other requirements of this code.
- b. Activities involving excessive noise shall be conducted entirely within the confines of a building sufficiently sound-insulated to effectively confine the noise.
- c. No vehicle, boat, or marine repair, service, sales, and rental uses shall be located less than one hundred (100) feet from a residential district as established in this Zoning Ordinance.
- d. Vehicle, boat, and marine sales uses shall have a minimum of six thousand (6,000) square feet of outdoor display area.

Section 1362.35 Video Lottery Establishment.

Establishments that offer or provide video gaming or lottery regulated under the provisions of the Limited Video Lottery Act, West Virginia Code Section 29-22B-101 et. seq., shall not be located within one thousand and five hundred (1,500) feet of any school zone, child care facility, place of worship or religious institution, park, community center or facility, library, recreation center or facility, public building or public arena, or any other similar structure, or any other structure which houses an establishment that offers or provides video gaming or lottery, measured in a straight line from the nearest point of the wall of the establishment offering video gaming or lottery to the nearest property line of said school zone, school, place of worship or religious institution, park, community center or facility, recreation center or facility, public building or public arena, or any other similar structure, or any other structure which houses an establishment that offers or provides video gaming or lottery.

ARTICLE 1364 SIGNS

Section 1364.01 Findings, Purpose, and Intent; Interpretation.

- a. Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, color, illumination, movement, materials, location, height, and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values; the character of the various neighborhoods; the creation of a convenient, attractive, and harmonious community; protection against destruction of or encroachment upon historic areas; and the safety and welfare of pedestrians and wheeled traffic, while providing convenience to citizens and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size, and purpose of all signs. This article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this

article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this article which can be given effect without the invalid provision.

- b. Signs not expressly permitted by right or by conditional use permit under this code are prohibited.
- c. A sign placed on land or on a building for the purpose of identification, protection, or directing persons to a use conducted therein shall be deemed to be an integral but accessory and subordinate part of the principal use of the land or building. Therefore, the intent of this article is to establish limitations on signs in order to ensure they are appropriate to the land, building, or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified in this article.
- d. These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant and landscape and architecture of surrounding buildings, legible and appropriate to the activity to which they pertain, not overly distracting to motorists, and constructed and maintained in a structurally sound and attractive condition.
- e. These regulations distinguish between portions of the City designed for primarily vehicular access and portions of the City designed for primarily pedestrian access.
- f. These regulations do not regulate every form and instance of visual speech that may be displayed anywhere within the jurisdictional limits of the City. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above.
- g. These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.

Section 1364.02 Permit Required.

- a. *In general.* Except as provided in this code, a sign permit is required prior to the display and erection of any sign.
- b. *Application for permit.*
 - 1. An application for a sign permit shall be filed with the Zoning Officer on forms furnished by the City. The applicant shall provide sufficient information to determine if the proposed sign is permitted under this code and other applicable laws, regulations, and ordinances. An application for a temporary sign shall state the dates intended for the erection and removal of the sign.
 - 2. The Zoning Officer shall promptly process the sign permit application and approve the application, reject the application, or notify the applicant of deficiencies in the application within 20 business days after receipt. Any application that complies with all provisions of this code, the building code, and other applicable laws, regulations, and ordinances shall be approved.
 - 3. If the application is rejected, the Zoning Officer shall provide a list of the reasons for the rejection in writing. An application shall be rejected for non-compliance with the terms of this code, building code, or other applicable law, regulation, or ordinance.
- c. *Permit fee.* A nonrefundable fee shall accompany all sign permit applications. The permit fee schedule shall be set by the City of Moundsville. If the sign is part of a new construction or renovation project, the cost of the sign permit fee shall be included in the total project permit fee and not be permitted separately. If the permit is to resurface an existing sign structure the permit fee will be set by the City of Moundsville based on the total value of the project with an additional \$75 fee for each sign being resurfaced.
- d. *Duration and revocation of permit.* If a sign is not installed within six (6) months following the issuance of a sign permit, within thirty (30) days for a temporary sign permit, or within the time period set forth in a permit issued under Section 1364.05(e)(2), the permit shall be void. The permit for a temporary sign shall state its duration, not to exceed 30 days unless otherwise provided in this code. The Zoning Officer may revoke a sign permit under any of the following circumstances:
 - 1. The information in the application was materially false or misleading;
 - 2. The sign as installed does not conform to the sign permit application; or
 - 3. The sign violates this code, building code, or other applicable law, regulation, or ordinance.
- e. *Appeals.* Appeals from the denial or granting of a sign permit shall be made to the Board of Zoning Appeals pursuant to the process set out in this code for appeals to the BZA.

Section 1364.03 Permit Not Required.

A sign permit is not required for:

- a. Signs erected by a governmental body or required by law.

- b. Flags up to sixteen (16) square feet in size not containing any commercial advertising, provided that no freestanding pole shall be erected in the public right-of-way nor be within five (5) feet of a service drive, travel lane, or adjoining street.
- c. The changing of messages on marquees and the repair of an existing permitted sign, except that repair of a nonconforming sign must comply with this code.
- d. Temporary signs as follows:
 - 1. One (1) sign, no illumination, no more than twelve (12) square feet in area, located on property where a building permit is active.
 - 2. On any property where a dwelling is for sale or rent, one sign with a total area of up to twelve (12) square feet and a maximum height of six (6) feet, and on any commercial property for sale or rent, two signs with a total area of up to thirty two (32) square feet and a maximum height of eight (8) feet.
 - 3. Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of official or directed duties, provided that all such signs including their frames, bases, and supports shall be removed no more than ten (10) days after their purpose has been accomplished.
 - 4. On dwellings, no more than four (4) non-commercial temporary signs with a total area of no more than twelve (12) square feet, and which are removed within ninety (90) days after being erected.
 - 5. On dwellings, non-commercial window signs, provided that the total area of window signs does not exceed 25% of the total area of all windows on each building façade, and such signs are removed within ninety (90) days after being erected.
 - 6. Banners for opening new businesses or residential communities for not more than fifteen (15) days.
- e. Two (2) minor signs per use.
- f. A-frame signs more than fifty (50) feet from the nearest public right of way.
- g. Pavement markings. Any sign applied directly and entirely to and flush with an asphalt, concrete, or similar paved surface.
- h. A permanent window sign, provided that the aggregate area of all window signs on each window or door does not exceed twenty-five percent (25%) of the total area of the window or door. However, the square footage of such sign(s) shall count towards the allowable maximum sign square footage on a particular property.

Section 1364.04 Prohibited Signs.

In addition to signs prohibited elsewhere in this code or by applicable state or federal law, the following signs are prohibited:

- a. *General prohibitions.*
 - 1. Signs that violate any law of the state relating to outdoor advertising or in violation of this code.
 - 2. Signs attached to natural vegetation.
 - 3. Signs simulating, or which are likely to be confused with, a traffic control sign or any other sign displayed by a public authority. Any such sign is subject to immediate removal and disposal by an authorized City official as a nuisance.
 - 4. Vehicle or trailer signs.
 - 5. Freestanding signs more than twenty-five (25) feet in height.
 - 6. Signs hanging from supports, except against the face of a building.
- b. *Prohibitions based on materials.*
 - 1. Animated signs. This subsection does not apply the changing of the message content no more often than once every seven seconds.
 - 2. Flashing signs or other signs displaying flashing, scrolling, or intermittent lights or lights of changing degrees of intensity, except where such signs are expressly permitted within this article.
 - 3. Signs consisting of illuminated tubing or strings of lights outlining property lines or open sales areas, rooflines, doors, windows, or wall edges of any building, except for temporary decorations not to exceed three (3) months per year.
 - 4. Signs that emit smoke, flame, scent, mist, aerosol, liquid, or gas.
 - 5. Signs that emit sound.
 - 6. Any electronic sign that is generated by a series of moving images, such as an LED, digital display, or other video technology, whether displayed on a building, vehicle, or mobile unit.
 - 7. Pole signs less than four (4) feet in height.
 - 8. Neon signs, except in windows where permitted in a district.
- c. *Prohibitions based on location.*
 - 1. Off-premises signs, unless specifically permitted by this chapter.

2. Signs erected on public land other than those approved by the Zoning Officer in writing, required by law without such approval, or permitted under West Virginia law. Any sign not so authorized is subject to immediate removal by the City, with the costs charged to the owner or person having control of such sign, with payment due within 30 days of notice of charges. Removal of the sign under this provision does not preclude prosecution of the person responsible for the sign.
3. Roof signs. Signs on the roof surface or extending above the roofline of a building or its parapet wall.
4. Any sign located in the vision triangle formed by any two (2) intersecting streets and alley.
5. Window signs with an aggregate area on a window or door in excess of twenty-five (25%) percent of the total area of the window or door or located above the first floor unless the related use is only on the floor where the window sign is displayed.

Section 1364.05 General Requirements.

- a. *Setback.* Except as otherwise permitted, all freestanding signs and flagpoles shall be set back from any public right-of-way at least the height of the sign or flagpole.
- b. *Illumination.* All permitted and conditional use signs may be backlit, internally lighted, or indirectly lighted, subject to lighting limitations in this code. Temporary signs shall not be lighted.
- c. *Maximum height measurements.* The maximum height for signs with sign structures affixed to the ground is measured as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign, subject to limitations in this article. Normal grade is the lower of:
 1. Existing grade prior to construction; or
 2. The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating primarily for the purpose of mounting or elevating the sign.
 Wall signs and other signs with sign structures not affixed to the ground are measured from the lowest attached component of the sign to the highest attached component of the sign.
- d. *Measurement of sign area.* Sign area is calculated under the following principles:
 1. With signs that are regular polygons or circles, the area can be calculated by the mathematical formula for that polygon or circle. With signs that are not regular polygons or circles, the sign area is calculated using all that area within a maximum of three abutting or overlapping rectangles that enclose the sign face.
 2. The permitted area of a double-faced a-frame sign shall be considered to be the area on one side only. If one face contains a larger sign area than the other, the larger face shall be used in calculating the sign area.
 3. For projecting signs, the sign area also includes the area of the visible sides of the sign, calculated as a rectangle enclosing each entire side view.
 4. Supports, uprights, or structures on which any sign is supported shall not be included in determining the sign area unless such supports, uprights, or structure are designed in such a way as to form an integral background of the display; except, however, when a sign is placed on a fence, wall, planter, or other similar structure that is designed to serve a separate purpose other than to support the sign, the entire area of such structure shall not be computed.
 5. In instances where there are multiple tenants or users on a property or in a building, allowable sign area for all parties shall not exceed the maximum sign area computed based upon the number of tenants and forty (40) square feet per tenant. In no case shall any tenant sign exceed forty (40) square feet.
- e. *Wall signs.*
 1. Wall signs shall provide as part of zoning permit application:
 - i. Express permission from the operator and/or owner of the building;
 - ii. The name and address of the person applying the wall sign;
 - iii. A clear drawing of the proposed wall sign including dimensions and its location; and
 2. Wall signs in excess of one hundred (100) square feet require a public hearing within forty-five (45) days of a completed application. Public notice for the public hearing shall be given in a newspaper published in the City at least ten (10) days prior to the hearing. Due notice for the public hearing shall be provided to any person owning property within two hundred (200) feet of the affected area by certified mail at the person's last known address. The Zoning Officer may set forth a time period in the zoning permit for competing a wall sign in excess of one hundred (100) square feet beyond six (6) months, but in no case longer than one (1) year.

Section 1364.06 Nonconforming Signs.

- a. Signs lawfully existing on the effective date of this code which do not conform to the provisions of this code, and signs which are accessory to a nonconforming use shall be deemed to be nonconforming signs and may remain except as qualified below.
 1. No nonconforming sign shall be enlarged nor shall any feature of a nonconforming sign, such as illumination, be increased.
 2. Nonconforming signs shall not be extended, structurally reconstructed, altered in any manner, or replaced with another non-conforming sign.
 3. Nonconforming sign shall not be moved for any distance on the same lot or to any other lot unless such change in location will make the sign conform in all respects to the provisions of this article.
 4. A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding fifty (50) percent of its area may be restored within six (6) months after such destruction or damage but shall not be enlarged. If such sign is so destroyed or damaged to an extent exceeding fifty (50) percent, the sign shall not be reconstructed but may be replaced with a sign that is in full accordance with this code.
 5. Nonconforming sign structures shall be removed if the use to which it is accessory has not been in operation for a period of one year or more. Such sign structure shall be removed or made conforming by the owner or lessee of the property. If the owner or lessee fails to remove or make conforming the sign structure within 30 days of notice by the Zoning Officer, the Zoning Officer may cause the sign to be made conforming and/or removed and the cost of such removal or modification shall be charged to the owner, person having control, or person receiving benefit from such sign, with payment due within 30 days of notice of charges.
 6. If a nonconforming sign is altered such that the sign is conforming or is replaced by a conforming sign, such sign shall thereafter be kept in accordance with the provisions of this article.
- b. The burden of establishing nonconforming status of signs and the physical characteristics and location of such signs shall be with the owner of the property. Upon notice from the Zoning Officer, a property owner shall submit verification that sign(s) were lawfully erected. Failure to provide such verification shall be cause the sign to be deemed an illegal sign.
- c. Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign.

Section 1364.07 Maintenance and Removal.

- a. All signs shall be constructed and mounted in compliance with the West Virginia Uniform Statewide Building Code.
- b. All signs and components thereof shall be maintained in good repair and in a safe, neat, and clean condition.
- c. *Safety hazard.* The Zoning Officer may cause to have removed or repaired immediately without written notice any sign which, in his or her opinion, has become insecure, in danger of falling, or otherwise unsafe, and, as such, presents an immediate threat to the safety of the public. If such action is necessary to render a sign safe, the cost of such emergency removal or repair shall be charged to the owner, person having control, or person receiving benefit from such sign, with payment due within thirty (30) days of notice of charges.
- d. *Nuisance.* Any sign which constitutes a nuisance shall be abated by the owner within thirty (30) days of notice by the Zoning Officer. At any time, the Zoning Officer may cause the nuisance to be abated with the costs charged to the owner, person having control, or person receiving benefit from such sign, with payment due within thirty (30) days of notice of charges.
- e. *Illegal sign and good condition.* Any sign which is illegal or in disrepair shall be made conforming and/or repaired within thirty (30) days of notice from the Zoning Officer. If an illegal sign or a sign in disrepair is not made conforming and/or repaired, the Zoning Officer may cause the sign to be removed or repaired and the cost of such removal or repair shall be charged to the owner, person having control, or person receiving benefit from such sign, with payment due within thirty (30) days of notice of charges.
- f. *Expired permit.* Any sign for which a sign permit has expired shall be removed within five (5) days of the permit expiration. If the sign is not removed, the Zoning Officer may cause the sign to be removed and the cost of such removal shall be charged to the owner, person having control, or person receiving benefit from such sign, with payment due within thirty (30) days of notice of charges.
- g. Signs located within ten (10) feet of any public right-of-way and in violation of this code may be impounded at any time.
- h. The owner of any commercial sign, other than a permitted off-premise sign, located on commercial property where the use or business has ceased operating shall, within sixty (60) days of the cessation of the use or business operation, remove temporary signs and all aspects of any permanent sign that refer to the use or business. Property owner may request, in writing, a waiver of such requirement, if the businesses is temporarily

or seasonally operational, is remodeling, or otherwise has the good will intention of opening that business back up within one year's time of cessation.

Section 1364.08 Temporary Signs.

- a. Temporary signs require a permit, except as provided in this article, and may be permitted up to 30 days each calendar year.
- b. Temporary signs may be erected in any district in the following forms: banner, chalkboard sign, feather sign, freestanding sign, portable sign, window sign, wall sign, wicket signs.
- c. A use may erect one temporary, off-premises sign on property in any district, except residential districts, with the consent of the persons in charge of such properties, no more than two (2) times in one calendar year. Each sign shall be no more than 16 square feet in area and 8 feet in height, which area counts against the maximum sign area permitted on that lot.
- d. No more than one permitted temporary sign may be displayed per lot, except as provided for in section 1364(d).

Section 1364.09 Signs for Single-family Residential, Multi-family Residential, and Recreation-Conservation Districts.

- a. Permitted sign use as accessory to dwellings: wall sign, window sign, minor sign, temporary sign, wicket sign, sign affixed to mailbox.
- b. Permitted sign use as accessory to non-dwellings: changeable message sign, freestanding sign, monument sign, wall sign, and window sign. Only one of each is permitted per use, except wall signs and window signs.
- c. No more than one flag as accessory to a dwelling and no more than two flags as accessory to a non-dwelling are permitted.
- d. *Dimension specifications chart.* All maximum sign area requirements include the sum total sign area of all signs per use.

	Permitted as Accessory to Dwellings	Permitted as Accessory to Non-dwellings	Temporary Signs	Flags
Max. Sign Area	4 sq. ft.	25 sq. ft.	16 sq. ft.	16 sq. ft. each
Max. Height	4 ft.	4 ft.	4 ft.	25 ft.

Section 1364.10 Signs for Mixed Use and Historic and Neighborhood Commercial Districts.

- a. Permitted sign use as accessory to dwellings shall be the same as for Section 1364.09(a).
- b. Permitted sign use as accessory to non-dwellings: a-frame sign, awning sign, banner, canopy sign, chalkboard sign, changeable copy sign, commercial sign, feather sign, freestanding sign, marquee sign, monument sign, wall sign, wicket sign, window sign. Only one of each is permitted per use, except wall signs and window signs.
- c. No more than two flags as accessory to a non-dwelling are permitted.
- d. *Dimension specifications chart.* All maximum sign area requirements include the sum total sign area of all signs per use.

	Freestanding Signs	All Other Signs	Temporary Signs	Flags
Max. Sign Area (each/total)	50 sq. ft.	25 sq. ft./ 50 sq. ft.	25 sq. ft.	16 sq. ft. each
Max. Height	20 ft.	10 ft.	5 ft.	25 ft.

Section 1364.11 Signs for Corridor Commercial and Industrial Districts.

- a. Permitted sign use as accessory to dwellings shall be the same as for Section 1364.09(a).
- b. Permitted sign use as accessory to non-dwellings: a-frame sign, awning sign, banner, canopy sign, chalkboard sign, changeable copy sign, commercial sign, feather sign, freestanding sign, marquee sign, monument sign, neon sign, wall sign, wicket sign, window sign. Only one of each is permitted per use, except wall signs, window signs, and permitted off-premises signs.
- c. Off-premises signs are permitted and are counted towards the maximum square footage permitted on that lot.
- d. No more than two flags as accessory to a non-dwelling are permitted.
- e. *Dimension specifications chart.* All maximum sign area requirements include the sum total sign area of all signs per use.

	Freestanding Signs	All Other Signs	Temporary Signs	Flags
Max. Sign Area (each/total)	150 sq. ft.	100 sq. ft.	100 sq. ft.	16 sq. ft. each

Max. Height	120 ft.	10 ft.	10 ft.	25 ft.
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CHAPTER 7 ADMINISTRATION, APPEALS, AND ENFORCEMENT

ARTICLE 1370 PURPOSE.

The purpose of this section is to ensure that the processes by which the zoning ordinance is effectuated has been clearly identified and delineated. This section shall outline the duties and powers of the Board of Zoning Appeals, the zoning permit process, the appeals process, and other enforcement related provisions.

ARTICLE 1371 ADMINISTRATION; ENFORCEMENT

Section 1371.01 Powers and Duties of the Zoning Officer.

Council shall appoint a Zoning Officer, who shall have the authority to administer and enforce the Zoning Ordinance, including but not limited to the following:

- a. Keep a record of plans and applications for permits and all permits issued with notations as to special conditions. All records shall be open for public inspection.
- b. Review permit applications and notifications as necessary to determine compliance with the provisions of this ordinance. No permit shall be issued unless it conforms to all applicable ordinances, statutes, and regulations.
- c. All questions of interpretation and enforcement shall be initially presented and determined by the Zoning Officer. Subsequent recourse shall be, in order, to the board of zoning appeals and the courts.
- d. Upon finding that provisions of this ordinance have been violated, notify the person or party in writing responsible for the violation(s), order the action necessary to correct the violation, and if correction is not completed within the time specified in the notice of violation, begin legal actions necessary to compel correction of the violation.
- e. Maintain official zoning maps.
- f. Provide information on planning and zoning upon request by citizens and public agencies.
- g. Submit at least annually, a written report to City Council on all permits issued and notice and orders issued.
- h. Perform additional tasks and duties as may be prescribed by the City Council.

Section 1371.02 Zoning Permit.

- a. No building or structure shall be constructed, erected, expanded, enlarged, or otherwise structurally altered until a zoning permit has been issued by the Zoning Officer.
- b. Applications for a zoning permit shall be made available at city hall.
- c. All applications for zoning permits shall be made in writing by the owner or authorized agent and shall be filed with the Zoning Officer. The application shall:
 - 1. Include a statement as to the proposed use of the structure or land.
 - 2. Be accompanied by a plan, drawn to scale, showing the dimensions of the lot to be built upon, the exact size and location of the building to be constructed upon the lot, and accessory buildings to be erected, and such other information as may be deemed necessary by the Zoning Officer in determining and provided for the enforcement of this code.
- d. If the zoning permit application is approved by the Zoning Officer, then an appropriate placard issued by the City and containing the approval of the Zoning Officer, shall be returned together with the zoning permit to the applicant, following payment of the appropriate fee as determined by City Council. The placard shall be posted by the applicant in a conspicuous place upon the building or construction site prior to the commencement of any construction and shall remain upon the building or construction site during all construction operations.
- e. A zoning permit does not alleviate the necessity to obtain a building permit as required by the City of Moundsville Municipal Code.

Section 1371.03 Violations and Penalties.

- a. Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction, shall be punished for each offense by a fine not less than \$50.00 nor more than \$500.00. Each day the violation continues shall be considered a separate offense. Work carried on in violation of the cancellation of any permit issued under this chapter shall also be deemed a violation punishable in the same manner.

- b. Any buildings erected, raised, or converted, or land or premises used in violation of any provision of this Zoning Ordinance is declared a common nuisance and the owner of the building, land, or premises shall be liable for maintaining a common nuisance.

Section 1371.04 Injunction.

- a. The Planning Commission, Moundsville Board of Zoning Appeals, or any designated enforcement official may seek an injunction in the Circuit Court of Marshall County, West Virginia, to restrain the owner, tenant, occupant, other persons or persons responsible, or unit of government from violating the provision of this Zoning Ordinance or any rule, regulation, or requirement adopted or established hereunder.
- b. The Planning Commission, Moundsville Board of Zoning Appeals, or any designated enforcement official may also seek a mandatory injunction in the Circuit Court of Marshall County, West Virginia, directing the owner, tenant, occupant, other persons or persons responsible, or unit of government to remove a structure erected in violation of the provisions of this Zoning Ordinance or rule, regulation, or requirement adopted or established hereunder.
- c. If the Planning Commission, Moundsville Board of Zoning Appeals, or any designated enforcement official is successful in any suit brought under this section, the respondent shall bear the costs of the action.

Section 1371.05 Amendments to Zoning Ordinance.

- a. The City of Moundsville Council may amend this Zoning Ordinance. Before amending this Zoning Ordinance, the City Council with the advice of the Planning Commission, must find that the amendment is consistent with the adopted comprehensive plan. If the amendment is inconsistent, then the governing body with the advice of the Planning Commission, must find that there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area.
- b. The City Council may amend this Zoning Ordinance without holding an election, holding an election on the proposed amendment, or holding an election on the proposed amendment pursuant to a petition.

ARTICLE 1373 BOARD OF ZONING APPEALS; APPEALS

Section 1373.01 Board of Zoning Appeals (BZA) Created.

There is hereby created a board of zoning appeals to hear appeals on zoning issues and to hear conditional use permit application and variance applications to be known as the City of Moundsville Board of Zoning Appeals.

Section 1373.02 BZA Membership; Eligibility Requirements.

- a. The City of Moundsville Board of Zoning Appeals shall have five (5) members to be appointed by the governing body. The members of the City of Moundsville Board of Zoning Appeals shall be residents of the City of Moundsville for at least three (3) years preceding the member's appointment. A member cannot be a member of the Planning Commission and cannot hold any other elective or appointive office in the City of Moundsville.
- b. The members shall be appointed for the following terms: One (1) for a term of one (1) year; two (2) for a term of two (2) years; and two (2) for a term of three (3) years. The terms shall expire on the first day of January of the first, second, and third years, respectively, following their appointment. Thereafter, members shall serve three (3) year terms. If a vacancy occurs, the governing body shall appoint a member for the unexpired term.
- c. The governing body may appoint up to three (3) additional members to serve as alternate members of the City of Moundsville Board of Zoning Appeals. The alternate members must meet the same eligibility requirements as set out in subsection (a) of this section. The term for an alternate member is three (3) years. The governing body may appoint alternate members on a staggered term schedule.
- d. An alternate member shall serve on the Board when one (1) of the regular members is unable to serve. The alternate member shall serve until a final determination is made in the matter to which the alternate member was initially called on to serve during the alternate member's term.
- e. The City of Moundsville Board of Zoning Appeals shall establish written rules and procedures for designating an alternate member. An alternate member shall have the same powers and duties of a regular board member.
- f. The members and alternate members of the City of Moundsville Board of Zoning Appeals shall serve without compensation, but shall be entitled to be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

Section 1373.03 Meeting of the Board of Zoning Appeals.

- a. The City of Moundsville Board of Zoning Appeals shall meet at least quarterly and may meet more frequently at the written request of the chairperson or by two (2) or more members.
- b. Notice for a special meeting must be in writing, include the date, time, and place of the special meeting, and be sent to all members at least two (2) days before the special meeting.
- c. Written notice of a special meeting is not required if the date, time, and place of the special meeting were set in a regular meeting.
- d. The City of Moundsville Board of Zoning Appeals must have a quorum to conduct a meeting. A majority of the members of the Board shall constitute a quorum. No action of the Board is official unless it is authorized by a majority of the members present at a regular or properly called special meeting.
- e. At its first regular meeting of each year, the City of Moundsville Board of Zoning Appeals shall elect a chairperson and vice chairperson from its membership. The vice chairperson shall have the power and authority to act as chairperson during the absence or disability of the chairperson.

Section 1373.04 Powers and Duties of the City of Moundsville Board of Zoning Appeals.

The City of Moundsville Board of Zoning Appeals shall have the following powers and duties:

- a. Hear, review, and determine appeals from an order, requirement, decision, or determination made by an administrative official charged with the enforcement of this Zoning Ordinance or rule and regulation adopted pursuant thereto.
- b. Authorize exceptions to the district rules and regulations only in the classes of cases or in particular situations as specified in this Zoning Ordinance.
- c. Hear and decide conditional uses of this Zoning Ordinance upon which the board is required to act under this Zoning Ordinance.
- d. Authorize, upon appeal in specific cases only as provided in this Zoning Ordinance, a variance to this Zoning Ordinance.
- e. Reverse, affirm, or modify the order, requirement, decision, or determination appealed from so long as the action of the Board taken on appeal is consistent with the rules, regulations, and requirements of this Zoning Ordinance.
- f. Authorize, upon appeal, the substitution of one legal non-confirming use existing at the effective date of this Zoning Ordinance for another similar non-confirming use. Provided further that upon substitution all applicable landscaping requirements of this code shall be satisfied.
- g. Promulgate and adopt written rules and regulations concerning:
 1. The filing of appeals, including the process and forms for appeal;
 2. Application for variances and conditional uses;
 3. The giving of notice; and
 4. The conduct of hearings necessary to carry out the Board's duties under the terms of this article.
- h. Keep minutes of the Board's proceedings.
- i. Keep an accurate and complete audit record of all the Board's proceedings and official actions and keep the audio record in a safe manner, which audio record is accessible within twenty-four (24) hours of demand, for three (3) years.
- j. Record the vote on all actions taken.
- k. Take responsibility for the custody and preservation of all papers and documents of the Board. All minutes and records shall be filed in the office of the Board and shall be public records.
- l. With consent of the governing body, hire employees necessary to carry out the duties and responsibilities of the Board, provided that the governing body sets the salaries.
- m. Supervise the fiscal affairs and responsibilities of the Board.

Section 1373.05 Non-Conformities.

- a. *Purpose and applicability.* The purpose of this section is to regulate and limit the continued existence of uses, structures, and lots established prior to the effective date of this Zoning Ordinance or any amendment thereto that does not conform to this code. Any non-conformity created by a change in the classification of property or the text of this code shall be regulated by the provisions of this article.
- b. *General provisions.*
 1. Non-conforming lots, structures, or uses may continue to exist, be bought or sold, altered, restored, or extended only in accordance with the provisions of this code.

2. Nothing in this code shall prevent the strengthening or restoring to a safe condition of any portion of a non-conforming structure declared unsafe by a proper authority.
 3. Nothing in this Zoning Ordinance shall be interpreted as authorization for or approval of the continuance of the illegal use of a structure or premises in violation of zoning controls in existence at the time of the effective date of legal enactment of this code.
 4. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall apply to any nonconformities existing therein.
 5. Nothing in this section prohibits alterations or additions to or replacement of buildings or structures owned by any farm, industry, or manufacturer, or the use of land presently owned by any farm, industry, or manufacturer but not used for agricultural, industrial, or manufacturing purposes, or the use or acquisition of additional land which may be required for the protection, continuing development, or expansion of any agricultural, industrial, or manufacturing operation of any present or future satellite agricultural, industrial, or manufacturing use.
- c. *Non-conforming uses.*
1. If a non-conforming use has ceased for one (1) year, abandonment shall be presumed and the non-conforming use shall not be allowed to resume. Any future use of the land or structures shall conform to and be in accordance with this Zoning Ordinance.
 2. The non-conforming use of a building or land which has been abandoned shall not thereafter be returned to such non-conforming use. Abandonment of a non-conforming use shall be presumed if one (1) or more of the following conditions exists, indicating intent on the part of the property owner to abandon the nonconforming use:
 - i. When the intent of the owner to discontinue the use is apparent;
 - ii. Utilities, such as water, gas, and electricity to the property have been disconnected;
 - iii. The property, buildings, and grounds, have fallen into disrepair as evidenced by proper code violation documentation;
 - iv. When it has been replaced by a conforming use;
 - v. When it has been changed to a use permitted by conditional use by the Board of Zoning Appeals; or
 - vi. The business license issued by the City of Moundsville has expired.
 3. The Zoning Officer shall be responsible for preparing a list of all nonconforming uses existing at the time of the legal enactment of this Zoning Ordinance and such list shall be maintained for public use and information.
 4. Once a non-conforming use has been changed or converted to a conforming use, it shall not thereafter be used for any nonconforming use.
- f. *Non-conforming structures.*
1. A lawful nonconforming structure, which is damaged the extent of fifty percent (50%) or more of its appraised value, as valued within 12 months of when the damage occurred, shall not be restored except in conformity with the regulations for the use district in which such building is located.
 2. A lawful nonconforming structure which is damaged, by neither malfeasance nor wanton disregard by an interested party, to the extent of less than fifty percent (50%) or more of its appraised value, as valued within twelve (12) months of when the damage occurred, may be reconstructed and used for the same nonconforming use, provided that:
 - i. The reconstructed structure shall not exceed the height, area, or volume of the original structure; and
 - ii. Reconstruction shall be commenced within one year from the date the structure was destroyed or condemned and shall be carried on without interruption.
 3. The extension of a lawful use to any portion of a nonconforming structure shall not be deemed the extension of a nonconforming use.
- g. *Non-conforming lot.*
1. Except as provided in this section, a nonconforming vacant lot existing and of official record as of the effective date of this Zoning Ordinance may be developed for any of the uses permitted by these regulations in the zoning district in which it is located, provided that the use meets all applicable yard and setback requirements for the zoning district in which the lot is located.
 2. A non-conforming vacant lot shall not be developed if it could be combined with an adjoining lot (said lot being owned by the same person and any or all future assigns) on or after the effective date of these

regulations in order to create a single lot. Where an owner owns adjoining property, construction may occur across the lot lines if that is the only way the yard requirements may be met without a variance. If said combination, however, results in the creation of a single lot that is more than one and one-half (1.5) times the minimum lot width or area required in the zoning district, then the single lot may be divided into two lots of equal width and area without being further classified as non-conforming. For the purposes of this section, "adjoining" shall be deemed to mean the sharing of one or more common lot lines and access to both lots can be provided by the same street without crossing that street.

- h. *Non-conforming accessory uses and structures.* No non-conforming accessory use or accessory structure shall continue after the principal use or structure is terminated by abandonment, damage, or destruction unless such accessory use or accessory structure thereafter is made to conform to the standards for the zoning district in which it is located. No non-conforming accessory use or structure shall become or replace any terminated principal non-conforming use or structure.

Section 1373.06 Variances.

- a. A variance is a deviation from the minimum standards of this Zoning Ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a parcel of land.
- b. The City of Moundsville Board of Zoning Appeals shall grant a variance to this Zoning Ordinance if it finds that the variance:
 - 1. Will not adversely affect the public health, safety, or welfare or the rights of adjacent property owners and residents;
 - 2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
 - 3. Would eliminate an unnecessary hardship and permit a reasonable use of the land;
 - 4. Will allow the intent of this Zoning Ordinance to be observed and substantial justice done.

Section 1373.07 Appeal to Board of Zoning Appeals.

An appeal from any order, requirement, decision, or determination made by the Zoning Officer or any other person charged with the enforcement of this Zoning Ordinance shall be filed by an aggrieved person with the City of Moundsville Board of Zoning Appeals. The appeal shall:

- a. Specify the grounds for appeal;
- b. Be filed within thirty (30) days of the date of the original order, requirement, decision, or determination made by the Zoning Officer, which time period shall be jurisdictional in nature;
- c. Be on the form prescribed by the Board; and
- d. Upon request of the City of Moundsville Board of Zoning Appeals, the Zoning Officer shall transmit all documents, plans, and papers constituting the record of the action from which the appeal was taken.

Section 1373.08 Notice and Hearing of Appeal.

- a. Within ten (10) days of receipt of the appeal by the City of Moundsville Board of Zoning Appeals, the Board shall set a time for the hearing of the appeal and give notice. The hearing on the appeal must be held within forty-five (45) days of receipt of the appeal by the Board.
- b. At least fifteen (15) days prior to the date set for the hearing on the appeal, the Board shall publish a notice of the date, time, and place of the hearing on the appeal as a Class I legal advertisement, pursuant to the West Virginia Code, and written notice shall be given to the interested parties. The publication area shall be the area covered in the appeal.
- c. The Board of Zoning Appeals may require the party taking the appeal to pay for the cost of public notice and written notice to interested parties.
- d. At the hearing, any party may appear in person, by agent, or by an attorney licensed to practice in this state.
- e. Every decision by the Board shall be in writing and state specific findings of fact and conclusions of law on which the Board based its decision. If the Board fails to provide findings of fact and conclusions of law adequate for decision by the circuit court and as a result of the failure, the circuit court returns an appealed matter to the Board and dismisses jurisdiction over an applicant's appeal without deciding the matter, whether the court returns the matter with or without restrictions, the Board shall pay any additional costs for court filing fees, service of process, and reasonable attorney's fees required to permit the person appealing the Board's decision to return the matter to the circuit court for the completion of the appeal.

- f. The written decision by the Board shall be rendered within thirty (30) days after the hearing. If the Board fails to render a written decision within thirty days after the hearing, then any party may pursue additional legal remedies to obtain a decision, including, but not limited to, seeking a writ of mandamus.
- g. When an appeal has been filed with the Board of Zoning Appeals, all proceedings and work on the premises in question shall be stayed, except as provided below:
 - 1. If the official or board from where the appeal was taken certifies in writing to the Board of Zoning Appeals that a stay would cause imminent peril to life or property;
 - 2. Upon further administrative proceedings, including, but not limited to, submissions to and reviews by the staff or any administrative body; or
 - 3. Upon engineering or architectural work that does not disturb the real estate beyond what is necessary to complete engineering, survey work, or other tests.
- h. *Petition for writ of certiorari*. The final decision of the City of Moundsville Board of Zoning Appeals shall be subject to review by the Circuit Court of Marshall County, West Virginia, by certiorari, as provided by West Virginia Code Section 8A-9-1 et seq.
- i. Nothing in this section prevents a party from obtaining an injunction.

The following existing ordinances will need to be repealed upon adopting this zoning ordinance:

Section 505.11 Keeping Fowl

Section 505.12 Keeping Hogs

Article 535 Yard and Garage Sales

Article 737 Trailer Camps, Subsections 737.01(c)(9) and 737.01(c)(10)

Article 1757 Mobile Homes, Section 1757.01 and Subsection 1757.02(d)

Article 1391 Murals, along with the rest of the existing zoning ordinance