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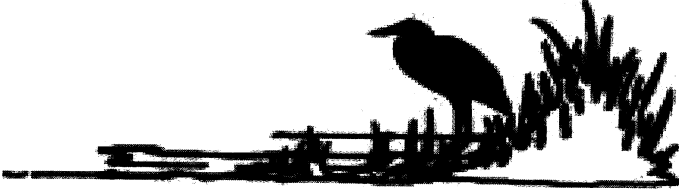
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Section 1-Article 1000

General Regulations



SECTION ONE: ARTICLE 1000 – GENERAL REGULATIONS

1001 Purpose, Jurisdiction, Application & Interpretation, Severability

I. Effective Date - (October 30, 2002)

This Ordinance shall become effective thirty (30) days after the date on which the County Commission adopts it.

II. Purpose

The purpose of this Ordinance is to:

- A. Protect and encourage the health, safety, and general welfare of the present and future population of Fayette County.
- B. Guide the future growth and development of Fayette County in accordance with the adopted Comprehensive Plan.
- C. Encourage growth and development in areas where sewer, water, schools, and other public facilities are, or will, soon be available in order to provide services in the most cost-effective manner.
- D. Insure that growth and development are both economically and environmentally sound.
- E. Encourage an agricultural base in the County.
- F. Encourage an improved appearance of Fayette County with relationship to the use and development of land and structures.
- G. Encourage the conservation of natural resources.
- H. Provide a guide for public action and the orderly and efficient provision of public facilities and services.
- I. Provide a guide for private enterprise in developing and building a community with healthy businesses and tightly knit neighborhoods.
- J. Encourage historic preservation.

III. General

This Ordinance establishes zoning regulations for the area illustrated in the “Zoning Maps for Fayette County”, which shall be a part of this Ordinance. This Ordinance provides for the administration, enforcement, and amendment thereof, in accordance with the provisions of Chapter 8, Article 24 of the Code of West Virginia.

IV. Jurisdiction and Territorial Applicability

These regulations shall apply to all properties within Fayette County, West Virginia. These regulations do not apply to land outside Fayette County or within municipalities in Fayette County.



V. Application and Interpretation

The terms of this Ordinance shall be applied to promote the intent in Section 1001. II of this Ordinance and the Comprehensive Plan for Fayette County (hereafter called Comprehensive Plan).

1. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law, or by other rules, regulations or Ordinance, or by private restrictions, covenants, or declarations, the provision of this Ordinance shall control, except where specifically stated herein.
 - a). Where a provision of the Ordinance is in conflict with another provision of this Ordinance the stricter regulation shall apply.
 - b). If a proposed use is not one in the list of those permitted in each zoning district, it shall be prohibited. However, the use may be approved if the applicant demonstrates that the use is compatible and appropriate with the neighborhood and the use can be approved by the Planning Commission as a conditional use or the zoning ordinance can be amended to included the permitted or special permitted use.

VI. Severability

Should any article, section, subsection, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of this Zoning Ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

VII. Use of Technical Information

Should any technical study, authorized by the Fayette County Commission, become available after the adoption of the Ordinance, the County Commission shall authorize the Planning Commission to scrutinize such study to determine the extent that this Ordinance may need to be amended. Such studies may include, but are not limited to, information on recreation, infrastructure, groundwater, hazardous wastes, and historic structures.

Changes that arise from this provision may include additions and/or deletions of sections in this Ordinance that would encourage the proper management and preservation of the County's natural and cultural resources.

VIII. County/District Liability

The granting of an Improvement Location Permit, or acceptance of a Notification to build from a property owner, for the erection and/or use of a structure or lot shall not constitute a representation, guarantee, or warranty of any kind or nature by the County, or an official or employee thereof, of the safety of any structure, use, or proposed development from any cause whatsoever and shall create no liability upon, or course of action against, the County or such public officials or employees for any damage, expenses, or loss that may result pursuant thereto.



1002 Definitions

I. Definitions

For the purposes of these regulations, the following terms, phrases, words, and their derivations shall have the meaning given herein. Words used in the present tense include the future, the singular number includes the plural and the plural is the singular. The word "shall" is mandatory and the word "may" is permissive. The words "used for" shall include "arranged for", "designed for", "intended for", "maintained for", "constructed for", or "occupied for". The word "person" shall mean natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust or the manager, agent, servant, officer or employee of any of them. The word "land" shall include water surface and land under water.

II. Terms Defined

Accessory Use: A structure or use, which is customarily incidental and subordinate to the principal building or use which is located on the same lot as the principal building. Accessory structures include garages, tool sheds, storage buildings, swimming pools, or other similar structures. An accessory structure having any part of a wall in common with a dwelling is considered part of the main building and must meet those setbacks.

Accessory Dwelling Unit: A secondary dwelling unit established in conjunction with and clearly subordinate to a single family detached dwelling unit.

Addition, Major: A major addition shall include those additions, which will directly affect the function of the site or those areas surrounding the site. Any substantial change of use classification, alteration of on-site parking requirements, potential adverse impacts of off-site storm water drainage, increased demand for public water and sewerage, or additions, which will cause the rerouting of traffic circulation, shall be considered "major additions."

Adjacent/Confronting/

Affected Property Owner: The owner of property adjacent to or confronting a proposed development (including the properties across any road, right of way, or easement) which will be impacted either positively or negatively by that proposed development. Names and addresses of affected property owners will be taken from current tax records in the Fayette County Court House.

Adult Uses: Uses that are commonly associated with adults only, including but not limited to: bars, lounges, dance clubs, stripping establishments, adult book stores, clubs, adult arcades, adult cabarets, adult motion picture theatres, sexual encounter establishments, and other similar businesses.



Agricultural Use: The exclusive use of land for a bona fide farming operation. This includes activities such as tilling of soil, the growing of crops or plant growth of any kind (including forestry), the raising of poultry and livestock, pasturage, dairying, horticulture, floriculture, viticulture (the cultivation of grapevines), fish culture, animal and poultry husbandry, fish, meat, and poultry processing. Seventy-five percent (75%) of the meat that is processed must be raised on the site of the processing facility for minimum periods of three (3) months for beef and pork and two (2) months for lamb and poultry. Agricultural activity shall not include commercial slaughtering of livestock or poultry (unless for the owners personal use); the maintenance and operation of plant nurseries; the feeding of garbage to animals; the operation or maintenance of a commercial stockyard or feed yard.

Amenities: Utilities, roadways, and public services, which make a particular site more attractive for development.

Applicant: Any person commencing to develop land in an official designated planning district or any person requesting an appeal to this Ordinance.

Area, Land: Land area refers to new land area, exclusive of streets and other public space.

Automobile Graveyard: Any lot or place which is exposed to the weather and upon which more than three (3) motor vehicles of any kind incapable of being operated are placed, located, or found.

Bar:¹ Any Establishment located in a business zoned area that allows consumption of alcohol and or alcohol products on premise.

Billboard: A structure on which is portrayed information which directs attention to a business commodity, service, or entertainment not necessarily related to the other uses permitted on the premises upon which the structure is located. (See Sign, Outdoor Advertising).

Board: The Fayette County Board of Zoning Appeals.

Buffer: An area on a property defined by a distance from the property line or other specifically defined line such as flood plain, wetland limit, or stream bank. Said area is intended to absorb, lessen, or neutralize the impacts on one land use from another. The nature of the buffer will depend on the impact (s) being neutralized.

Building: Any structure that is permanently affixed to the land and has one or more floors and a roof. The term building shall include manufactured homes.

Building Permits:² A document issued to indicate the related construction, enlargement, moving, or reconstruction of a structure, has been properly applied for and is being inspected by the Building Safety Department to ensure compliance with the effective building codes.

Building, Height: The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs measured from the curb level if the building is not more than ten (10) feet distant from the front lot line, or from the GRADE in all other cases.

1. Amended 2/23/04. See; References "1002 Definitions" page 1-42.

2. Amended 4/24/06. See; References "1002 Definitions" page 1-42..



Building Line: The line established by law beyond which a building shall not extend as determined by front, side, and rear yards herein.

Building Safety Officer: ³ The Director of the Building Safety Department of Fayette County.

Change of Use: Any use, which is different than the previous use of a building or land or any change in the Standard Industrial Code.

Clustering: Grouping structures in closely related groups at higher densities than normally permitted in certain areas in order to preserve other areas as parks, recreational areas, or sensitive natural areas. Overall density of the total parcel remains within limits of zoning classification.

Cluster Subdivision: An alternate means of subdividing a lot premised in the concept of reducing lot size requirements for the provision of common open space within the development.

Commercial: Any wholesale, retail, or service business activity established to carry on trade whether or not for profit.

Commercial Recreation: Facilities whose principal purpose is to provide space and equipment for non-professional athletic activities. A commercial recreational facility includes, but is not limited to, a health or athletic club; baseball-batting range or cage; golf course; golf-driving range; putting green; miniature golf; athletic field; swimming pool; skating rink or course; baseball, racquetball, tennis or squash court; bowling alley; archery range or similar facility or any combination of the above. For the purpose of these regulations, a commercial recreational facility shall not include a rifle, pistol, skeet, or trap range, go-cart course, amusement park, motorized off-road use, or similar use.

Commission: The Fayette County Planning Commission.

Community Uses: Community facilities are integral parts of the physical structure of a community. They influence the community's appearance and livability. Their availability and adequacy are also a definite measure of the quality and desirability of a community. Community facilities can generally be grouped into five categories:

1. Parks and Recreation Facilities.
2. Museums and Cultural Facilities.
3. Schools.
4. Public Buildings.
5. Health Services.

Comprehensive Plan: A composite of mapped and written text, the purpose of which is to guide the systematic physical development of the County and is adopted by the County Commission.

Conditional Use: A use of land or activity permitted only after fulfillment of all local regulations.

Conditional Use Permit: A permit issued upon approval of the Commission which allows for the proper integration of compatible uses into the community.

3. Amended 4/24/06. See; References "1002 Definitions" page 1-42.



Condominium: A common interest community in which portions of the real estate are designated for separate fee simple ownership of cubic air interior spaces and the remainder of the real estate is designated for common ownership solely by the owners of those portions. Said common interest community may be residential, commercial, or industrial depending on other provisions of the Ordinance. All such projects are subject to the West Virginian Uniform Common Interest Ownership Act. In the event that a specific requirement within the Uniform Common Interest Ownership Act is inconsistent with a commercial or industrial project, that specific requirement shall not apply.

Conventional Subdivision: The subdivision of a lot in accordance with the lot size requirements and bulk regulations specified in the district regulations.

Day Care Center, Family: A person, agency, or institution offering or supplying group care for no more than six children, excluding children of the day care provider, who do not all have the same parentage, for a portion or all of the day and on a regular schedule more often than once a week.

Day Care Center, Group: A person, agency, or institution offering or supplying group care for (1) between seven and twelve adults or children who do not all have the same parentage or (2) care of thirteen or more adults or children other than a private home setting, for a portion of all of the day and on a regular schedule more often than once a week.

Development: The subdivision of land; construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure, installation of a sign; and any mining, landfill, or land disturbance, such as grading, paving, and excavation.

Dwelling Unit: Open room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and containing independent cooking and sleeping facilities.

Dwelling, Attached: One of a series of three or more attached dwelling units and not occupied by more than one family.

Dwelling, Detached: One dwelling unit surrounded by yards or other open area in the same zoning lot.

Dwelling, Duplex: A building located on one zoning lot containing no more than two dwelling units, arranged one above the other or side by side, and not occupied by more than two families.

Dwelling, Multi-Family: A building containing three or more dwelling units.

Dwelling, Single Type1:⁴ A building containing not more than one dwelling unit under 20 ft wide (excluding decks and porches) and not occupied by more than one family.

Dwelling, Single Type2:⁵ A building containing not more than one dwelling unit under 20 ft wide (excluding decks and porches) and not occupied by more than one family.

4. Amended 4/24/06. See; References "1002 Definitions" page 1-42.

5. Amended 4/24/06. See; References "1002 Definitions" page 1-42.



Easement: A lawfully acquired rights or privileges to use a parcel of land or a portion thereof for a specified purpose. An easement is retained by a person other than the owner of the land parcel.

Engineer: A person registered by the State of West Virginia through the Board of Registration or Professional Engineers.

Essential Utility Equipment: This term applies to underground or overhead electrical, gas, communications, and water and sewage systems, including pole structures towers, wire lines, mains, drains, sewers, conduits, cables, fire alarm boxes, public telephone stations, police call boxes, traffic signals, hydrants, regulating and measuring devices and the structures in which they are housed, and other similar equipment and accessories in connection therewith. This term does not apply to buildings, yards, structures, and stations for transforming, boosting, switching, or pumping where such facilities are constructed above ground. Essential utility equipment is recognized in two categories: 1) local serving and 2) non-local or local transmission through the County. This term does not apply to water and sewer systems, the activities of which are regulated in whole or in part by any one or more of the following State agencies: The Public Service Commission of West Virginia, Department of Environmental Protection, or Department of Health of West Virginia.

Expanded Use: The further development of a developed site.

Family: One or more persons living together as a single housekeeping unit.

Flood – Prone Area: Areas subject to the 100-year flood as determined by the Flood Insurance Study prepared by the Federal Insurance Administration for Fayette County.

Flood – Prone Soils: Any areas designated as flood-prone soils in the Soil Survey of Fayette County, West Virginia prepared by the Department of Agriculture, Soil Conservation Service.

Frontage, Street: All property on the side of a street between two intersecting streets (crossing or ending), or if the street is dead-end, then all the property abutting on one side between an intersecting street and the dead-end of the street.

Glare: The effect produced by brightness sufficient to cause annoyance, discomfort, or lessen visual performance and visibility.

Group Residential Facility: A dwelling owned or lease by a governmental or non-profit organization and used to house a group of persons not necessarily related by blood. The parent agency or institution has the administrative, supervisory, and service responsibility for the group home.

Historic Site/Property: Any lot, parcel, historic structure, or designated area that has been listed on the West Virginia or the National Register of Historic Places.

Home Occupation: Any use conducted either/or entirely within a dwelling or within an accessory structure which is incidental to the main use of the building for dwelling purposes and does not have any exterior evidence, other than a permitted sign, to indicate that the building is being used for any purpose other than that of a dwelling.



Home Occupation, Level 1: An occupation conducted in a dwelling unit for gain provided that:

1. No person, other than members of the family residing on the premises, shall be engaged in such occupation. Said members must be full time residents of the premises.
2. The use shall be conducted wholly within the dwelling unit and shall not exceed 25 percent of the floor area of the dwelling unit.
3. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation.
4. Traffic generated by such home occupation must not exceed two (2) business related vehicle visits per day nor more than ten (10) visits per week at the premises. Any need for parking generated by the conduct of such home occupation shall be met off street and other than in a required front yard.
5. It is clearly incidental and subordinate to the use of the dwelling unit as a residence.
6. No equipment or process shall be used in such a home occupation that creates offensive manifestations by sight, sound, or smell detectable to the normal senses, or electrical interference or vibrations perceptible, outside the dwelling unit.

Home Occupation, Level 2: An occupation conducted in a dwelling unit for gain, provided that:

1. A full-time resident of the property must conduct the occupation. Up to six (6) nonresident employees also may be permitted to work on the premises.
2. The use shall be conducted wholly within the dwelling unit and shall not exceed one third (1/3) of floor areas of the dwelling unit.
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct if such home occupation other than one sign, not exceeding one square foot in area, non-illuminated.
4. No more than five (5) business-related vehicle visits per day nor more than twenty-five (25) visits per week at the premises, including delivery vehicles, but excluding employee commuting, shall be permitted. Any need for parking generated by the conducted use of such home business shall be met off street and other than in a required front yard.
5. It is clearly incidental and subordinate to the use of the dwelling unit as a residence.
6. No equipment or process shall be used in such a home business, which create offensive manifestations by sight, sound or smell detectable to the normal senses, or electrical interference or vibrations perceptible, outside the dwelling unit.
7. No business which includes the storage of weapons such as firearms (other than residents' hunting, protection, and leisure weapons) shall be permitted.
8. Home businesses do not include boarding or rooming homes or bed and breakfast establishments.



Home Occupation, Level 3: An occupation conducted in a dwelling and/or its accessory structures and surrounding grounds for gain, provided that:

1. A full-time resident of the property must conduct the occupation. Up to six (6) nonresident employees also may be permitted to work on the premises.
2. The use shall be conducted primarily in secondary, non-dwelling buildings and outdoor areas provided outdoor activities are incidental and subordinate to activities within accessory structures or off-premises business activities.
3. There shall be no change in the outside appearance of residential buildings.
4. Outdoor equipment and storage areas shall be appropriately screened.

Impervious Surface: Any structure, material, or surface, which reduces and prevents absorption of storm water into the earth.

Improvement: Modifications to land which increase its value or utility. Improvements include, but are not limited to, buildings and structures, road grading, road surfacing, landscaping, curbs, gutters, storm sewers and drains, sidewalks, street signs, modifications to water courses, water supply facilities, sewage disposal facilities, and park and recreation equipment.

Improvement Location Permits:⁶ A document issued to indicate the related lands, construction, improvements, or intend use have been properly applied for and approved by the Zoning Department, to be in compliance with zoning regulations of this ordinance, and may include rezoning, special use, variance, or special exception.

Institutional Uses: Institutional Uses should be focused on activities that directly or indirectly benefit the general public; including public facilities and uses that meet the public goals. While lands incorporated into this designation are primarily intended for governmental agency use or quasi-public use, some mixed-use (public/private) orientations may be appropriate under special permit regulations.

Land Surveyor: A person registered by the State of West Virginia through the Board of Examiners of Land Surveyors.

Light Industrial: Any industry that does not use a significant amount of water except for domestic purposes. Industrial uses that do not create noise, odor, smoke, and objectionable nuisances or hazards. All other perceived light industrial uses shall be referred to the 4-C Economic Development Authority for a recommendation. The Planning Commission shall make the final decision.

Livestock: Animals, and especially farm animals, raised for use, profit, or enjoyment; excluding household pets.

Lot: A tract of land area meeting local development standards, which is intended for building development whether immediate or future.

Lot Area: The total horizontal area included within the rear, side, and front lot or proposed street lines of the lot.

6. Amended 4/24/06 See; References "1002 Definitions" page 1-42..



Lot Depth: The mean horizontal distance between the front and rear lines of a lot.

Lot (Double Frontage): A lot, the generally opposite ends of which both abut on streets.

Lot Line: Any boundary line of a lot defined herein. When applicable, a lot line shall coincide with a STREET LINE. Where a lot line is curved, all dimensions related to said lot line shall be based on the chord of the arc.

Lot Line, Front: A street line which forms the boundary of a lot; or in the case where a lot does not abut a street other than by its driveway, or is a through lot, that lot line which faces the principal entrance of the main building. On a corner lot, the shorter the street line shall be deemed to be the front lot line, regardless of location of the principal entrance or approach to the main building.

Lot Line, Rear: The lot line that is most distant from, and is most nearly parallel with, the front lot line. If a rear lot line is less than ten (10) feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be the ten (10) foot parallel to the front lot line, lying wholly within the lot for purpose of establishing the required minimum rear yard.

Lot Line, Side: A lot line that is neither a front lot line nor a rear lot line as defined herein.

Lot Width: The width of a lot at the building line.

Lot or Record: A written or graphic description of a lot that is on record in the office of the Clerk of the County Commission of Fayette County at the adoption of this Ordinance.

Massage Parlor: An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the State. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or establishment where massage or manipulation of the human body is offered as an incidental or accessory service.

Mobile Home: A building unit constructed on a chassis for towing to the point of use and designed to be used with or without a permanent foundation for continuous year round occupancy as a dwelling. It is not two (2) or more such units separately towable, designed to be joined together at the point of use to form a single dwelling.

Mobile Home Lot: An area of land for the placement of a single mobile home and for the exclusive use of its occupants.

Mobile Home Park: One (1) or more contiguous parcels of land in which three (3) or more rental lots are provided for mobile homes.

Mobile Home Subdivision: A subdivision of land for the purpose of providing lots for sale for mobile homes.

Modular Unit: A factory-fabricated transportable building unit designed to be used by itself or to be incorporated with similar units at a building site into a modular structure for residential, commercial, educational, or industrial uses.

Multi-Residential Use: A deeded lot or parcel on which two or more dwelling units are located.



Natural, Undisturbed Condition: This exists where the terrain has not been altered in form by human activities such as cutting, filling, blasting, or leveling and where natural vegetation exists.

Natural Vegetation: This occurs when a property is allowed to revert to a wild condition with native plants. No cutting, trimming, or cultivation takes place in areas of natural vegetation.

Nonconforming Use: A use of a building or of land lawfully existing at the time this Ordinance becomes effective and which does not conform with the use regulations of the district in which it is located. Any new lines of division within a subdivision of a parcel that is a nonconforming use shall meet the regulations of this Ordinance.

Nursing or Retirement Homes: This term includes rest homes, nursing homes, and convalescent homes and homes providing chronic and convalescent care.

Office Building, Class A: A principal building that was originally constructed as a one-family or two-family dwelling and that is converted by proper permit to office use without any external enlargement for the purpose of creating the office space or otherwise accommodating the office use. For the purpose of this definition, enclosure of a porch of a house or the addition of an exterior stairway at the side or rear of the building does not constitute external enlargement.

Office Building, Class B: A principal building used for offices and which is not a Class A office building.

Open Space: Open space provisions are intended to encourage development approaches reflective of the guidelines of the comprehensive plan by permitting flexibility in design. More specifically, open space is intended to serve such varied comprehensive plan objectives as:

1. Provision of active/passive recreation;
2. Protection of areas sensitive to development;
3. Buffering between dissimilar uses; and
4. Preservation of agricultural activity.

To this end, in any rezoning, site plan, or sketch plan proposing inclusion of open space areas, the Planning Commission shall consider the appropriateness of such areas for the intended use in terms of such factors as location, size, shape, and topographic characteristics.

Unless otherwise permitted by the Planning Commission in a particular case, open space shall be maintained in a natural state and shall not be developed with any man-made feature. Where deemed appropriate by the Planning Commission, open space may be used for one or more of the following uses subject to the regulations of the zoning district in which the development is located:

1. Agriculture, forestry, and fisheries including appropriate structures;
2. Game preserves, wildlife sanctuaries and the like;
3. Noncommercial recreational structures and uses;



4. Public utilities; and
5. Stormwater detention and flood control devices.

In addition, in reviewing development proposing incorporation of open space, the Planning Commission may require inclusion in such open space of:

1. Areas deemed inappropriate for or prohibited to development such as but not limited to: land in the one hundred year flood plain and significant drainage swales; land in slopes of twenty-five (25) percent or greater; major public utility easements; stormwater detention and flood control devices; and lands having permanent or seasonally high water tables; and
2. Areas to provide reasonable buffering between dissimilar uses within such development and between such development and adjoining properties.

The Planning Commission may require redesign of such proposed development to accommodate open space areas as may be required under this provision; provided that, in no case shall such redesign result in reduction of the total number of proposed dwelling units otherwise realizable under this ordinance for conventional development.

Open Space, Active: That open space within the boundaries of a given lot that is designed for recreational purposes, to include but not to be limited to such uses as ball fields, multi-purpose courts, swimming pools, tennis courts, golf courses, play lots and playgrounds, boating docks, walking, bicycle or bridle trails, and shuffleboard courts.

Open Space, Amenities: That open space within the boundaries of a given lot that is designed to enhance privacy and the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Landscaped open space may include but need not be limited to lawns, decorative planting, flower beds, sidewalks/walkways, ornamental objects such as fountains, statues and other similar natural or artificial objects, wooded areas, and water courses, any or all of which are designed and arranged to produce an aesthetically pleasing effect within the development.

Open Space, Passive: Land area not suited for "active open space."

1. Areas deemed inappropriate for or prohibited to development such as but not limited to: land in the one hundred year flood plain and significant drainage swales; land in slopes of twenty-five (25) percent or greater; major public utility easements; stormwater detention and flood control devices; and lands having permanent or seasonally high water tables; and
2. Areas to provide reasonable buffering between dissimilar uses within such development and between such development and adjoining properties.

Open Space, Usable: For the purposes of this ordinance, usable open space means an area that:

1. Is not encumbered with a substantial structure;
2. Is not devoted to use as a roadway, parking area, or sidewalk;
3. Is left (as of the date development began) in its natural or undisturbed state if wooded, except for the cutting of trails for walking or jogging, or, if not wooded at the time of



development, is landscaped for ball fields, picnic areas, or similar facilities, or is properly vegetated and landscaped with the objective of creating a wooded area;

4. Is capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation;
5. Is legally and practicably accessible to the residents of the development out of which the required open space is taken, or to the public if dedication of the open space is required; and
6. Consists of land no more than 25 percent of which lies within a floodplain or floodway.

Outfitter: A business that provides either the equipment or planning, logistic, and guide services necessary for a variety of commercial recreation expedition and activities. Such outfitter business facilities routinely store their equipment and vehicles on premises. However, this storage need is subordinate and incidental to the primary business of an outfitter.

Plat: A scaled, graphic drawing of a land subdivision project prepared according to the provisions of this Ordinance. A plat depicts the design and layout of a project as well as the location of existing and proposed property boundaries and easements. A plat also includes all terms, conditions and performance requirements established prior to the approval of subdivision.

Preliminary Layout: A plan prepared by a licensed professional engineer or surveyor or a qualified site planner, showing existing features of the land and proposed street, utility, and lot layout within and adjacent to a subdivision.

Preliminary Plat: A professionally prepared drawing of a proposed subdivision which is not a record plat but which contains detailed information concerning the proposed development.

Principal Permitted Use: The primary or predominant use of any site.

Prohibited Use: A use that is not permitted.

Public Highway: Any highway or road in Fayette County which is part of the Federal or West Virginia public highway system and which is so identified and numbered on the most recent general Highway Map published by the West Virginia Department of Highways.

Public Uses: Government properties (County, State, and Federal) are considered Public Uses. Public Uses areas are separate and distinct from other planning area designations. The public use designation is applied as an individual parcel. Educational institutions (schools and colleges), churches and cemeteries, and utilities are also classified under this category.

Residential: Any detached or attached structure that is used for permanent living quarters and has kitchen facilities.

Right-of-Way: A right which grants passage across or through a property. A right-of-way is also the (usually dimensioned) path along which the right of passage is granted.

Road: (Same as "Street").

Sensitive Natural Area: An area of wetlands, stream or river banks, and forest which exists as a habitat supporting rare or endangered species or which has been dedicated perpetually



to environmental preservation by easement, covenant, or the legal instrument or which is otherwise protected for environmental purposes by State or Federal statute.

Setback Line: That line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principle structure must be erected or placed.

Shopping Center: A commercial facility on a single lot, with common parking facilities that use or lease separate areas of space to retail or service oriented business.

Shrub, Evergreen: Usually multi-stemmed, woody plant that remains green most of the year.

Sign: Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images.

Sign, Animated: A sign with action or motion, flashing lights, or color change requiring electrical energy, electronic, or manufactured sources of supply, but not including wind actuated elements such as flags, banners, or pennants.

Sign, Business: A sign which directs attention to a business or profession or to a commodity, service, or entertainment sold or offered upon the premises where the sign is located.

Sign, Freestanding: A sign supported by a permanent structure, other than a building, that is affixed to the earth and placed on the same parcel of land on which the business or service advertised by the sign is located.

Sign, Outdoor Advertising: A sign structure which directs attention to a business, commodity, service, or entertainment not necessarily conducted, sold, or offered upon the premises where such sign is located. This term shall include billboards.

Sight Distance: The distance an object eighteen inches off the pavement (a tail light) is visible from an eye level of four and one-half inches above the pavement (the average height of a driver's eyes).

Site Plan: A required submission, prepared and approved in accordance with the provision of Article 1003.III.C, which contains detailed engineering drawings of the proposed uses and improvements required in the development of a given lot.

Sketch Plan: An informal drawing of a lot layout design and/or proposed improvements which is prepared according to the provisions of the Ordinance and which assists the Planning Commission and the owner in reviewing the general scope, feasibility, and impact of a proposed project.

Soil Value: A relative numeric value assigned to soil groups based on the group's potential for agricultural production.

Species, Rare or Endangered: Any species listed with the West Virginia Department of Natural Resources Heritage Program Species List or by the U.S. Department of Interior, Department of Fish and Wildlife Management.



Standard Industrial Classification: A multi-digit code utilized by the Federal Executive Office of Management and Budget to classify establishments by type of activity in which they are engaged.

Staff: Those persons employed by the Planning Commission or Board, whether under direct employment or by contractual agreement.

Street: The term "street" means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, land, drive, place, or other similar designation. The follow functional classification is used in these regulations:

1. **Arterial Street:** Those that are used primarily for fast and heavy traffic, usually with complete or partial control over access from abutting property.
2. **Collector Streets:** Those that carry traffic from minor streets to the major system of arterial streets or highways.
3. **Minor Streets:** Those that are used primarily for access to the abutting properties.
4. **Marginal Access Streets:** Minor streets that are parallel to and adjacent to arterial streets and highways and that provide access to abutting properties and protection from through traffic.
5. **Cul-De-Sac:** Minor streets with one end open for public vehicle and pedestrian access and the other end terminating in a vehicular turn-around. The length of a cul-de-sac street shall be measured along the center line from its intersection with the center line of the street from which it runs to the center of the cul-de-sac turnaround.
6. **Service Drives:** Minor private ways that are used primarily for vehicular service access to the back or the side or properties that have a front boundary abutting on a street.

Subdivider: A person who is the owner of record, or his authorized, of land proposed for subdivision.

Subdivision: The division of a single lot, tract or parcel of land, or a part thereof, into two (2) or more lots, tracts or parcels of land, including changes in street lines or lot lines, for the purpose, whether immediate or future, of transfer of ownership or of building development; provided, however, that division of land for agricultural purposes into parcels of more than five (5) acres, not involving any new street or easement of access, shall not be included within the meaning of "subdivision." The term subdivision shall also include "resubdivision."

Subdivision (Minor): A subdivision of not more than two (2) lots not involving any new street or easement of purpose, except that a division of land in to parcels of not more than five (5) acres not involving any new street or easement of access shall not be included within the mean of "minor subdivision."

Subdivision Plat: A plan prepared for recording by professional engineer licensed in West Virginia.

Tavern:⁷ Any Establishment located in a residential area that allows consumption of alcohol and or alcohol products on premise.

7. Amended 2/23/04. See; References "1002 Definitions" page 1-42.



Transition Team: A sixteen (16) member long range planning advisory body appointed by the County Commission. Its sixteen members represent the four planning districts. Four members are appointed from each of the four planning districts (Plateau, New Haven, Valley, and Danese/Meadow Bridge). Formation of this group was facilitated by discussions between National Park Service Planners and the County Commission president regarding sustainable development of the local economy.

Variance: A departure from the terms of these regulations.

Vehicle Sign: A sign or advertising device which is painted, mounted, affixed, or otherwise attached to a vehicle or trailer, which is used for the purpose of providing advertisements of products and services or directing people to a business or service or other activity on or off the premises or public right-of-way where such vehicle sign is located. This does not include identification signs on vehicles that are moved regularly and used in normal, day to day, operation of the business.

Wetland: An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophilic vegetation. The substratum is predominately hydric soil.

Yard, Side: The width of side yards, as required in this ordinance, are per side.

Zoning Enforcement Officer: The Director of Planning and Zoning for Fayette County.



1003 Administrative and Enforcement

I. Responsibility for Administration and Enforcement

- A. It shall be the duty of the Zoning Enforcement Officer to administer the provisions of this Ordinance, except as otherwise expressly provided in this Ordinance.
 - 1. It shall be the duty of the Zoning Enforcement Officer to:
 - a). Perform reviews of permit applications and notifications as necessary to determine compliance with the provisions of this Ordinance.
 - b). Interpret and recommend exceptions to district rules and regulations in the classes of cases or particular situations as may be specified in this ordinance in accordance with Chapter 8, Article 24, Section 55 of the West Virginia Code amended.
 - c). Interpret and recommend special uses to the terms of this ordinance upon which the Zoning Enforcement Officer is required to act under the ordinance in accordance with Chapter 8, Article 24, Section 55 of the West Virginia Code as amended.
 - d). Interpret and recommend, in specific cases, such variance from the terms of the ordinance as will not be contrary to the public interest.
 - e). Collect fees from applicants for *Notifications* and *Improvement Location Permits*.
 - f). Keep and preserve all *Notifications* and applications for *Improvement Location Permits*, and all requests for rezoning, exceptions, special permits, and variances from this zoning ordinance; to keep and preserve all building plans, development plans, plats, maps, and other documents submitted to the Zoning Enforcement Officer in the course of his duties.
 - g). Conduct investigations as necessary to determine compliance with or violation of this Ordinance.
 - h). Participate in the abatement of violations of this Ordinance and aid in the prosecution of such violations.
 - i). Maintain, in current status, the official planning district and zoning maps.
 - j). Provide information on planning and zoning upon request by citizens and public agencies.
 - k). Perform such additional tasks and duties as may be prescribed by the Fayette County Commission and by any other agent designated by the County Commission and regulations adopted by the Fayette County Board of Zoning Appeals.
- B. The Zoning Enforcement Officer shall also enforce this ordinance. The Zoning Enforcement Officer shall be a resident of Fayette County.
 - 1. The Zoning Enforcement Officer shall be authorized and empowered to do the following:
 - a). Review all plans of construction, plats, and development plans for the lands and buildings affected by this zoning ordinance.
 - b). Issue *Improvement Location Permits* to persons or other entities making applications for the same if the applications demonstrate that such construction and buildings will be in compliance with these ordinances.



- c). Inspect completed projects to determine whether or not the buildings, development projects, lands, and new businesses, or uses as undertaken upon such lands and/or in such buildings, are in compliance with the provisions of this zoning ordinance.
- d). The Zoning Enforcement Officer shall be appointed and employed by the Fayette County Commission. He may be removed for malfeasance and misfeasance. He also may be removed for a showing a pattern of willful, arbitrary, and capricious actions in the performance of his duties.

II. General Provisions

- A. No commission, board, agency, officer, or employee of the County shall issue, grant, approve, or accept any permit, license, certificate, notification, or any other authorization for any construction, reconstruction, alteration, enlargement or relocation of any building or structure, or for any use of land or building, that would not be in compliance with the provisions of this Ordinance.
- B. In administering the provisions of this Ordinance, the standard rule of rounding numbers to the nearest whole shall apply. When the unit of measurement results in a fraction less than one-half (0.5), the fraction shall be disregarded. Fractions of one-half or more, or 0.5 or over, shall require an addition to the next whole number.

III. Zoning Review

- A. *No Improvement Location Permit or Notification* pertaining to the construction, enlargement, moving, and reconstruction of a structure or change of use shall be issued unless approval of the application has been granted by the Zoning Enforcement Officer. The Zoning Enforcement Officer shall approve applications and accept notifications only in conformance with the provisions of this Ordinance except when he receives a written order from the Planning Commission, Board of Zoning Appeals, or a court of law in the form of an administrative review, special exception, variance, or judgement as provided in this Ordinance.
- B. The Zoning Enforcement Officer's report on an application is intended to be submitted to the applicant by the end of approximately fourteen (14) calendar days following the day on which a completed application is received.
- C. All applications for permits for nonresidential, multi-family housing, or single family attached housing and subdivisions of more than three lots shall be accompanied by the following:
 - 1. A site plan (1 original and 2 copies), drawn to scale, that includes the following (if applicable) for the use of the Zoning Enforcement Officer:
 - a). The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a licensed land surveyor or registered professional engineer licensed by the State of West Virginia. Said survey to be provided by the applicant;
 - b). The exact sizes and locations on the lot of existing structures, if any;



- c). The location, square footage, and dimensions of the proposed structure or alteration;
 - d). The location of the lot with respect to adjacent rights-of-way;
 - e). The existing and proposed uses of the structure and land;
 - f). The number of employees, families, housekeeping units, bedrooms, or rental units the structure is designed to accommodate;
 - g). The location and dimensions of off-street parking and means of ingress and egress for such space;
 - h). Height of the structure;
 - i). Setbacks;
 - j). Buffer yards and screening, if applicable;
 - k). Location of garbage collection and screening;
 - l). Location of signs;
 - m). Street typical for internal roadways;
 - n). Location and size of drainage structures;
 - o). Location of stormwater detention system (if applicable);
 - p). Utility lines and easements; and
 - q). Signature of applicant.
2. Drainage plan and drainage calculations that bear the name, address, signature, and seal of a registered professional engineer, with floodplain zones clearly denoted, typicals of all swails, and a design of drop inlets.
3. If applicable, design of stormwater detention system and drainage calculations that bear the name, address, and seal of a registered professional engineer and that meet the requirements and the design standards of the United States Natural Resource Conservation Service.
4. Location of parking.
5. Location, size, and type of landscaping.
6. Location, size, description of signs.
7. Approved WV Division of Highways Access Permit, if applicable.
8. Approved State of West Virginia NPDES General Permit for Storm Water Associated with Industrial (Construction) Activity, if applicable.
9. Any other such information concerning the lot or neighboring lots as may be required by the Zoning Enforcement Officer to determine conformance with, and provide for the enforcement of, this Ordinance. Where deemed necessary, the Zoning Enforcement Officer may require that in the case of accessory structures or minor additions, all dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be in an actual survey by a registered land surveyor or professional engineer licensed by the State of West Virginia, said survey to be provided by the applicant.



- D. Three copies (an original and two copies) of a Sketch Plan shall be required for all other applications (not identified in 1003.III.C above) for *Improvement Location Permits* and *Notifications*.
- E. No site plan shall be accepted unless it is complete and is verified as to the correctness of information given by the signature of the applicant attesting thereto.
- F. The Zoning Enforcement Officer may require that the lot and location of the building thereon shall be staked out on the ground before construction of a dwelling unit or primary structure is begun. The Zoning Enforcement Officer, where deemed appropriate, may require the same for accessory structures or minor additions. In any case, it shall be the owner's responsibility to make sure that a structure is placed on his property according to his approved site plan or sketch plan and as required by any applicable County Ordinance.
- G. Site plans and sketch plans approved by the Zoning Enforcement Officer authorize only the use and improvement location set forth in such approved site plans. Furthermore, the approval of a site plan or sketch plan shall not be construed to be approval of any violation of the provisions of this Ordinance. This issuance of an *Improvement Location Permit* based upon site plans and sketch plans given approval by the Zoning Enforcement Officer, shall not prevent the Zoning Enforcement Officer from thereafter requiring the correction of errors in said site plans and sketch plans or from preventing operations from being carried on thereunder in violation with this Ordinance.
- H. One copy of the site plan or sketch plan submitted for a permit as required in the subsection above for the Zoning Enforcement Officer shall be returned to the applicant after the Zoning Enforcement Officer has marked such copy as either approved or disapproved as the provisions of this Ordinance and attested to same by his signature on such copy. The Zoning Enforcement Officer shall retain the original, similarly marked.

IV. Certification of Compliance with the Zoning Ordinance

- A. Certificate of Compliance with the Zoning Ordinance shall be required for all nonresidential, multi-family housing, and single family attached housing.
- B. The Zoning Enforcement Officer shall withhold issuance of a certificate of compliance to the Zoning Ordinance for a building or premises when such building or premises do not conform to the provisions of this Ordinance.
- C. A Certificate of Compliance with the Zoning Ordinance must be issued by the Zoning Enforcement Officer prior to the occupancy of any nonresidential, multi-family housing, or single family attached housing.

V. Notifications

Regarding the submission of a *Notification*, the enforcement procedures to be adopted in said ordinance of zoning shall allow an individual notified to submit an official *Notification*, if the individual has not already submitted a *Notification*, within a period of five (5) days after receiving notice by the Zoning Enforcement Officer or Zoning Enforcement Officer. If the *Notification* is not submitted to the Zoning Enforcement Officer within said period of time, the Zoning Enforcement Officer shall be empowered to resort to the remedies afforded to him in this ordinance.



VI. Procedures for Violations

- A. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and bases thereof, shall be filed with the Zoning Enforcement Officer. He shall record properly such complaint, conduct appropriate investigations, and take action thereon as provided by this Ordinance.
- B. If the Zoning Enforcement Officer finds that any of the provisions of the Ordinance are being violated, whether reported by private citizen or by any commission, board, agency, officer, or employee of the County, or by his own observation, he shall notify in writing the person responsible for such violation. Service of written notice shall be deemed complete upon sending notice by certified mail to the last known address of such person. Such notice shall include the following:
 - 1. Street address or legal description of the property involved;
 - 2. A statement indicating the nature of the violation;
 - 3. A specification of the section of this Ordinance upon which the notice of violation is based;
 - 4. A description of the action required to correct violation;
 - 5. A statement indicating the time within which compliance with this Ordinance must be accomplished;
 - 6. A statement advising that upon failure to comply with the requirements of the notice, the County shall take such enforcement procedures as may be required in this Ordinance.
- C. The Zoning Enforcement Officer may order discontinuance of an illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or may take any other action authorized by this Ordinance to ensure compliance with its provisions.
- D. In any case in which a building or structure is or is not proposed to be constructed, reconstructed, altered, maintained, or used, in violation of the provisions of this Ordinance, the County may, in addition to other remedies provided by law, institute injunction, abatement, or any appropriate action or proceedings to prevent, adjoin, abate, remove, or penalize by fine such unlawful construction, reconstruction, alteration, maintenance, or use.

VII. Penalties for Violation

- A. It shall be the duty of Zoning Enforcement Officer to enforce this Ordinance and to bring to the attention of the Prosecuting Attorney any violations or lack of compliance. Any person, firm, or corporation who fails to comply with, or violates, any of these regulations shall be subject to the laws of the State of West Virginia, Chapter 8, Article 24, Section 66-68 of the Code of West Virginia.
- B. Appropriate actions and proceedings may be taken by law to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building, structure, or premises, and these remedies shall be in addition to the penalties described above.



- C. Each day during which any violation of this Ordinance continues constitutes a separate offense. The imposition of a fine or penalty for any violation of, or noncompliance with, this Ordinance shall not excuse the violation or non-compliance or permit it to continue; any and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance, may be declared by the Fayette County Commission to be a public nuisance and abatable as such.
- D. Nothing contained herein shall prevent the County from taking other lawful action as necessary to prevent or remedy any violation.
- E. Failure to obtain the certificate prior to occupancy will result in noncompliance with the Ordinance and a fine of not less than \$10.00 and no more than \$300.00 per day for noncompliance. Each day that a violation continues constitutes a separate offense. The daily fine will remain in place until (1) all conditions of the permit are achieved satisfactorily and (2) the Zoning Enforcement Officer verifies such through site inspection.
- F. The Zoning Enforcement Officer shall afford any person or entity charged with a violation with due process of law in effecting abatement or removal of the violation. The enforcement procedures to be adopted in said ordinance of zoning shall allow an offender a period of five (5) days after receiving notice of the violation to remove or abate the same. If the violation is not removed or abated within said period of time, the Zoning Enforcement Officer shall be empowered to resort to the remedies afforded to him hereunder.
- G. Violation of Ordinance: Furthermore, any such violation shall constitute a misdemeanor in accordance with the provisions of Chapter 8, Article 24, Section 68 of the West Virginia Code, as amended; upon conviction, a violator shall be fined not less the \$10.00, nor more than \$300.00. Each day that a violation continues constitutes a separate offense. In addition to the foregoing, any building or structure, which is erected, raised, modified, or converted in violation of any provision of this ordinance, shall constitute a common nuisance. The owner of such building, structure, land or premise shall be liable for maintaining a common nuisance.
- H. Injunctive Relief: The Zoning Enforcement Officer, the Fayette County Board of Zoning Appeals, the Fayette County Planning Commission, or the Fayette County Commission may seek an injunction in the Circuit Court of Fayette County to restrain a person, legal entity, or unit of government from violating the provisions of this ordinance or any rule or regulation adopted pursuant thereto in accordance with the provisions of Chapter 8, Article 24, Sections 54 and 67 of the West Virginia Code as amended. Also, the Zoning Enforcement Officer, the Fayette County Board of Zoning Appeals, the Fayette County Commission, or the Fayette County Planning Commission may seek a mandatory injunction in such Circuit Court directing a person, legal entity, or unit of government to remove a structure erected in violation of the provisions of this ordinance or any rule or regulation adopted pursuant thereto in accordance with the provisions of Chapter 8, Article 24, Sections 54 and 67 of the West Virginia Code as amended.



1004 General Provisions

I. Ordinance Deemed Minimum Regulations; Uniformity

The regulations set forth by this Ordinance within each zoning district shall be minimum regulations and shall apply uniformly to each kind of structure or land except as hereinafter provided.

There will be a number of permitted uses listed in all districts. Permitted uses are those that are not required to demonstrate their appropriateness within a district.

II. Compliance with Ordinance

Except as hereinafter specified, no land, building, or premises shall hereafter be used, and no building or part thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted or altered except in conformity with the regulations herein specified. This provision shall not apply to general maintenance or repair or any addition deemed not a major addition as defined by this Ordinance.

III. Nonconforming Uses

Any building, structure, or premises lawfully existing at the time of the adoption of this Ordinance, or lawfully existing at the time that this Ordinance as subsequently amended, may continue to be used even though such building, structure, or premises does not conform to use, setbacks, or dimensional regulations of this Ordinance; subject, however, to the following provisions:

- A. Nonconforming uses may upgrade, repair, or make alterations to their facilities. However, expansion of any nonconforming use shall be limited to the lot that exists at the time of adoption of the Ordinance. Repair includes the following: replacement of same size (\pm 35%), porches, awnings, decks, roofs, overhangs, patios, or any other similar construction as approved by the Zoning Enforcement Officer. Additional acreage shall not be added to enlarge any nonconforming use unless that use complies with this Ordinance.
- B. Whenever a nonconforming use has been abandoned for a period of twelve (12) months, such use shall not be reestablished and any future use shall be in conformance with the provisions of this Ordinance. However, the Board of Zoning Appeals may grant a one-time extension of up to twelve (12) months.
- C. A nonconforming use may not be substituted for any other nonconforming use.
- D. Whenever a nonconforming use expands over 35 percent of the existing square footage of its operation, said use shall meet all the applicable requirements of this Ordinance. Thirty-five percent expansion includes linear/parallel extension of a nonconforming setback; provided, however, this extension does not violate any other setback limits. When a nonconforming use can be computed by units such as apartment units, motel/hotel units, mobile home parks and similar uses, the 35 percent expansion provision shall be limited to 35 percent of the number of existing units.
- E. A nonconforming shopping center (including spaces that were not leased in the existing building at the time of the adoption of this Ordinance) may not substitute uses.



IV. Home Occupation, Level 1

An occupation conducted in a dwelling unit for gain provided that:

- A. No person, other than members of the family residing on the premises, shall be engaged in such occupation. Said members must be full time residents of the premises.
- B. The use shall be conducted wholly within the dwelling unit and shall not exceed 25 percent of the floor area of the dwelling unit.
- C. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation.
- D. Traffic generated by such home occupation must not exceed two (2) business related vehicle visits per day nor more than ten (10) visits per week at the premises. Any need for parking generated by the conduct of such home occupation shall be met off street and other than in a required front yard.
- E. It is clearly incidental and subordinate to the use of the dwelling unit as a residence.
- F. No equipment or process shall be used in such a home occupation that creates offensive manifestations by sight, sound, or smell detectable to the normal senses, or electrical interference or vibrations perceptible, outside the dwelling unit.

V. Home Occupation, Level 2

An occupation conducted in a dwelling unit for gain, provided that:

- A. The occupation must be conducted by a full-time resident of the property. Up to six (6) non-resident employees also may be permitted to work on the premises.
- B. The use shall be conducted wholly within the dwelling unit and shall not exceed one third (1/3) of floor areas of the dwelling unit.
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct if such home occupation other than one sign, not exceeding one square foot in area, non-illuminated.
- D. No more than five (5) business-related vehicle visits per day nor more than twenty-five (25) visits per week at the premises, including delivery vehicles, but excluding employee commuting, shall be permitted. Any need for parking generated by the conducted use of such home business shall be met off street and other than in a required front yard.
- E. It is clearly incidental and subordinate to the use of the dwelling unit as a residence.
- F. No equipment or process shall be used in such a home business which create offensive manifestations by sight, sound or smell detectable to the normal senses, or electrical interference or vibrations perceptible, outside the dwelling unit.
- G. No business which includes the storage of weapons such as firearms (other than residents' hunting, protection, and leisure weapons) shall be permitted.
- H. Home businesses do not include boarding or rooming homes or bed and breakfast establishments.



VI. Home Occupation, Level 3

An occupation conducted in a dwelling and/or accessory structures and surrounding grounds for gain, provided that:

- A. The occupation must be conducted by a full-time resident of the property. Up to six (6) non-resident employees also may be permitted to work on the premises.
- B. The use shall be conducted primarily in secondary, non-dwelling buildings and outdoor areas.
- C. There shall be no change in the outside appearance of residential buildings other than one sign, not exceeding one square foot in area, non-illuminated.
- D. Outdoor equipment and storage areas shall be appropriately screened (see Screening Matrix).
- E. No more than five (5) business-related vehicle visits per day nor more than twenty-five (25) visits per week at the premises, including delivery vehicles, but excluding employee commuting, shall be permitted. Any need for parking generated by the conducted use of such home business shall be met off street and other than in a required front yard.
- F. No equipment or process shall be used in such a business which create offensive manifestations by sight, sound or smell detectable to the normal senses, or electrical interference or vibrations perceptible, outside the dwelling unit.
- G. No business, which includes the storage of weapons such as firearms (other than residents' hunting, protection, and leisure weapons) shall be permitted without issuance of a special use permit.
- H. Home businesses do not include boarding or rooming homes or bed and breakfast establishments.

VII. Temporary Permits

A. Temporary Uses

- 1. Night watchman.
- 2. Temporary site offices for owners of businesses whose offices have been destroyed by fire, flood, wind or other acts of God. The applicant for such a permit shall make written application. These temporary offices must be accessible to the general public for use during construction or remodeling.
- 3. Temporary building space for education, non-profit organizations, and government agencies.
- 4. Temporary site offices for sales offices for residential subdivisions.
- 5. Carnivals, circus, festivals, fairs, bingo, raffles, horse shows, dog shows, steeplechase, music festivals, turkey shoots, the sale of Christmas trees.
- 6. Construction material yards accessory to a construction project.
- 7. Contractor's offices and equipment sheds to include trailers accessory and adjacent to an active construction project.
- 8. Promotional activities for retail merchants.



9. Temporary dwellings or mobile homes.
 10. Temporary farmer's markets.
- B. Permitting Process
1. Planning Commission may, upon a written finding by the Zoning Enforcement Officer that public health, safety, welfare, morals, or convenience requires it, issue a temporary permit authorizing a use of land not otherwise permitted in this Ordinance. The processing of a temporary permit shall be in accordance with the procedures set forth.
 2. Zoning Officer or Resource Coordinator⁸ may attach such restrictions on a use proposed under a temporary permit as may be necessary to protect public health, safety, welfare, morals, or convenience.
 3. A temporary permit shall be issued for a period not to exceed one year from date of Planning Commission approval. Said permit may be renewed, upon realization, for a period not to exceed one year. In no event, however, shall a temporary permit be allowed to extend beyond one year. In no event shall a temporary permit be renewed more than three times⁹.
 4. Each temporary permit shall set forth the date of termination. Upon termination, and if said permit is not renewed, the use covered by the permit shall cease within thirty (30) days.
 5. A temporary permit issued under this section may be revoked at a regular or special meeting of Planning Commission. Revocation of a temporary permit prior to the automatic termination date, as set forth in the permit, shall follow the procedure outlined in this Ordinance. Upon revocation of a permit, the use covered by the permit shall cease within thirty (30) days of the date of such action by the Commission.
 6. A temporary permit for a sales office for a residential subdivision may be issued and shall expire at the time of the last home sale within the subdivision.
- C. All properties that have been subjected to temporary uses must be restored to their original appearance and use after subject temporary uses are terminated.

8. Amended 5/27/03 See; References "1004 General Provisions" page 1-43.

9. Amended 5/27/03 See; References "1004 General Provisions" page 1-43.



1005 District Establishment; Zoning Maps; District Boundaries; District Regulations

I. Establishment of Zoning Districts

The area illustrated in the "Zoning Maps for Fayette County" is hereby divided into the following zoning districts:

A. Residential Districts:

1. R-A..... Rural Agricultural.
2. R-R..... Rural Residential.
3. R-2..... Residential, Two-Dwelling Units/Acre.
4. R-4..... Residential, Four Dwelling Units/Acre.
5. R-5..... Residential, Five Dwelling Units/Acre.
6. R-8..... Residential, Eight Dwelling Units/Acre.
7. R-12..... Residential, Twelve Dwelling Units/Acre.

B. Commercial Districts

1. R-O..... Residential Office.
2. O-1..... Office.
3. B-1..... Business, Neighborhood.
4. B-2..... Business, Local.
5. B-3..... Business, Tourism.
6. B-4..... Business, Major.

C. Planned Development Districts

1. PRD..... Planned Residential Development.
2. PUD..... Planned Unit Development.
3. PD-IP..... Planned Development Industrial Park.

D. Land Conservation Districts¹⁰

1. L-C-1..... Public Land Conservation District
2. L-C-2..... Private Land Conservation District

10. Amended 11/28/05. See; References "1005 District Establishment" page 1-43.



II. Zoning Maps

- A. The boundaries for each zoning district established by this Ordinance are the boundaries indicated on the maps entitled "Zoning Maps for Fayette County." These maps are part of this Ordinance.
- B. These zoning maps shall be dated with the effective date of this Ordinance.
- C. The boundary lines of the districts shall follow lot lines, centerline of roads, corporate limit lines, utility right-of-way, centerline of waterways, or described measured lines.

III. Interpretation of Zoning District Boundaries

Wherever any uncertainty exists as to the boundary of a district as delineated on the zoning maps, the following rules shall govern:

- A. Where a zoning district boundary line is shown as following a road, alley, utility right-of-way, or watercourse, it shall be construed as following the centerline of the right-of-way or watercourse.
- B. Where a zoning district boundary line is not shown as following or approximately coinciding with a lot line or property ownership line, it shall be shown to follow such line.
- C. Where a zoning district boundary line is not shown as following or approximately coinciding with a road, alley, utility right-of-way, watercourse, lot line, or property ownership line, the zoning district boundary line shall be determined by reference to the largest scale zoning map in which the boundary appears.
- D. Where public street or alley is officially vacated, the zoning designation applicable to abutting property on each side of the centerline shall apply up to the centerline of such street or alley.
- E. All property lines and dimensions shown on the official zoning maps shall be construed to be those property lines and dimensions described in the proper deeds of record for the subject property or specifically described by measurements on map.

IV. Changes in Zoning District Boundaries

Changes in boundaries of zoning districts shall be pursuant to this Ordinance and amending the zoning maps and text or parts thereof. When adopted, it shall become a part of this Ordinance.



1006 Permitting Procedure

I. Notifications

An owner, tenant, user, or operator of any lands, business, structure, or building within the District shall submit a *Notification* to the Zoning Enforcement Officer of his/her intentions to construct or conduct any of those uses listed as “permitted uses” before beginning any such project within the zoning district. The Zoning Enforcement Officer will make official *Notification* forms available.

II. Improvement Location Permits

An owner, tenant, user, or operator of any lands, business, structure, or building within the District shall file an application for an *Improvement Location Permit* with the Zoning Enforcement Officer before the start of any of the following:

- A. Construct a building that is listed as a “By-right” use in the zoning district;
- B. Construct a building that is listed as a “special use” in the zoning district;
- C. Change the use of the land to a use that is listed as a “special use” in the zoning district; or
- D. Erect, alter, or modify any structure in which said improvement is a variance from the District.

The application shall include such documents as will fully apprise the Zoning Enforcement Officer of the intended use, plans, and projects of the applicant. It is unlawful for the owner, tenant, user, or operator of any lands, business, structure, or building within the District to improve his/her property until the Zoning Enforcement Officer has either received an official *Notification* from the applicant for construction or operation of uses or has been issued an *Improvement Location Permit*, for uses, certifying that the plans and intended uses of such lands, business, building, and structures are in conformity with this ordinance.

III. Prohibited by Provision

It is unlawful for an owner, tenant, user or operator of any lands, business, or building within the District to do or permit any act which is prohibited by any provision of this zoning ordinance or to fail to do any act which is required of him by any provision of this zoning ordinance unless he has obtained a written general exception, special permit, variance, or rezoning in accordance with the provisions of this ordinance.

IV. Determination by Zoning Enforcement Officer

If the Zoning Enforcement Officer determines that the plans and intended uses of such lands, business, building, and structures are in compliance with the provisions of this zoning ordinance, the *Notification* will be filed and the applicant will continue his project uninterrupted or the Zoning Enforcement Officer shall issue the *Improvement Location Permit* as appropriate.

- A. If the work described in any *Improvement Location Permit* has not begun within ninety days from the date of issuance thereof, said permit shall expire and it shall be canceled by the Zoning Enforcement Officer; written notice thereof shall be given to the applicant.



- B. If the work described in any *Improvement Location Permit* has not been completed within two years of the date of issuance thereof, said permit shall expire and be cancelled by the Zoning Enforcement Officer, and written notice thereof shall be given to the applicant, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new *Improvement Location Permit* has been obtained.
- C. If the Zoning Enforcement Officer determines that such plans or intended uses do not conform to the provisions of this ordinance, the Zoning Enforcement Officer shall deny the application in writing, stating the reasons for such denial.
- D. The *Fayette County Transition Team* shall serve in an advisory capacity to the Zoning Enforcement Officer, County Planning Commission, and/or Board of Zoning Appeals to determine intent and furnish input in situations not clearly defined by the ordinances.
- E. The application for any *Improvement Location Permit*, or for modification or expansion thereof, shall be filed with an application fee according to the fee schedule listed below:¹¹
 - 1. Non-residential Uses: All special use permits, variances, and rezoning will be 1% of the construction value of the improvement or use proposed, or \$100.00, whichever is greater.
 - 2. Residential Uses: 1% of the cost of construction, up to a total construction cost of four hundred thousand dollars.
 - 3. Residential Uses NOT requiring inspections: Three dollars per one hundred square foot (\$3.00/100 sq. Ft.) or \$50.00, whichever is greater.
 - 4. Non-residential Uses: 1% of the cost of construction plus plans review.
 - 5. Non-Profits: Fee for building inspection of construction by a non-profit organization with a valid 501 C (non-profit) status with the Internal Revenue Service shall be charged as follows:
 - a). A flat fee of \$400.00 for the building permit regardless of the projected cost of construction.
 - b). A flat fee of \$50.00 for a building permit when the electrical power is required to be turned off and an inspection required before the power can be turned back on, if the project is within the jurisdiction of the County Building Code Department. Projects outside the jurisdiction must follow the guidelines of the utility company.
 - c). Non-profits are exempt from the building permit fee for weatherization projects and for Group Work Camps unless the structural integrity of the dwelling is altered, then the project must be inspected.
 - d). Non-profit organizations shall be exempt from a building permit fee for a period of one year for all rehab projects.
 - 6. Towers: Installer to provide proof of construction. (See; References "Tower Ordinance" page 9-19. for complete Tower Ordinance detail.)
 - 7. All commercial and multi-family units will require plans review by an engineering firm used by the county. These costs shall be passed on to the applicant.

11. Amended 11/28/05. See; References "1006 Permitting Procedure" page 1-43.



8. All Construction costs will be determined by the current formula outlined in the currently used International Building Code.

V. Certificate of Compliance¹²

It is required that in order to obtain Electrical Service within the county, all must obtain a Certificate of Compliance from the Zoning Office. The Electric Utility Service shall deny final hook-up unless said certificate is issued.

12. Amended 9/26/03. See; References "1006 Permitting Procedure" page 1-43.



1007 Amendment and Hearing Procedure

I. Power of the County Commission

Whenever public necessity and the public health, safety, general welfare, and morals require, the County Commission may amend, supplement, or modify, by Ordinance, the zoning map or the regulations set forth in this Ordinance.

II. Initiation of Amendment to the Ordinance

An amendment, supplement, or modification, in the zoning text, planning district maps, or zoning maps of this Ordinance may be initiated by:

- A. A petition approved by the County Planning Commission; or
- B. A petition duly signed by real property owners involved in the petition.

Any proposed amendment, supplement, or modification shall first be submitted to the Zoning Enforcement Officer.

III. Filing Procedures

A. Request for rezoning approval of property:

1. A request for rezoning of property shall be filed on prescribed forms with the Zoning Enforcement Office. The Zoning Office will identify adjoining property owners for notifications on hearings.¹³ The applicant must also submit the tax map and parcel numbers for the list of properties along with a stamped and addressed envelope for each of the names and addresses of property owners in the affected area. If the list includes a lot within a subdivision the applicant must submit the name of the president for that subdivision's homeowners association along with a stamped and addressed envelope for that member.
2. The Zoning Enforcement Office will conduct a formal review of the completed application. The review will include the recommendation of the Fayette County Transition Team. The Zoning Enforcement Office will endeavor to complete its review within ten (10) working days.
3. The Zoning Enforcement Office will publish a legal advertisement describing the request for rezoning in the local newspaper of general circulation fifteen (15) days prior to the scheduled public hearing before the Planning Commission. The prepared envelopes notifying the property owners located within 250 feet of the affected property and a homeowners association board member of an affected subdivision and submitted by the applicant will be mailed at the same time the legal advertisement is submitted to the newspaper for publication.
4. The Planning Commission will hold a duly scheduled public hearing on the rezoning request and the Planning Commission will make a recommendation to the County Commission. The Zoning Enforcement Office will prepare a written report of the decision.

13. Amended 5/27/03. See; References "1007 Amendment and Hearing Procedure" page 1-44.



5. Within fifteen (15) calendar days of a decision made by the Planning Commission, the County Commission will hold a public meeting to hear the Planning Commission's recommendation. Attendees at the public meeting will be notified of the date and time of the County Commission's public hearing. The County Commission will endeavor to make a decision on the request and recommendation within ten (10) working days after the County Commission hearing.
 6. If the request for rezoning is approved by the County Commission the applicant will receive approval and will be formally notified by mail by the Zoning Enforcement Office. An original court order will be signed by the County Commission and will be filed with the Clerk of Court of Fayette County within three working days. The Zoning Enforcement Office will amend the zoning map to reflect the approved rezoning.
 7. If the request for rezoning is denied by the County Commission, the applicant will be formally notified in writing by the Zoning Enforcement Officer of the denial and the right to appeal the decision to the Board of Zoning Appeals (BZA). If the request is denied by the BZA, the applicant will have the right to appeal the decision to the Fayette County Circuit Court¹⁴ within thirty (30) days of the BZA's decision. An original court order will be signed by the County Commission and filed with the Clerk of Court of Fayette County within three (3) working days and a copy of the order will be mailed to the applicant.
 8. If the rezoning is denied by the county commission, there is a one year moratorium before another request to rezone said property can be submitted.¹⁵
- B. Request for Text Amendment approval to the Zoning Ordinance:
1. A request for an amendment, or change to the text of the Zoning Ordinance will be filed on prescribed forms with the Zoning Enforcement Office.
 2. The Zoning Enforcement Office will conduct a formal review of the completed application. The review will include the recommendation of the Fayette County Transition Team. The Zoning Enforcement Office will endeavor to complete its review within ten (10) working days.
 3. The Zoning Enforcement Office will publish a new legal advertisement describing the request for the amendment in a local newspaper of general circulation within fifteen (15) days prior to the scheduled public hearing before the Planning Commission.
 4. The Planning Commission will hold a duly scheduled public hearing of the text amendment request and makes a recommendation to the County Commission. The Zoning Enforcement Office will prepare a written report of the decision.
 5. Within fifteen (15) calendar days of the Planning Commissions decision, the County Commission will hold a public hearing to hear the Planning Commission's recommendations. Attendees at the public hearing will be notified of the date and time of the public hearing. The County Commission will endeavor to make a decision on the request and recommendation within ten (10) working days.

14. Amended 5/27/03 - See; References "1007 Amendment and Hearing Procedure" page 1-44.

15. Amended 4/24/06 - See; References "1007 Amendment and Hearing Procedure" page 1-44..



6. If the County Commission approves the request for the text amendment, the applicant will receive approval and will be formally notified by mail by the Zoning Enforcement Office. An original court order will be signed by the County Commission and filed with the Clerk of Court of Fayette County within three (3) working days. The Zoning Enforcement Office will amend the zoning ordinance text to reflect the approved amendment.
 7. If the request of the text amendment is denied by the County Commission, the applicant will be formally notified in writing by the Zoning Enforcement Office of the denial and the right to appeal the decision to Fayette County Circuit Court within thirty (30) days of the County Commission's decision. An original court order will be signed by the County Commission and filed with the Clerk of Court of Fayette County within three (3) working days and a copy of the order is mailed to the applicant.
- C. Application for a Special Permit Use approval:
1. An applicant requesting a special permit use will request a pre-application conference with the Zoning Enforcement Office.
 2. The Zoning Enforcement Office will conduct a preliminary review of the request. The review will include the recommendation of the Fayette County Transition Team in Special Use applications involving a commercial use¹⁶. The Zoning Enforcement Office will endeavor to complete its review within ten (10) working days and offer comment to the applicant.
 3. The applicant will then file a formal and complete application for a special permit use with the Zoning Enforcement Office. The application shall include a list of the property owners' names and addresses located within 250 feet of the affected area, as of record in the office of the Fayette County Assessor. The subject property, also, shall be included in the affected area. The applicant must also submit the tax map and parcel numbers for the list of properties along with a stamped and addressed envelope for each of the names and addresses of property owners in the affected area. If the list includes a lot within a subdivision, the applicant must submit the name of the president of the homeowners association along with a stamped and addressed envelope for that member.
 4. The Zoning Enforcement Office will conduct a formal review of the complete application. As for the formal review process, the Zoning Enforcement Office will notify appropriate agencies and request summaries of reviews. The Zoning Enforcement Office will endeavor to complete its review within fifteen (15) working days.
 5. The Zoning Enforcement Office will publish a legal advertisement describing the request for a special permit use in a local newspaper of general circulation fifteen (15) days prior to the scheduled public hearing before the BZA. The prepared envelopes notifying the property owners located within 250 feet of the affected property and the president of the homeowners association of an affected subdivision and submitted by the applicant will be mailed at the same time the legal advertisement is submitted to the newspaper for publication.

16. Amended 6/28/04. See; References "1007 Amendment and Hearing Procedure" page 1-44.



6. The BZA shall hold a duly scheduled public hearing to review the complete site plan and application for the special permit use request.
7. If the BZA grants the special permit use, the applicant receives approval and is formally notified by mail by the Zoning Enforcement Office.
8. If the special permit use is denied by the BZA, the applicant is formally notified in writing of the denial and the right to appeal to decision to the Fayette County Circuit Court within thirty (30) days.
9. Board of Zoning Appeals reserves the right to add conditions to special use permits as may be necessary to protect public health, safety, welfare, moral or convenience.¹⁷

IV. Fees

- A. Petitions and applications filed by property owners shall be accompanied by a filing fee. The purpose of the fee shall be to defray, in part, the expense connected with each application. Such fee shall be waived in the case of a bill to rezone or to amend the text of this Ordinance when offered by the County Planning Commission.
- B. Fees for applications are 1/2 of 1% of construction cost or \$100; whichever is greater.¹⁸

V. Public Hearing

- A. The County Planning Commission shall hold a public hearing before acting on a request for a zoning text amendment or rezoning. The Board of Zoning appeals shall hold public hearing for special use permits and variances. Public hearing dates and times will be established by the Commission.¹⁹
- B. Notice of a scheduled public hearing for a proposed rezoning, special permit use, or zoning text amendment shall consist of the following:
 1. Publication of a legal advertisement in compliance with the provisions of, Chapter 8, Article 24, of the Code of West Virginia;
 2. The posting of a notice of the public hearing on the subject property;
 3. The mailing of notices of the public hearing to the petitioner or applicant, to recorded owners of property within 250 feet of any part of the subject property, and to a homeowners association board member and affected subdivisions. The list of owners may be as established in the Fayette County Assessor's office;
 4. Whenever public hearing involves property within 200 feet of an adjoining municipality written notice of the public hearing shall be sent by certified mail to the clerk of the municipality; and
 5. The notice required for amending the zoning ordinance to provide for overall updating and revision of the Zoning Ordinance text and map(s) shall be by:
 - a). Publication in a general circulation newspaper as provided in paragraph B.1 above;

17. Amended 7/28/03. See; References "1007 Amendment and Hearing Procedure" page 1-44.

18. Amended 5/27/03. See; References "1007 Amendment and Hearing Procedure" page 1-44.

19. Amended 10/28/05. See; References "1007 Amendment and Hearing Procedure" page 1-44.



- b). By first-class mail to applicable property owners, only where rezoning of property is involved; and
 - c). Mailed notification to a homeowners association board members of the affected subdivision.
- C. Notice of a scheduled public hearing for a proposed text amendment shall meet the requirements as stated in B.1.
- D. All notices shall include the time and place of the hearing and the action to be considered. For an overall updating and revision of the Zoning Ordinance, the Zoning Enforcement Office shall not have to specify the change(s) proposed for each parcel land; reference to the overall updating and revision shall be sufficient description of the action to be considered.
- E. Notices meeting the above requirements in subsections B. through D. shall be deemed adequate notice.
- F. The Planning Commission shall establish rules and policies governing the order and conduct of public hearings.

VI. Protest and Support by Citizens

Written petitions or letters to the County Commission or County Planning Commission should include the following:

- A. The case to which the petition or letter refers;
- B. Signature and addresses of the petitioners;
- C. Reasons for the protest;
- D. The date of the petition, letter, or signatures; and
- E. Remedies.

Petitions or letters favoring a request also may be submitted and follow the same guidelines as stated in (A) through (D) above.

VII. Conflict of Interest

- A. It is expected that Officials shall be independent, impartial and responsible to the people; that government decisions and policies shall be made in proper channels of governmental structure; and, that the public shall have confidence in the integrity of its government. In recognition of those goals, this section relating to conflict of interest sets forth those acts or actions that are incompatible with the best interest of the County and directs disclosures by such officials of such interest in matters which may affect the outcome of any decision related to this Ordinance made by the County Commission, Board of Zoning Appeals, or County Planning Commission.
- B. Any public official having a conflict of interest, as defined in subsection C. below, shall declare such conflict and refrain from discussion of, participation in, or voting on any decision relating to the matter in which the official has a conflict of interest.
- C. Interest shall be considered as direct or indirect pecuniary or material benefits accruing to a public official as a result of any decision relating to this Ordinance which is or may be the



subject of an official act or action by the County Commission, Board of Zoning Appeals, or County Planning Commission. For the purpose of this Ordinance, a public official shall be deemed to have a conflict of interest if any of the following relationships are present:

1. Any person related to him by blood or marriage in a degree closer than first cousins; a divorce or separation between spouses shall not be deemed to terminate any such relationship;
2. Any person or business entity with whom a contractual relationship exists with the public official; it is not intended that this relationship be construed to be affected by minor contractual relationships, such as personal insurance policies, mortgages, bank accounts, or charge accounts;
3. Any business entity in which the public official is an officer, director, member having a financial interest therein, or by which he is employed; or
4. Any business entity in which in excess of 15 percent of the total stock or total legal and beneficial interest is controlled or owned directly or indirectly by the public official.

1008 Board of Zoning Appeals

I. Establishment

A Board of Zoning Appeals shall be established in accordance with Article 24 (Chapter 8-24-51 et. Seq.), of the Code of West Virginia. The word "Board" in this article shall mean the Board of Zoning Appeals.

II. Membership and Organization

- A. Board members shall be appointed pursuant to Section 51, Article 24 (Chapter 8-24-51) of the Code of West Virginia.
- B. At its first meeting of each year, the Board shall elect a chair, vice-chair, and secretary from its membership. The vice-chairman shall have the power and authority to act as chairman during the absence or disability of the chair.²⁰

III. Quorum and Official Action

A majority of the members of the Board shall constitute a quorum. No action of the Board shall be official unless authorized by a majority of all of the members of the Board.

IV. General Procedures

- A. The Board shall adopt such rules as shall be necessary to carry out its duties under the terms of this Ordinance.
- B. The Board shall keep minutes of its proceeding, records of all official actions, and shall record the vote on all actions taken. All minutes and records shall be filed in the Zoning Enforcement Office and shall be public records.

20. Amended 5/27/03. See; References "1008 Board of Zoning Appeals" page 1-45.



V. Powers and Duties

The Board shall:

- A. Hear and determine appeals and review any order, requirement, decision or determination made by the County Planning Commission or Zoning Enforcement Officer charged with the enforcement of this Ordinance;
- B. Hear and decide, upon appeal, such special permit uses to the terms of this Ordinance upon which the Board is required to act under this Ordinance; and
- C. Authorize, in specific cases, such variances from the terms of this Ordinance as will not be contrary to the public interest:
 1. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance.
 2. Under no circumstances shall the Board grant a variance to allow a land use not permitted under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.
 3. In exercising its powers and authority, the board may reverse or affirm, in whole or in part, or may modify the order, requirement, decision, or determination appealed from, as in its opinion ought to be done in the premises, and to this end shall have all the powers and authority of the official or body from whom the appeal is taken.

VI. Stay of Work

When an appeal has been filed with the Board, all proceedings and work on the premises in question shall be stopped (by written notice of the Zoning Enforcement Office and sent to the property owner by certified mail) unless the official or County Planning Commission from whom or which the appeal was taken shall certify the Board that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. If such certificate is filed, proceedings or work on the premises shall not be stayed except by a restraining order that would be granted by the Circuit Court of Fayette County, upon application thereof, on notice to the official County Planning Commission for whom or which the appeal was taken and the owners of the premises affect and on due cause shown.

VII. Filing Procedure for an Appeal of an Administrative Decision

- A. An appeal taken from any order, requirement, decision, or determination made by the Zoning Enforcement Officer charged with the enforcement of this Ordinance shall be filed with the Board on forms prescribed by the Zoning Enforcement Office. The appeal shall specify the reasons for the appeal and shall be made within thirty (30) calendar days of the original action in question unless otherwise prescribed by the Board by general rule and regulation.
- B. The appeal, or application, shall include a list of property owners' names and addresses located within 250 feet of the affected area, as recorded in the office of the Fayette County Assessor. The subject property also shall be included in the affected area. The applicant must also submit the tax map and parcel numbers for the list of properties along with a stamped and addressed envelope for each of the names and addresses of property owners in the affected area. If the list includes a lot within a subdivision, the applicant must sub-



mit the name of the president for the subdivision homeowners association along with a stamped and addressed envelope for that person.

- C. The Zoning Enforcement Office will publish a legal advertisement describing the request to appear in a local newspaper of general circulation fifteen (15) calendar days prior to the scheduled public hearing before the Board. The prepared envelopes notifying the property owners located within 250 feet of the affected property and the president of the homeowners association of an affected subdivision and submitted by the applicant will be mailed at the same time the legal advertisement is submitted to the newspaper for publication.
- D. The Board shall hold a duly scheduled public hearing on the appeal.
- E. If the Board decides to uphold the administrative decision, the appeal will stand as approved by the Board. The Zoning Enforcement Office will then formally notifies the petitioner in writing.

VIII. Filing Procedure for a Variance Request

- A. A request for a variance from the terms of this Ordinance shall be filed with the Board, after a recommendation has been forwarded from the Planning District Advisory Board, on forms prescribed by the Zoning Enforcement Office. The variance request shall specify the reason for the variance. The variance request, or application, shall include a list of the property owners' names and addresses abutting the affected area, as of record in the office of the Fayette County Assessor, including across streets and alleys. The subject property also shall be included in the affected area. The applicant must also submit the tax map and parcel numbers for the list of properties along with a stamped and addressed envelope for each of the names and addresses of property owners in the affected area. If the list includes a lot within a subdivision, the applicant must submit the name of the president of the homeowners association along with a stamped and addressed envelope for that person.
- B. The Zoning Enforcement Office will conduct a formal review of the request. As for the formal review process, the Zoning Enforcement Office will notify the Transition Team and other appropriate agencies and officials and request summaries of reviews. The Zoning Enforcement Office will endeavor to complete its review within fourteen (14) calendar days.
- C. The Zoning Enforcement Office will publish, in a local newspaper of general circulation, a legal advertisement describing the variance request. The legal advertisement will appear fifteen (15) days prior to the scheduled public hearing before the Board. The prepared envelopes submitted by the applicant notifying the property owners abutting the affected property, including cross streets and alleys, and the president of the homeowners association of an affected subdivision, will be mailed at the same time the legal advertisement is submitted to the newspaper for publication.
- D. The Board shall hold a duly scheduled public hearing on the appeal.
- E. If the Board decides to deny the variance request, the petitioner will be formally notified by mail by the Zoning Enforcement Office, of the right to appeal the decision to Fayette County Circuit Court within thirty (30) days.



- F. If the variance request is denied by the BZA or Planning Commission there is a one year moratorium before another request for variance on said property can be submitted.²¹

IX. Public Hearings

- A. Before deciding any case filed with the Board, the Board shall hold a public hearing. At the hearing, any party may appear in person, by agent, or by attorney. The Board shall fix a reasonable time for the hearing and give public notice as follows:
1. Publication in a general circulation newspaper of a Class I legal advertisement (one time) at least thirty (30) days prior to the date of the hearing; and
 2. The posting of a notice of the public hearing for a variance request on the subject property.
 3. Mailing of notices of the hearing at least 15 days prior to the date of the hearing to those parties described below:
 - a). In case of an administrative appeal, notices will be mailed to those owners of record of property within the affected area, as defined in sections 1008.VII and 1008.VIII, and to other property owners who, in the opinion of the Zoning Enforcement Officer, might be affected by the action in question and to the president of the homeowners association of an affected subdivision.
 - b). In the case of an application for a variance, notices will be mailed to those owners of record of properties abutting the subject real estate, including across streets and alleys, and to the president of the homeowners association of an affected subdivision.
 4. Both the legal advertisements and the mailed notices discussed in subsection XI.A.3.a above shall include the time and place of the hearing and the action to be considered.
 5. Notices of public hearings meeting all the requirements of this section shall be deemed adequate notice.

X. Fees

- A. Applications or appeals filed with the Board shall be accompanied by a filing fee. The purpose of the fee shall be to defray, in part, the expenses connected with each application.
- B. Fees for application are 1/2 of 1% of construction cost or \$100.00, whichever is greater.²²

XI. Appeal of a Decision of the Board

- A. Any decision or order of the Board shall be subject to review by certiorari.
- B. Any person or persons jointly or severally aggrieved by any decision or order of the Board may present to the Circuit Court of Fayette County a petition duly verified, setting forth that such decision or order is illegal in whole or in part, and specifying the grounds of the

21. Amended 4/24/06 -See; References "1008 Board of Zoning Appeals" page 1-45..

22. Amended 5/27/03. See; References "1008 Board of Zoning Appeals" page 1-45.



Fayette County Unified Development Code

Fayette County, West Virginia

Section 1

Article 1008 Board of Zoning Appeals

alleged illegality. The petition shall be presented to the Court within thirty (30) days after the date of the Board's decision.



REFERENCES

Section 1 Article 1000

1002 Definitions

1. Section II Terms Defined – Pg. 1-4

Bar: Any establishment located in a business zoned area that allows the consumption of alcohol and or alcohol products on premise.

Approved by Fayette County Commission February 23, 2004.

2. Section II Terms Defined - Pg 1-4

Building Permits: A document issued to indicate the realted construction, enlargement, moving, or reconstruction of a structure, has been properly applied for and is being inspected by the Building Safety Department to ensure compliance with the effective building codes. *Approved by the Fayette County Commission April 24, 2006.*

3. Section II Terms Defined - Pg 1-5

Building Safety Officer: The Director of Buildign Safety Department of Fayette County. *Approved by the Fayette County Commission April 24, 2006.*

4. Section II Terms Defined - Pg 1-7

Dwelling Single Type1: A building containing not more than one dwelling unit over 20 ft wide (excluding decks and porches) and not occupied by more than one family. *Approved by the Fayette County Commission April 24, 2006.*

5. Section II Terms Defined - Pg 1-7

Dwelling Single Type 2: A building containing not more than one dwelling unit over 20 ft wide (excluding decks and porches) and not occupied by more than one family. *Approved by the Fayette County Commission April 24, 2006.*

6. Section II Terms Defined - Pg 1-9

Improvements Location Permits: A document issued to indicate teh related lands, construction, improvements, or intended use have been properly applied for and approved by the Zoning Department, to be in compliance with the zoning regulations of this ordinance, and may include rezoning, special use, variance, or special exception. *Approved by Fayette County Commission April 24, 2006.*

7. Section II Terms Defined – Pg. 1-16

Tavern: Any establishment located in a residential area that allows the consumption of alcohol and or alcohol products on premise.

Approved by Fayette County Commission February 23, 2004.



1004 General Provisions

8. Section VII Temporary Permits, Subsection B, Number 2. – Pg. 1-26

Changed "Planning Commission" to 'Zoning Officer or Resource Coordinator" *Approved by Fayette County Commission May 27, 2003.*

9. Section VII Temporary Permits, Subsection B, Number 3. – Pg. 1-26

Last sentence of paragraph, changed to "In no event shall a temporary permit be renewed more than three times". *Approved by Fayette County Commission May 27, 2003.*

1005 District Establishment

10. Section I Establishment of Zoning Districts, – Pg. 1-27

Add Subsection D. Land Conservation Districts and 1. LC-1 Public Land Conservation District. and LC-2 Private Land Conservation District. *Approved by Fayette County Commission November 28, 2005.*

1006 Permitting Procedure

11. Section IV Determination by Zoning Enforcement Officer, Subsection E. – Pg. 1-30

- Add "Towers: Installer to provide proof of construction." *Approved by Fayette County Commission May 27, 2003.*
- Delete No. 1 and change 2 to read "Residential and Nonresidential Uses:" *Approved by Fayette County Commission September 26, 2003.*
- Changed from – "The fee required for *Notifications* submitted to the Zoning Enforcement Officer for uses permitted by right in Land Conservation, Agricultural, and Residential Districts is \$2.00 per one-hundred (100) square feet". To – "is \$3.00 per 100 square feet or \$50.00, whichever is greater". *Approved by Fayette County Commission September 26, 2003.*
- Change To – "The application for any *Improvement Location Permit*, or for modification or expansion thereof, shall be filed with an application fee according to the fee schedule listed below:
 1. Non-residential Uses: All special use permits, variances, and rezoning will be 1% of the construction value of the improvement or use proposed, or \$100.00, whichever is greater.
 2. Residential Uses: 1% of the cost of construction, up to a total construction cost of four hundred thousand dollars.
 3. Residential Uses NOT requiring inspections: Three dollars per one hundred square foot (\$3.00/100 sq. Ft.) or \$50.00, whichever is greater.
 4. Non-residential Uses: 1% of the cost of construction plus plans review.
 5. All commercial and multi-family units will require plans review by an engineering firm used by the county. These costs shall be passed on to the applicant.
 6. Towers: Installer to provide proof of construction. (See "Tower Ordinance" on page 9-19. for complete Tower Ordinance detail.)



7. All Construction costs will be determined by the current formula outlined in the currently used International Building Code."

Approved by Fayette County Commission February 23, 2004.

- Add Non-profit Fee Schedule – Non-Profits: Fee for building inspection of construction by a non-profit organization with a valid 501 C (non-profit) status with the Internal Revenue Service shall be charged as follows:
 - a. A flat fee of \$400.00 for the building permit regardless of the projected cost of construction.
 - b. A flat fee of \$50.00 for a building permit when the electrical power is required to be turned off and an inspection required before the power can be turned back on, if the project is within the jurisdiction of the County Building Code Department. Projects outside the jurisdiction must follow the guidelines of the utility company.
 - c. Non-profits are exempt from the building permit fee for weatherization projects and for Group Work Camps unless the structural integrity of the dwelling is altered, then the project must be inspected.
 - d. Non-profit organizations shall be exempt from a building permit fee for a period of one year for all rehab projects.

Approved by Fayette County Commission November 28, 2005.

12. Section V Certificate of Compliance – Pg. 1-31

Added Subsection V – "It is required that in order to obtain Electrical Service within the county, all must obtain a Certificate of Compliance from the Zoning Office. The Electric Utility Service shall deny final hook-up unless said certificate is issued". *Approved by Fayette County Commission September 26, 2003.*

1007 Amendment and Hearing Procedure

13. Section III Filing Procedures, Subsection A, Number 1. – Pg. 1-32

Change of process – changed from – "The request, or application, shall include a list of the property owners' names and addresses located within 250 feet of the *affected area*, as of record in the office of the Fayette County Assessor. The subject property, also, shall be included in the *affected areas*". To – "The Zoning Office will identify adjoining property owners for notifications on hearings". *Approved by Fayette County Commission May 27, 2003.*

14. Section III Filing Procedures, Subsection A. Number 8. - Pg 1-33

If the rezoning is denied by the County Commission, there is a one year moratorium before another request to rezone said property can be submitted. *Approved by Fayette County Commission April 24, 2006.*

15. Section III Filing Procedures, Subsection B, Number 7. – Pg. 1-33

Changed to "right to appeal the decision to Circuit Court". *Approved by Fayette County Commission May 27, 2003.*

16. Section III Filing Procedures, Subsection C, Number 2. – Pg. 1-34



Change of process, eliminate Transition Team from special use review for mobile homes. added "in Special Use applications involving a commercial use". *Approved by Fayette County Commission June 28, 2003.*

17. Section III Filing Procedures, Subsection C, Number 9. – Pg.1-35

Added "Board of Zoning Appeals reserves the right to add conditions to special use permits as may be necessary to protect public health, safety, welfare, morals or convenience".
Adopted by the Fayette County Commission July 28, 2003

18. Section IV Fees, Subsection B. – Pg. 1-35

Changed Fee rate to 1/2 of 1% or \$100 dollars, whichever is greater. *Adopted by the Fayette County Commission May 27, 2003.*

19. Section V Public Hearing, Subsection A. – Pg. 1-35

Change of Process – changed from – "The County Planning Commission shall hold a public hearing before acting on a request for a rezoning, a special permit use, or a zoning text amendment. Public hearing dates and times will be established by the Commission." To – "The County Planning Commission shall hold a public hearing before acting on a request for a zoning text amendment or rezoning. The Board of Zoning Appeals shall hold public hearings for special use permits and variances. Public hearing dates and times will be established by the Planning Commission." *Adopted by the Fayette County Commission November 28, 2005.*

1008 Board of Zoning Appeals

20. Section II Membership and Organization, Subsection B. – Pg 1-37

Changed wording – from – "president and vice president" to – "chair and vice chair". *Approved by Fayette County Commission May 27, 2003.*

21. Section VIII, filing Procedure for a Variance Request, Subsection F. - Pg. 1-39

Added - If variance request is denied by the BZA or planning commission there is a one year moratorium before another request for variance on said property can be submitted.
Approved by the Fayette County Commission April 24, 2006

22. Section X Fees, subsection B. – Pg.1-40

Changed Fee – from – 1% to – 1/2 of 1%. *Approved by Fayette County Commission May 27, 2003.*

Fayette County Unified Development Code
Fayette County, West Virginia



Article Section 1 Article 1000

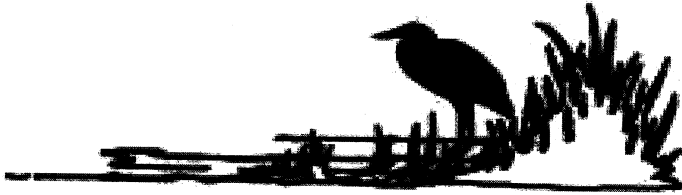
Section 1

Fayette County Unified Development Code
Fayette County, West Virginia



Fayette County Unified Development Code

Fayette County, West Virginia



Section 2 - Article 2000

Conservation, Agricultural, and Residential District Regulations



SECTION TWO: ARTICLE 2000 – CONSERVATION, AGRICULTURAL, AND RESIDENTIAL DISTRICT REGULATIONS

2001 Articles 2001.1 – 2001.4 Districts

2001.1 LC-1 Land Conservation Districts

I. Purpose and Intent

The purpose of the Land Conservation District (L-C-1) is to delineate those areas where substantial development of the land in the way of buildings or structures is not desirable because of: a). special or unusual conditions of topography, drainage, flood plain or natural conditions, whereby damage to buildings or structures and possible loss of life may occur due to process of nature and b). the lack of proper facilities or improvements resulting in the land not being suitable for development at the present time and where such facilities or improvements must be undertaken on an area-wide rather than individual parcel basis in order to serve adequately at a reasonable cost to the residents of Fayette County. The L-C-1 is for publicly owned lands.

I. Permitted Uses

To promote these purposes in Land Conservation Districts, no building or other structure shall be built nor land shall be used and no building shall be built, altered or erected to be used for any purpose other than that of:

- A. Farm of other agricultural operation, including gardens, nurseries, greenhouses, and usual farm accessory buildings not including dwellings or buildings housing farm animal or fowl.
- B. Park, playground, athletic field, golf course, riding academy, game preserve and other similar uses, including accessory buildings.
- C. Governmental or public utility structures or facilities.

II. Lot Size Requirements

- A. Minimum Lot Area:..... Three (3.0) acres
- B. Minimum Lot Width:..... 250 feet
- C. Front Yards:..... There shall be a front yard with a depth of not less than one hundred (100) feet into which space there shall be no encroachment of building construction.
- D. Side and Rear Yards:..... No building shall be placed closer to a side or rear property line than fifty (50) feet and no building more than forty (40) feet high shall be placed closer to a side or rear property than seventy-five (75) feet.
- E. Height:..... No limit.
- F. Minimum Lot Area:..... Three (3.0) acres



- G. Parcels of land three (3.0) acres and under recorded prior to the adoption of this Ordinance are permitted one dwelling unit or manufactured home on the parcel subject to Health Department approval.

III. Bulk Regulations

- A. Forty (40) feet maximum height for residential structures.
- B. Twenty-five (25) feet minimum front yard building setback.

IV. Maximum Density

- A. One (1.0) unit per three (3.0) acres.
- B. Parcels of land three (3.0) acres and under in area recorded prior to the adoption of this Ordinance may be developed at a density no greater than one unit per acre.

V. Open Space

None.

VI. Additional Regulations

None.



2001.2 L-C-2 Land Conservation Districts

I. Purpose and Intent

The purpose of the Land Conservation District (L-C-2) is to delineate those areas where substantial development of the land in the way of buildings or structures is minimized because of: **a).** special or unusual conditions of topography, drainage, flood plain or natural conditions, whereby damage to buildings or structures and possible loss of life may occur due to process of nature and **b).** the lack of proper facilities or improvements resulting in the land not being suitable for development at the present time and where such facilities or improvements must be undertaken on an area-wide rather than individual parcel basis in order to serve adequately at a reasonable cost to the residents of Fayette County. The L-C-2 is for privately owned lands.

II. Permitted Uses

To promote these purposes in Land Conservation Districts, no building or other structure shall be built nor land shall be used and no building shall be built, altered or erected to be used for any purpose other than that of:

- A. Farm or other agricultural operation, including gardens, nurseries, greenhouses, and usual farm accessory buildings not including dwellings or buildings housing farm animal or fowl.
- B. Park, playground, athletic field, golf course, riding academy, game preserve and other similar uses, including accessory buildings.
- C. Governmental or public utility structures or facilities.

III. Lot Size Requirements

- A. Minimum Lot Area:..... Three (3) acres
- B. Minimum Lot Width: 250 feet
- C. Front Yards: There shall be a front yard with a depth of not less than one hundred (100) feet into which space there shall be no encroachment of building construction.
- D. Side and Rear Yards: No building shall be placed closer to a side or rear property line than fifty (50) feet and no building more than fifty (50) feet high shall be placed closer to a side or rear property than seventy-five (75) feet.
- E. Height: Forty (40) feet.



2001.3 R-A Agricultural Districts

I. Purpose and Intent

Since there are, within the County, certain lands used for farming and/or the raising of live-stock; and since land so used is kept from urban development by these uses; and since the conservation of such land as open rural area is deemed desirable and needed, this district is established to identify these lands and to distinguish them from urbanized single family residential districts. This district is, therefore, established to separate distinctly different uses so as to promote the general health, safety, and welfare of both the occupants of this district and of other Residential districts within the County.

II. Permitted Uses

- A. Accessory uses (other than dwelling units).
- B. Agricultural uses (including livestock).
- C. Home Occupation, Level 1.
- D. Home Occupation, Level 2.
- E. Nature Reserve.
- F. Single family detached units.

III. Special Use Permits

- A. Accessory dwelling units.
- B. Automobile Graveyard.
- C. Bed and Breakfast lodging.
- D. Cemeteries.
- E. Churches.
- F. Community and Public uses.
- G. Commercial recreation uses.
- H. Home Occupation, Level 3.
- I. Institutional uses.
- J. Libraries.
- K. Dwelling, Single, Type 2, Detached.
- L. Non-Agricultural related structures over 40 feet in height.
- M. Pet boarding.
- N. Public and Private schools.
- O. Temporary uses.
- P. Timbering.
- Q. Veterinary Hospitals.
- R. Amusement park.



- S. Commercial motorized off-road recreation.
- T. Commercial rifle, pistol, skeet or trap range.
- U. Commercial go-cart course.

IV. Use Limitations

- A. Accessory dwelling units are permitted as a special use provided the density provision is not violated.
- B. All substandard lots recorded prior to the adoption of this ordinance are grandfathered and not subject to the density and lot size requirements of the R-A zoning district.
- C. Uses that pre-date the adoption of this zoning district, and are non-conforming due to the requirements of this ordinance, are hereby grandfathered and not subject to the use requirements of this district.
- D. No sale of goods or products shall be permitted except as accessory and incidental to a permitted or special use permitted use.
- E. All uses shall comply with the performance standards set forth in Article 9000.

V. Lot Size Requirements

- A. Minimum Lot Area:..... Five (5) acres
- B. Minimum Lot Width:..... 200 feet
- C. Cluster subdivision provisions shall not apply in this district.
- D. Parcels of land five (5.0) acres and under recorded prior to the adoption of this Ordinance are exempt from the lot size requirement of this district.

VI. Bulk Regulations

- A. Maximum Building Height
 - 1. Principal and Accessory Uses: 40 feet
 - 2. All Other Structures:..... 60 feet
- B. Minimum Yard Requirements:
 - 1. Single Family Dwellings and Manufactured Homes:
 - a). Front Yard:..... 60 feet
 - b). Side Yard: 50 feet
 - c). Rear Yard: 50 feet
 - 2. All Other Structures:..... 25 feet
- C. Maximum Floor Area Ratio:
 - 1. 0.10 for uses other than residential or public.
 - 2. 0.15 for public uses.
 - 3. Residential uses will not be regulated by floor area ratio.



VII. Maximum Density

- A. One (1.0) dwelling unit or manufactured home per five (5.0) acres or 0.2 dwelling units or manufactured homes per acre.
- B. Parcels of land five (5.0) acres and under in area recorded prior to the adoption of this Ordinance are only permitted one dwelling unit or manufactured home on the parcel subject to Health Department approval.

VIII. Open Space

None.

IX. Additional Regulations

None.



2001.4 R-R Rural Residential Districts

I. Purpose and Intent

The Rural Residential District (R-R) is designed to accommodate single-family housing in areas within the County that may not be served by public sewer facilities and are not yet appropriate for development at higher densities. Other selected uses, which are compatible with the open and rural character of the district, are also permitted in R-R Districts.

II. Permitted Uses

- A. Accessory uses (other than dwelling units).
- B. Agricultural uses (excluding livestock).
- C. Home Occupation, Level 1.
- D. Home Occupation, Level 2.
- E. Nature Reserve.
- F. Single family detached units.

III. Special Use Permits

- A. Accessory dwelling units.
- B. Automobile Graveyard.
- C. Bed and Breakfast lodging.
- D. Cemeteries.
- E. Churches.
- F. Community and Public uses.
- G. Commercial recreation uses.
- H. Home Occupation, Level 3.
- I. Institutional uses.
- J. Libraries.
- K. Livestock.
- L. Dwelling, Single, Type 2, Detached.
- M. Non-Agricultural related structures over 40 feet in height.
- N. Pet boarding.
- O. Privately-owned dwellings (two or more) for seasonal occupancy, not designed or used for permanent occupancy, such as summer homes and cottages, hunting and fishing lodges, and cabins.
- P. Public and Private schools.
- Q. Temporary uses.
- R. Timbering.
- S. Veterinary Hospitals.



IV. Use Limitations

- A. Accessory dwelling units are permitted as a special use provided the density provision is not violated.
- B. All substandard lots recorded prior to the adoption of this ordinance are grandfathered and not subject to the density and lot size requirements of the R-R zoning district.
- C. Uses that pre-date the adoption of this zoning district, and are non-conforming due to the requirements of this ordinance, are hereby grandfathered and not subject to the use requirements of this district.

V. Lot Size Requirements

- A. Minimum Lot Area: Two (2) acres
- B. Parcels of land two (2.0) acres and under recorded prior to the adoption of this Ordinance are permitted one dwelling unit or manufactured home on the parcel subject to Health Department approval.

VI. Bulk Regulations

- A. Forty (40) feet maximum height for residential structures.
- B. Minimum yard requirements:¹
 - 1. Front Yard..... 25 ft.
 - 2. Side Yard..... 8 ft. (residential)
5 ft. (accessory)
 - 3. Rear Yard 25 ft. (residential)
5 ft. (accessory)

VII. Maximum Density

- A. One (1.0) unit per two (2.0) acres.
- B. Parcels of land two (2.0) acres and under in area recorded prior to the adoption of this Ordinance may be developed at a density no greater than one unit per acre.

VIII. Open Space

None.

IX. Additional Regulations

None.

1. Amended 9/26/03. See; References "2001 Districts" page 2-25.



2002 R-2 Residential District, Two Dwelling Units/Acre

I. Purpose and Intent

The R-2 Residential District is created to provide for single family detached residences in a carefully planned, village-oriented pattern, with public water and sewer, compatible with the comprehensive plan's goals for residential development in Fayette County. The maximum density of two (2.0) units per acre establishes this district as one with a low density for detached residences.

The application of this district shall be the land lying within Fayette County, which is planned for low and medium density, residential uses. The intent of this district is to preserve the existing natural features and vegetation within this district.

II. Permitted Uses

- A. Accessory structures, to include detached carport and garages, tool sheds, children's playhouses and doghouses.
- B. Conventional residential subdivisions.
- C. Private swimming pools and tennis courts.
- D. Single family detached dwellings.
- E. Home Occupation, Level 1.

III. Special Use Permits

- A. Bed and breakfast lodging.
- B. Cemeteries.
- C. Churches.
- D. Cluster residential development.
- E. Commercial swimming pools and tennis courts.
- F. Day care center, family.
- G. Fire stations.
- H. Home Occupation, Level 2.
- I. Libraries.
- J. Dwelling, Single, Type 2, Detached.
- K. Museums, shrines, and historic markers.
- L. Plant nurseries (Refer to IV. A below).
- M. Private schools and related uses.
- N. Public schools, parks, playground, and related uses.



IV. Use Limitations

- A. All uses shall comply with the Performance Standards set forth in Article 9001.

V. Lot Size Requirements

- A. Minimum District Size for Cluster Subdivisions: 7 acres
- B. Average Lot Area:
1. Conventional Subdivision Lot: 18,000 sq. ft.
 2. Cluster Subdivision Lot: No Requirement
- C. Minimum Lot Area:
1. Conventional Subdivision Lot: 15,000 sq. ft.
 2. Cluster Subdivision Lot: 13,000 sq. ft.
- D. Minimum Lot Width:
1. Conventional Subdivision Lot:
 - a). Interior Lot: 110 feet
 - b). Corner Lot: 125 feet
 2. Cluster Subdivision Lot:
 - a). Interior Lot: No Requirement
 - b). Corner Lot: 100 feet

VI. Bulk Regulations

- A. Maximum Building Height:
1. Principal and Accessory Uses: 40 feet
 2. All other structures: 40 feet
- B. Minimum Yard Requirements:
1. Conventional Lot:
 - a). Front Yard: 25 feet
 - b). Side Yard: 15 feet (residences) 5 feet (accessory uses)
 - c). Rear Yard: 25 feet (residences) 5 feet (accessory uses)
 2. Cluster Lot:
 - a). Front Yard: 25 feet
 - b). Side Yard: 8 feet (residences) 5 feet (accessory uses)
 - c). Rear Yard: 25 feet (residences) 5 feet (accessory uses)



VII. Maximum Floor Area Ratio:

1. 0.20 for uses other than residential or public.
2. 0.25 for public uses.
3. Residential uses will not be regulated by floor area ratio.

VIII. Maximum Density

Two (2.0) dwelling units per acre.

IX. Open Space

- A. In subdivisions approved for cluster development, 15% of the gross site area shall be passive open space dedicated to common use and ownership.
- B. In cluster subdivisions, 5% of the gross site area shall be developed for recreational and active open space uses.
- C. The cumulative amount of open space required for cluster development shall be 20%.

X. Additional Regulations

- A. Refer to Article 1000, General Regulations, for provision, which may qualify or supplement the regulations presented above.
- B. Refer to Article 9002 for regulations on signs.
- C. Refer to Article 9003 for landscaping and screening requirements.

2004 R-4 Residential District, Four Dwelling Units/Acre

I. Purpose and Intent

The R-4 Residential District is created to provide for single family detached residences at higher densities than the R-2 Residential District, but which are compatible with the comprehensive plan's goal for residential development in Fayette County. The maximum density of four (4.0) units per acre establishes this district as one with a medium density for detached residences serviced by public water and sewer.

The application of this district shall be to undeveloped tracts lying within Fayette County. This district may be applied to those locations in Fayette County, which are planned for medium density residential uses. The intent of this district is to preserve existing natural features and vegetation.

II. Permitted Uses

- A. Accessory structures, to include detached carport and garages, tool shed, children's playhouses and doghouses.
- B. Conventional residential subdivisions.
- C. Dwelling, Single, Type 2, Detached.



III. Special Use Permits

- A. Bed and breakfast lodging.
- B. Cemeteries.
- C. Churches.
- D. Cluster residential subdivisions.
- E. Commercial swimming pools and tennis courts.
- F. Community buildings, public and private.
- G. Day care centers, family
- H. Fire stations.
- I. Home Occupation, Level 1.
- J. Libraries.
- K. Dwelling, Single, Type 2, Detached.
- L. Museums, shrines, and historic markers.
- M. Plant nurseries, with no sale of products permitted on premises.
- N. Private schools and related uses.
- O. Private swimming pools and tennis courts.
- P. Public schools, parks, playground, and related uses.
- Q. Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements.

IV. Use Limitations

- A. No sale of goods or products shall be permitted, except as accessory and incidental to a permitted and special permit.
- B. All uses shall comply with the Performance Standards set forth in Article 9001.

V. Lot Size Requirements

- A. Minimum District Size for Cluster Subdivisions: 7 acres
- B. Average Lot Area:
 - 1. Conventional Subdivision Lot: 8,000 sq. ft.
 - 2. Cluster Subdivision Lot: No Requirement
- C. Minimum Lot Area:
 - 1. Conventional Subdivision Lot: 8,400 sq. ft.
 - 2. Cluster Subdivision Lot: 6,000 sq. ft.
- D. Minimum Lot Width:
 - 1. Conventional Subdivision Lot:
 - a). Interior Lot: 70 feet
 - b). Corner Lot: 95 feet



2. Cluster Subdivision Lot:

- a). Interior Lot:..... No Requirement
- b). Corner Lot: 70 feet

VI. Bulk Regulations

A. Maximum Building Height:

- 1. All Structures:..... 40 feet

B. Minimum Yard Requirements:

1. Conventional Lot (Single Family Dwellings):

- a). Front Yard:..... 25 feet
- b). Side Yard: 10 feet
- c). Rear Yard: 25 feet

2. Cluster Lot (Single Family Dwellings):

- a). Front Yard:..... 20 feet
- b). Side Yard: 8 feet
- c). Rear Yard: 25 feet

C. Maximum Floor Area Ratio:

- 1. 0.30 for uses other than residential or public.
- 2. 0.35 for public uses.
- 3. Residential uses will not be regulated by floor area ratio.

VII. Maximum Density

Four (4.0) dwelling units per acre.

VIII. Open Space

- A. In subdivisions approved for cluster development, 15% of the gross site area shall be passive open space dedicated to common use and ownership.
- B. In cluster subdivisions, 5% of the gross site area shall be developed for recreational and active open space uses.
- C. The cumulative amount of open space required for cluster development shall be 20%.

IX. Additional Regulations

- A. Refer to Article 1000, General Regulations, for provision, which may qualify or supplement the regulations presented above.
- B. Refer to Article 9002 for regulations on signs.
- C. Refer to Article 9003 for landscaping and screening requirements.



2005 R-5 Residential District, Five Dwelling Units/Acre

I. Purpose and Intent

The R-5 District is established to provide for a planned mixture of single family dwelling types at a density not to exceed five (5) dwelling units per acre; to allow other selected uses which are compatible with the residential character of the district; and otherwise to implement the stated purpose and intent of this Ordinance.

The application of this district shall be to undeveloped tracts within Fayette County. The district may be applied to those parcels in Fayette County, which are planned for medium density residential uses. The intent of this district is to preserve existing natural features and vegetation. Development in the R-5 Residential District should be sensitive to land physiography. Provisions should be made for adequate public infrastructure, and the development of quality transportation improvements while achieving optimal siting of dwellings, recreation areas, community facilities, and open space.

II. Permitted Uses

- A. Accessory structures.
- B. Dwellings, single family detached.
- C. Dwellings, single family attached.
- D. Dwellings, mixture of those types set forth above.
- E. Public uses.

III. Special Use Permits

- A. Bed and Breakfast lodging.
- B. Churches.
- C. Commercial swimming pools and tennis courts.
- D. Community association facilities.
- E. Community buildings, public and private.
- F. Day care centers, family.
- G. Day care centers, group.
- H. Fire stations.
- I. Government offices.
- J. Home Occupation, Level 1.
- K. Housing for elderly requiring medical and/or food support structures.
- L. Institutional housing and general care for indigents or orphans.
- M. Libraries.



- N. Dwelling, Single, Type 2, Detached.
- O. Nursery schools.
- P. Private schools and related uses.
- Q. Public schools, parks, playground, and related uses.
- R. Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements.

IV. Use Limitations

- A. No sale of goods or products shall be permitted, except as accessory and incidental to a permitted, or special permit or special exception use.
- B. All uses shall comply with the Performance Standards set forth in Article 9001.
- C. The cumulative amount of open space required for cluster development shall be 20%. All open space shall be contiguous.

V. Lot Size Requirements

- A. Minimum District Size: 4 acres
- B. Minimum Lot Area:
 - 1. Single Family Detached Dwellings: 5,000 sq. ft.
 - 2. Single Family Attached Dwellings: No Requirement
 - 3. Non-Residential Uses: 19,000 sq. ft.
- C. Minimum Lot Width:
 - 1. Single Family Detached Dwellings:
 - a). Interior Lot: 50 feet
 - b). Corner Lot: 70 feet
 - 2. Single Family Attached Dwellings: 18 feet
 - 3. Non-Residential Uses:
 - a). Interior Lot: 75 feet
 - b). Corner Lot: 100 feet

VI. Bulk Regulations

- A. Maximum Building Height:
 - 1. All Structures: 40 feet
- B. Minimum Yard Requirements:
 - 1. Single Family Detached Dwellings:
 - a). Front Yard: 25 feet
 - b). Side Yard: 8 feet
 - c). Rear Yard: 25 feet



2. Single Family Attached Dwellings:

- a). Front Yard:..... 10 feet
- b). Side Yard: 10 feet
- c). Rear Yard: 25 feet
- d). A privacy yard, having a minimum area of 200 square feet, shall be provided on each lot.

3. All Other Structures:

- a). Front Yard:..... 20 feet
- b). Side Yard: 10 feet
- c). Rear Yard: 25 feet

VII. Maximum Density

Five (5.0) dwelling units per acre.

VIII. Open Space

- A. A minimum of 10% of the gross area shall be passive open space.
- B. A minimum of 10% of the gross area shall be active open space.
- C. The cumulative amount of open space shall be 20%.

IX. Additional Regulations

- A. Refer to Article 1000, General Regulations, for provision, which may qualify or supplement the regulations presented above.
- B. Refer to Article 9002 for regulations on signs.
- C. Refer to Article 9003 for landscaping and screening requirements.
- D. Parking:
 - 1. Two (2) off-street spaces per dwelling unit shall be provided for each dwelling unit.
 - 2. Required parking spaces shall be located within 150' from the dwelling and entrance that such parking space serves.
 - 3. Separate parking spaces shall be allocated and reserved for recreational vehicle parking. The number of parking spaces allocated for recreational vehicle parking shall be one (1) recreational parking space per six dwelling units.
 - 4. Separate parking spaces shall be allocated and reserved for guest parking. Two-tenths (0.20) guest parking space shall be required per one dwelling unit in the R-5 Residential district.
- E. Street/Access:
 - 1. Attached dwelling shall have access to private street with a minimum width of 22 feet.



2. No attached residential lots may be accessed directly from a public street unless approved by a special permit. In such case, the dwelling(s) must conform with R-5 Residential District setback requirements for single family detached cluster lots.
- F. Separation and Grouping of Units:
 1. A minimum of twenty (20) feet of common open space shall be provided between lot lines of grouped units. If grouped units are developed as condominiums, a minimum of fifty (50) feet of common space shall be provided between grouped units.
 2. No more than eight (8) single family attached units (townhouses) shall be included in any one physically contiguous grouping. Buildings shall be considered contiguous if any portion of any wall or any unit is common with any portion of any wall of another unit.
- G. Required Improvements and Maintenance of Improvements:
 1. For any development in the R-5 Residential District, all common area improvements (including open space, recreational facilities, private streets, walkways, parking areas, and other community facilities) shall be maintained by, and be the sole responsibility of the developer-owner of the R-5 Residential development until such time as the developer-owner conveys such common area to a non-profit (homeowner's) entity consisting of all the individual owners of the dwelling units in the development.
 2. On-site lighting, signs and mailboxes shall be provided and installed by owner-developer of R-5 Residential development. These improvements shall be compatible scale, materials, and colors.

2008 R-8 Residential District, Eight Dwelling Units/Acre

I. Purpose and Intent

The R-8 Residential District is created to provide for a mixture of single family residential dwelling types compatible with the comprehensive plan's goals for residential development in Fayette County. The maximum density of eight (8.0) units per acre establishes this district as one recognizing a mixture of single family residential types.

The application of this district shall be to undeveloped tracts within Fayette County. This district may be applied to those locations in Fayette County, which are planned for high-density residential uses. The intent of this district is to preserve existing natural features and vegetation. Development in the R-8 Residential District should be sensitive to land physiography. Provisions should be made for adequate public infrastructure and the development of quality transportation improvements while achieving optimal siting of dwellings, recreation areas, community facilities, and open space.

II. Permitted Uses

- A. Accessory structures.
- B. Dwellings, mixture of those types set forth above.
- C. Dwellings, Single, Type1, Detached.
- D. Dwellings, Single, Type 1, Attached.
- E. Public uses.



III. Special Use Permits

- A. Bed and breakfast lodging.
- B. Churches.
- C. Cluster residential subdivisions.
- D. Commercial swimming pools and tennis courts.
- E. Community buildings, public and private.
- F. Day care centers, family.
- G. Day care centers, group.
- H. Fire stations.
- I. Home Occupation, Level 1.
- J. Housing for the elderly at densities greater than eight units per acre.
- K. Libraries.
- L. Museums, shrines, and historic markers.
- M. Private schools and related uses.
- N. Private swimming pools and tennis courts.
- O. Public schools, parks, playground, and related uses.
- P. Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements.

IV. Use Limitations

- A. No sale of goods or products shall be permitted, except as accessory and incidental to a permitted, or special permit.
- B. All uses shall comply with the Performance Standards set forth in Article 9001.

V. Lot Size Requirements

- A. Minimum District Size: 5 acres
- B. Minimum Lot Area:
 - 1. Single Family Detached Dwellings: 5,000 sq. ft.
 - 2. Single Family Attached Dwellings: No Requirement
 - 3. Non-Residential Uses: 12,000 sq. ft.
- C. Minimum Lot Width:
 - 1. Single Family Detached Dwellings:
 - a). Interior Lot: 50 feet
 - b). Corner Lot: 70 feet
 - 2. Single Family Attached Dwellings: 18 feet



3. Non-Residential Uses:

- a). Interior Lot: 75 feet
- b). Corner Lot: 100 feet

VI. Bulk Regulations

A. Maximum Building Height:

- 1. All Structures: 40 feet

B. Minimum Yard Requirements:

1. Single Family Detached Dwellings:

- a). Front Yard: 25 feet
- b). Side Yard: 8 feet
- c). Rear Yard: 25 feet

2. Single Family Attached Dwellings:

- a). Front Yard: 10 feet
- b). Side Yard: 10 feet
- c). Rear Yard: 25 feet
- d). A privacy yard, having a minimum area of 200 square feet, shall be provided on each lot.

3. All Other Structures:

- a). Front Yard: 20 feet
- b). Side Yard: 10 feet
- c). Rear Yard: 25 feet

C. Maximum Floor Area Ratio:

- 1. 0.55 for uses other than residential.
- 2. Residential uses will not be regulated by floor area ratio.

VII. Maximum Density

- A. Eight (8) dwelling units per acre.
- B. Greater than eight dwelling units per acre subject to special use permit requirements.

VIII. Open Space

- A. 10% of the gross area shall be active open space.
- B. 10% of the gross area shall be passive open space.
- C. The amount of open space required shall be 20%.



IX. Additional Regulations

- A. Refer to article 1000, General Regulations, for provision, which may qualify or supplement the regulations presented above.
- B. Refer to Article 9002 for regulations on signs.
- C. Refer to Article 9003 for landscaping and screening requirements.
- D. Parking:
 - 1. Two (2) off-street parking spaces per dwelling unit shall be provided for each dwelling unit.
 - 2. Required parking spaces shall be located within 150' from the dwelling and entrance that such parking space serves.
 - 3. Separate parking spaces shall be allocated and reserved for recreational vehicle parking. The number of parking spaces allocated for recreational vehicle parking space shall be one space per six (6) dwelling units.
 - 4. Separate parking spaces shall be allocated and reserved for guest parking. Two-tenths (0.20) guest parking space shall be required per one dwelling unit in the R-8 Residential District.
- E. Street/Access:
 - 1. Attached dwelling units shall have access to a private street with a minimum width of 22 feet. The paved street shall be constructed to public street design standards as specified by the Planning Commission.
 - 2. No attached residential lots may be accessed directly from a public street unless approved by a special permit.
- F. Separation and Grouping of Units:
 - 1. A minimum of twenty (20) feet of common open space shall be provided between lot lines of grouped units. If grouped units are developed as condominiums, a minimum of fifty (50) feet of common space shall be provided between grouped units.
 - 2. No more than eight (8) single family attached units (townhouses) shall be included in any one physically contiguous grouping. Buildings shall be considered contiguous if any portion of any wall or any unit is common with any portion of any wall of another unit.
- G. Required Improvements and Maintenance of Improvements:
 - 1. For any development in the R-8 Residential District, all common area improvements (including open space, recreational facilities, private streets, walkways, parking areas, and other community facilities) shall be maintained by, and be the sole responsibility of the developer-owner of the R-8 Residential development until such time as the developer-owner conveys such common area to a non-profit (homeowner's) entity consisting of all the individual owners of the dwelling units in the development.
 - 2. On-site lighting, signing and mailboxes shall be provided and installed by owner-developer of R-8 Residential development.
 - 3. These improvements shall be compatible scale, materials, and colors.



2012 R-12 Residential District, Twelve Dwelling Units/Acre

I. Purpose and Intent

The R-12 Residential District is created to provide for multifamily and single family attached residences at locations compatible with the comprehensive plan's goals for high density residential development in Fayette County. The maximum density of twelve units per acre establishes this district as one recognizing garden-styled apartment or condominium units as the dominant land use. Housing for the elderly is encouraged under this district. Single family attached dwellings are permitted in this district subject to the R-8 Residential District regulations unless otherwise stated.

The application of this district shall be to undeveloped tracts within Fayette County. This district may be applied to those locations in Fayette County which are planned for high-density residential uses. The intent of this district is to preserve existing natural features and vegetation. Development in the R-12 Residential District should be sensitive to land physiography. Provisions should be made for adequate public infrastructure and the development of quality transportation improvements while achieving optimal siting of dwellings, recreation areas, community facilities, and open space.

II. Permitted Uses

- A. Dwellings, mixture of those types set forth above.
- B. Dwellings, multiple family, including accessory service uses.
- C. Dwellings, single family attached.
- D. Public uses.

III. Special Use Permits

- A. Bed and Breakfast lodging.
- B. Churches.
- C. Commercial association facilities.
- D. Commercial swimming pools and tennis courts.
- E. Community buildings, public and private.
- F. Day care centers, family.
- G. Day care centers, group.
- H. Fire stations.
- I. Government offices.
- J. Home Occupation, Level 1.
- K. Housing for the elderly requiring medical and/or food support structures.
- L. Housing for the elderly at a density greater than twelve units per acre.
- M. Institutional housing and general care for indigents and orphans.
- N. Libraries.



- O. Nursery schools.
- P. Nursing homes (licensed).
- Q. Private schools and related uses.
- R. Private swimming pools and tennis courts.
- S. Public schools, parks, playground, and related uses.
- T. Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements.
- U. Single family detached dwellings with zero side yard setback (zero lot line).

IV. Use Limitations

- A. No sale of goods or products shall be permitted, except as accessory and incidental to a permitted special permit.
- B. All uses shall comply with the Performance Standards set forth in Article 9001.

V. Lot Size Requirements

- A. Minimum District Size: 4 acres
- B. Minimum Lot Area:
 - 1. Non-Residential Uses: 10,000 sq. ft.
- C. Minimum Lot Width:
 - 1. Single Family Attached Dwellings: 18 feet
 - 2. Non-Residential Uses:
 - a). Interior Lot: 75 feet
 - b). Corner Lot: 100 feet

VI. Bulk Regulations

- A. Maximum Building Height:
 - 1. All Other Structures: 40 feet
- B. Minimum Yard Requirements:
 - 1. Single Family Dwellings:
 - a). Front Yard: 5 feet
 - b). Side Yard: 10 feet
 - c). Rear Yard: 20 feet
 - 2. All Other Structures:
 - a). Front Yard: 20 feet
 - b). Side Yard: 10 feet
 - c). Rear Yard: 25 feet
- C. Maximum Floor Area Ratio: 0.70 for uses other than residential.



VII. Maximum Density

- A. Twelve (12) dwelling units per acre.
- B. Greater than twelve dwelling units per acre subject to special use permit requirements.

VIII. Open Space

- A. 10% of gross area shall be passive open space.
- B. 15% of gross area shall be active open space.
- C. The cumulative amount of open space shall be 25%.

IX. Additional Regulations

- A. Refer to Article 1000, General Regulations, for provisions which may qualify or supplement the regulations presented above.
- B. Refer to Article 9002 for regulations on signs.
- C. Refer to Article for 9003 for landscaping and screening requirements.
- D. Parking:
 - 1. Two (2) off-street parking spaces per dwelling unit shall be provided for each dwelling unit.
 - 2. Required parking spaces shall be located within 150' from the dwelling and entrance that such parking spaces serve.
 - 3. Separate parking spaces shall be allocated and reserved for recreational vehicle parking. The number of parking spaces allocated for recreational vehicle parking space shall be one space per six (6) dwelling units.
 - 4. Separate parking spaces shall be allocated and reserved for guest parking. Two-tenths (0.20) guest parking space shall be required per one dwelling unit in the R-12 Residential District.
 - 5. Parking space requirements for elderly housing shall consist of one (1) space per three (3.0) dwelling units, plus one (1) space per one employee or staff member on the major shift, or such greater number as the Planning Commission may require, depending on the specific category of elderly units to be developed.
- E. Street/Access:
 - 1. Attached dwelling units shall have access to private street with a minimum width of 22 feet. The paved street shall be constructed to public street design standards as specified by the Planning Commission.
 - 2. No attached residential lots may be accessed directly from a public street unless approved by a special permit. In such case, the dwelling(s) must conform with R-5 Residential District setback requirements for single family detached cluster lots.
 - 3. The location, spacing and number of private driveway entrances serving any R-12 residential development shall be subject to final approval by the Planning Commission or the County Planner.



F. Separation and Grouping of Units:

1. A minimum of twenty (20) feet of common open space shall be provided between lot lines of grouped units. If grouped units are developed as condominiums, a minimum of fifty (50) feet of common space shall be provided between grouped units.
2. No more than eight (8) single family attached units (townhouses) shall be included in any one physically contiguous grouping. Buildings shall be considered contiguous if any portion of any wall or any unit is common with any portion of any wall of another unit.
3. No more than twenty-four (24) residential units shall be located within any one physical building structure.
4. Multifamily dwelling structures shall have yards separating individual buildings by a distance not less than the height of the tallest residential structure. The larger yard size shall govern in instances where side and rear yard definition is subject to interpretation.

G. Required Improvements and Maintenance of Improvements:

1. For any development in the R-12 Residential District, all common area improvements (including open space, recreational facilities, private streets, walkways, parking areas, and other community facilities) shall be maintained by, and be the sole responsibility of the developer-owner of the R-12 Residential development until such time as the developer-owner conveys such common area to a non-profit (homeowner's) entity consisting of all the individual owners of the dwelling units in the development. On-site lighting, signing and mailboxes shall be provided and installed by owner-developer of R-12 Residential development. These improvements shall be compatible scale, materials, and colors.



REFERENCES

Section 2 – Article 2000

2001 Districts

2001.4 R-R Rural Residential

1. Section VI Bulk Regulations, Subsection B. – Pg. 2-8

Changed from "Twenty-five (25) feet minimum front yard building setback". *Approved by Fayette County Commission September 26, 2003.*

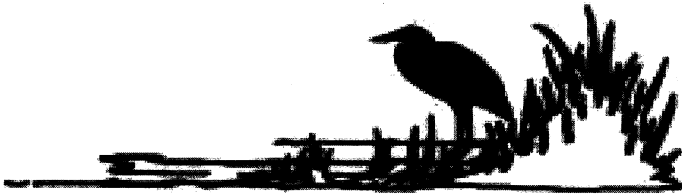


Fayette County Unified Development Code
Fayette County, West Virginia



Fayette County Unified Development Code

Fayette County, West Virginia



Section 3 - Article 3000

Commercial District Regulations



SECTION THREE: ARTICLE 3000 – COMMERCIAL DISTRICT REGULATIONS

3001 R-O Residential Office District

I. Purpose and Intent

The R-O zoning district is established, pursuant to the findings that:

- A. Residential use of certain sites may not be economically feasible in some predominately, moderate-density, residential areas that are within or near town centers, are near business districts, or lie along commercial motorways;
- B. Neither business zoning nor high-density residential zoning of those sites is appropriate; and
- C. With appropriate restrictions, houses converted to offices and, in some cases small Class B office buildings, are suitable, economically feasible, uses of such sites.

Furthermore, the R-O district is established, pursuant to the findings stated above, to accommodate houses converted to office buildings and some small Class B office buildings in predominately residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic, or other similar factors, can no longer reasonably be restricted sites to uses allowable in moderate-density residential zones. It is intended that buildings and uses in R-O districts shall not intrude upon or disturb present or prospective uses of nearby residential property. It is not the R-O classification's purpose to accommodate a substantial part of the demand for office space, it being the intent of these zoning regulations that office space demand should be met primarily in O-1 district and, to a lesser extent, in other business areas.

II. Permitted Uses

- A. Accessory structures.
- B. Dwellings, single Type 1, detached.
- C. Dwellings, single Type 1, attached.
- D. Public uses.
- E. Class A office buildings containing offices or medical offices and their accessory uses, including parking, except that no more than 25 percent of the total adjusted gross floor area of the office building may be occupied by medical offices.



III. Special Use Permits

- A. Uses permitted by special use and as limited to the R-5 district; or
- B. Class B office buildings containing offices or medical offices, except that more than 25 percent of the total adjusted gross floor areas of the office building may be occupied by medical offices.
- C. Signs and off-street parking requirements:
 - 1. In addition to signs permitted under Article 9000, one stationary outside identification sign is permitted, provided that the sign is not illuminated, does not project more than six inches from the building, and does not have a surface area exceeding eight square feet. No other signs or displays of any kind visible from outside the building are permitted except, along a principal arterial, an additional free-standing sign with a surface area of no more than twenty-five square feet per side is also allowed if there is adjacent non-residentially used or non-residentially-zoned frontage.
- D. To the extent possible parking shall be located in the side or rear yards of the lot. All required parking spaces shall be provided on the same lot as the structure or use to which they are an accessory.

IV. Use Limitations

- A. The use or development of any property in an R-O zone may not be changed from the existing use on the effective date of the zoning application to that property, except in accordance with a plan approved by the County Planner, unless the change in use is confined to a change in the number of dwelling units in accordance with the provisions of this Ordinance.
- B. Any one or two family dwelling or apartment building which is under application for either a change in zoning classification to R-O or for a conversion from a residential use to an office use shall require a special permit if the dwelling has been enlarged in floor area by 10 percent or more within a period of five years prior to the date of application for change or conversion.

V. Lot Size Requirements

- A. Maximum Lot Size: One acre, except that if located on a principal arterial and if there is adjacent non-residentially used or non-residential zoned frontage, the maximum lot size may be two acres.



VI. Bulk Regulations

Uses permitted as of right or by special use permit are governed by the following bulk regulations:

- A. Uses permitted under Section 3001.II and new structures accessory to Class A office buildings are governed by the bulk regulations of R-5 districts.
- B. Class A office buildings themselves, which by definition may not be enlarged, are not subject to bulk regulations, nor are unenlarged structures accessory to the original building.
- C. Class B office buildings:
 - 1. Maximum Floor Area Ratio: 0.33
 - 2. Maximum Height Of Structure:..... 40 feet
 - 3. Minimum Front Yard Setback: 25 feet or the average of the setbacks of the adjacent structures whichever is less.
 - 4. Minimum Side Yard Setbacks:..... 10 feet except if the adjacent property is predominately residentially-zoned, residentially used, or is adjacent to a residential street in which case the setback shall be 20 feet.
 - 5. Minimum Rear Yard Setback: 30 feet

VII. Open Space

Seven percent of the interior of the parking lot, not including setback and buffer area requirements, shall be pervious land areas in association with plantings.

VIII. Additional Regulations

- A. The office building shall be the only principal building on the lot on which it is situated and shall not be attached to another building.
- B. In addition to the requirements set forth in Article 9000:
 - 1. All parking and dumpster areas which abut a residential zone shall be screened by an opaque fence, wall, or berm in association with plantings;
 - 2. The minimum screening height shall be five feet;
 - 3. The following buffers, which shall not be encroached by above-ground stormwater management, parking, or dumpster areas but which may be broken by the entranceway, shall be provided:
 - a). Property lines which abut any property which is predominately residentially-zoned, residentially-used, or which abut any residential street always have a 20-foot landscape buffer; and
 - b). Property lines, which abut any non-residentially-zoned property, must have a 10-foot landscape buffer.



3002 O-1 Office District

I. Purpose and Intent

Pursuant to the following findings:

- A. Some firms have established policies that their headquarters, and most or all of their other offices should be situated in office parks and have thus occupied only a negligible amount of office space in town and community centers.
- B. The residential office, Class A, and the residential office zones provide for the conversion of homes to offices and in the case of the R-O zone, the development of small office buildings on sites shall be no more than two (2) acres.
- C. If the zoning regulations were not to include a zoning classification primarily for office building development, with supportive accessory commercial use and which permits moderate density residential development, businesses, preferring to occupy offices in Fayette County may choose sites in adjacent jurisdictions.
- D. Office centers, rather than central commercial areas, may also be appropriate locations for offices whose employees spend most of the working day driving to widely separated places throughout the region.
- E. Providing additional opportunities for development of office building(s) in Fayette County could contribute to the County's assessable base and could create a significant number of job opportunities for citizens.
- F. Development and maintenance of office-building sites must be closely regulated to promote the establishment of amenities, to prevent traffic congestion, and, in general, to protect the public interest, including the interest of citizens in nearby neighborhoods and the interests of firms and employees who will occupy office buildings.

The O-1 zoning district is established primarily to provide selectively for development of a limited number of well-landscaped office building developments. The O-1 district also permits moderate density residential development in mixed office/residential uses. It is intended that any development in an O-1 district be designed, built, and maintained so that it will be compatible with the character of nearby residential neighborhoods so that it will enhance rather than detract from amenities and property values in those neighborhoods.

II. Permitted Uses

- A. Class A or Class B office buildings containing offices, medical offices, or medical clinics;
- B. Uses permitted as of right and as limited in R-8 districts;
- C. Accessory uses or structures which are normally and customarily incidental to any permitted principal use, including the following, if within office buildings:
 - 1. Conference facilities (auditoriums, exhibition rooms, sleeping quarters, or catering services for conferences attended by persons who do not ordinarily work in offices on the site, in addition to those who do).



2. The following accessory commercial uses:

- a). Banks, including an exterior walk-up automated teller machine for each bank located within the office building; drive-thru banking facilities permitted when operated from within the office building.
- b). Duplication service businesses.
- c). Secretarial-service establishments.
- d). Drug stores.
- e). Exercise room for the exclusive use of the tenants and no larger than 1,500 square feet in size.
- f). Newsstands.
- g). Personal-care establishments, including hair-care, facial treatment, massage, manicuring, or shoe-shining establishments.
- h). Stationary or office-supply shops.
- i). Travel bureaus.
- j). Garment cleaning, collection, and pick-up only (actual cleaning to be done off premises).
- k). Data processing and office equipment service establishments, including incidental sales.
- l). Photographic film-processing establishments.

D. Opticians' or optometrists' establishments when within office buildings.

III. Special Use Permits

- A. Uses allowable by special permit in an R-8 district are allowable by special permit in an O-1 zone.
- B. The following accessory uses are allowable by special permit if they are not within office buildings, provided that the County Planner finds that the uses will primarily serve the principal uses of the lot or office park:
 - 1. Conference facilities.
 - 2. Standard restaurant, carry-out restaurants, or tavern without dancing or live entertainment.¹
 - 3. Hotel and motel.
 - 4. Health and fitness clubs including, but not limited to those with handball, squash, tennis, or racket-ball courts, or swimming pools.
 - 5. Parking structures for passenger cars, as a principal use, provided that any such structure and site are designed or located in such a manner that associated noise, lighting, and traffic not intrude into adjacent residential neighborhoods, and, at minimum, are subject to bulk and area limitations for a Class B office building.

1. Amended 4/24/06 - See; References "3002 O-1 Office District" page 3-21.



6. Research institutes or laboratories.
7. Wireless transmitting or receiving structure.

IV. Use Limitations

- A. Accessory use floor-area limitations:
 1. No more than 10 percent of the aggregate adjusted gross floor areas of all buildings may be occupied by accessory conference facilities or commercial uses.
 1. No single accessory commercial uses other than a hotel(s), health and fitness clubs, conference facility, standard restaurant, carryout restaurant, or tavern may occupy more than 1,500 square feet of floor area.
- B. Outdoor signs or display for office buildings and office parks. In addition to the temporary real estate signs and the temporary construction signs permitted under Article 9000.

V. Lot Size Requirements

None.

VI. Bulk Regulations

- A. Residential uses permitted in this district are governed by the bulk regulations of the R-8 district.
- B. Class A Office Buildings: New structures accessory to Class A office buildings are governed by the bulk regulations of R-5 district. A Class A office building itself, which by definition may not be enlarged, is not subject to bulk regulations, nor is an unenlarged structure that was accessory to the building before it was converted to an office building.
- C. Class B Office Buildings:
 1. Minimum setback from any lot line other than a street line: 20 feet or equal to the height of the building whichever is greater, except that, from a residential or R-O district, the setback shall be two times the height of the building.
 2. Minimum Setback from any Street Line: 35 feet.
 3. New structures accessory to Class B office buildings are governed by bulk regulations of R-8 district for accessory buildings.
 4. Maximum Floor Area Ratio: 0.50
 5. Maximum Height of Structures: 40 feet

VII. Open Space

Minimum open space, amenity: 25% of the lot area.

VIII. Additional Regulations

None.



3101 B-1 Business, Neighborhood District

I. Purpose and Intent

The purpose of this district is to permit the establishment of areas for convenience businesses, which tend to meet the daily needs of the residents in an immediate neighborhood.

II. Permitted Uses

- A. Apparel shop.
- B. Art supplies.
- C. Bakery and bakery goods store, provided the products are sold exclusively on the premises.
- D. Banks and other financial institutions, including savings, loan and finance companies with drive-in windows.
- E. Barber and beauty shops.
- F. Book, stationery or gift shop.
- G. Camera and photographic supplies.
- H. Candy store, soda fountain, ice cream store, excluding drive-ins.
- I. Delicatessen.
- J. Drug store.
- K. Restaurants, excluding drive-ins.²
- L. Florist shop.
- M. Food store and supermarkets.
- N. Furniture store.
- O. Garden supplies.
- P. Glass, china, or pottery store.
- Q. Haberdashery.
- R. Hardware store.
- S. Hobby shop.
- T. Household and electrical appliance store, including incidental repair.
- U. Interior decorating studio.
- V. Jewelry store, including repair.
- W. Leather goods and luggage store.
- X. Library.
- Y. Locksmith shop.
- Z. Music, musical instruments and records, including incidental repair.

2. Amended 4/24/06 - See; References "3101 B-1 Business, Neighborhood District" page 3-21.



- AA. Offices.
- BB. Opticians and optical goods.
- CC. Paint and wallpaper store.
- DD. Pet shop, excluding boarding and outside runs.
- EE. Police and fire stations.
- FF. Post office.
- GG. Radio and television store (including repair).
- HH. Shoe store and shoe repair.
- II. Sporting goods.
- JJ. Studios for professional work or teaching of any form of fine arts, photography, music, drama, or dance.
- KK. Tailor shop.
- LL. Toy store.
- MM. Variety store, including notions and "Five and Ten" stores.
- NN. Day Care Center.
- OO. Video Rental.
- PP. Recycling Collection Point.

III. Special Use Permits

- A. Repair and Sales of Agricultural Equipment and small engines.
- B. Service stations (including auto repairing, providing all repair except that of a minor nature -- e.g., change of fan belt, minor carburetor adjustment, tire removal and/or replacement, windshield wiper replacement, etc.—is conducted wholly within a completely enclosed building and providing further that such service station is located adjacent to an arterial street.
- C. Electric, gas, oil, water, and communication facilities excluding tower structures and including poles, lines, transformers, pipes, meters, and related facilities for the distribution of local service and owned and operated by a public utility that directly or indirectly benefits the general public.³

IV. Use Limitations

- A. In the case of this zone, more than one principal building, as herein defined, may be constructed on one lot.
- B. Apartments shall be permitted, but only above the first story of a building.

V. Lot Size Requirements

- A. Minimum Lot Area: 10,000 square feet

3. Amended 6/6.08 - See; References "3101 B-1 Business, Neighborhood District" page 3-21.



- B. Minimum Lot Width: 70 feet at the front yard building setback line

VI. Bulk Regulations

- A. Maximum Building Height: 35 feet
B. Minimum Front Yard: 50 feet
C. Minimum Side Yard: No restrictions, except when adjacent to a street, road, highway, or other right-of-way; then the required width shall be the same as required for a minimum front yard setback in this zone. When buildings abut each other, firewall construction, as required by the building code, shall be required. In the event a side yard is provided, it shall never be less than fifteen (15) feet.
D. Minimum Rear Yard: 15 feet

VII. Open Space

None.

VIII. Additional Regulations

- A. Refer to Article 1000 General Regulations, for provisions which may qualify or supplement regulations presented above.
B. All uses shall comply with Performance Standards set forth in Article 9001.
C. Refer to Article 9002 for regulations on signs.
D. Refer to Article 9003 for landscaping and screening requirements.



3102 B-2 Business, Local District

I. Purpose and Intent

The B-2 district is established to provide locations for retail commercial and service uses, which are oriented to serve several neighborhoods. Typical uses to be found in B-2 districts include a food supermarket, drug store, personal service establishments, a limited number of offices, and in addition such uses as a variety-department store, florist, furniture shop, radio and television repair shop, and such specialty stores as children's wear, toys and athletic goods.

Development within the district should be encouraged in compact centers that are planned as a unit and preferable confined in one quadrant of an intersection to provide for orderly development; maximize comparison shopping; permit one-stop shopping; minimize traffic congestion; and provide for a safe and unimpeded pedestrian movement.

This district differentiates between goods made and sold on-site vs. goods made and sold and/or distributed on or from site. All goods distributed require a special use permit.

II. Permitted Uses

- A. Alcoholic beverage package stores.
- B. Antique shops.
- C. Automobile accessory shops.
- D. Bakery, but goods baked on the premises must be sold on the premises.
- E. Bank, building, and loan associations.
- F. Barber and beauty shops.
- G. Camera, photo-supply, or film-processing shops or "pick-up stations (including "drive-by" facilities).
- H. Candy Store, but goods made on premises must be sold on the premises.
- I. Clothing accessory stores.
- J. Combinations of the above uses.
- K. Convalescent home.
- L. Dancing schools, conservatories for music and the arts.
- M. Dairy product stores.
- N. Department stores.
- O. Drug stores.
- P. Dry cleaning pick-up stations.
- Q. Duplication service business.
- R. Electrical contractors and appliance repair shops.
- S. Fast food, drive-thru only restaurants, carryout restaurants, fast food.
- T. Restaurants, and standard restaurants, tea rooms, convenience stores, and dairy.



- U. Bar (ice cream parlors), and drive-in restaurants.⁴
- V. Florist.
- W. Food stores (supermarkets).
- X. Fuel service stations in a planned shopping center or drive-in cluster only.
- Y. Furniture and upholstery shops.
- Z. Garden centers.
- AA. Gift shops.
- BB. Hardware store.
- CC. Household appliance store.
- DD. Jewelry store.
- EE. Laundromat or self-service laundry.
- FF. Medical clinic.
- GG. Parking lot as an accessory use.
- HH. Pet shop.
- II. Photographic studio.
- JJ. Radio shop.
- KK. Shoe repair shop.
- LL. Sporting goods store.
- MM. Stationary store.
- NN. Swimming pool.
- OO. Tailor shop.
- PP. Television shop.
- QQ. Uses permitted and as limited in the residential district immediately adjoining, except that animal boarding places and kennels are prohibited.
- RR. Variety and dry goods store.
- SS. Veterinarian's office.

III. Special Use Permits

- A. Animal boarding place.
- B. Arcade.
- C. Automotive-service station.
- D. Billiard and pool rooms.
- E. Boat yard.
- F. Bowling alley.

4. Amended 4/24/06 -See; References "3102 B-2 Business, Local District" page 3-21.



- G. Business and trade schools.
- H. Car wash.
- I. Commercial beach; with provision of adequate parking area, and permitted dressing facilities, snack bar, picnic area, and boat rental.
- J. Community buildings, swimming pools, or other structural or land uses devoted to civic, social, recreational, and educational activities, including use of the buildings as a catering hall.
- K. Community care center.
- L. Commercial uniform cleaning.
- M. Distribution from site of production or transfer station.
- N. Drive-in restaurant.
- O. Dry Cleaning Establishments.
- P. Dry cleaning plant.
- Q. Fire company.
- R. Funeral establishments.
- S. Garage, service.
- T. Golf course, country club, or other outdoor recreational clubs; also quasi-public camps, including day camps, but no such uses shall be located in less than five (5) acres, and no building, parking lot, or out-of-water marine craft storage thereon shall be located within sixty (60) feet of any residential property line.
- U. Golf Driving range, miniature golf, and baseball batting range.
- V. Hotel.
- W. Laboratory.
- X. Living quarter in a commercial building.
- Y. Parking lot as a primary use.
- Z. Marina.
- AA. Motel or motor court.
- BB. Picnic grove.
- CC. Private colleges, dormitories, and fraternity and sorority houses.
- DD. Radio studio.
- EE. Rail passenger stations.
- FF. Social clubs and fraternal organizations.
- GG. Theatre excluding drive-in.
- HH. Bar.⁵
- II. Television studio.

5. Amended 4/24/06 - See; References "3102 B-2 Business, Local District" page 3-21.



JJ. Temporary or occasional outdoor sale of cut flowers, or live plants (not in connection with florists' establishments), provided that the sales area does not exceed 200 square feet and that the sales are carried on for no more than 120 days per year. Before approving all applications for any license required, the County Planner must approve a site plan for the premises, showing the sale area and the dates on which flowers or plants are to be sold. Any provision of these regulations to the contrary notwithstanding, the County Planner's approval of such a license shall expire one year after its issuance; however, such a license may be pre-approved annually upon request of the licensee.

KK. Transit facilities.

LL. Wireless transmitting or receiving structure.

MM. Electric, gas, oil, water and communication facilities excluding tower structures and including poles, lines, transformers, pipes, meters, and related facilities for the distribution of local service and owned and operated by a public utility that directly or indirectly benefits the general public.⁶

IV. Use Limitations

All uses are subject to the following conditions:

- A. They shall be contained, except for signs, restaurants, swimming pools, outdoor sales or display areas, parking lots, or picnic groves, within completely enclosed buildings.
- B. Not more than five (5) persons shall be engaged in the repair or fabrication of goods on the premises.
- C. Not more than five (5) horsepower shall be employed in the operation of any one machine used in repair or fabrication and not more than fifteen (15) horsepower in the operation of all such machines.
- D. Storage and display materials, vehicles, and equipment are permitted in the front yard, but not more than five (5) feet in front of the required front building line.
- E. Where the requirements would create undue hardship, the County Planner may approve a modified plan upon petition and public hearing thereto.
- F. Apartments shall be permitted, but only above the first story of a building.
- G. Elderly housing facilities shall be permitted in any story of the building.
- H. No apartment window facing a property line other than a street line shall be closer than twenty-five (25) feet thereto. The minimum distance between the center of facing windows of different apartments on the same lot shall be fifty (50) feet.

V. Bulk Regulations

A. Front Yards

- 1. Residences, hereafter erected in this district, shall be governed by all area regulations for the predominant residence zone that immediately adjoins, or by R-8 zone regulations if no residence zone immediately adjoins.

6. Amended 6/6/08 - See; References "3102 B-2 Business, Local District" page 3-21.



2. In R-8 and R-12 districts, the front yard depth of any building hereafter erected shall be the average of the front yard depth of the lots immediately adjoining on each side provided such adjoining lots are improved with principal buildings situated within 200' of the joint side property line, but where said immediately adjoining lots are not both so improved, then the depth of the front yard of any building hereafter erected shall be not less than the average depth of the front yards of all improved lots within 200 feet on each side thereof, provided that no dwelling shall be required to be set back more than 50 feet in R-12 zones and 40 feet in R-8 zones. In no case, however, shall non-residential principal buildings have front yards of less depth than those specified therefore in the area regulations for R-8 and R-12 zones respectively.
3. For commercial buildings, the front building line shall not be less than ten feet from the front property line and not less than forty (40) feet from the centerline of the street.

B. Side Yards

1. Residences, hereafter erected in this district, shall be governed by all area regulations for the predominant residential district which immediately adjoins, or R-8 district regulations if no residential district immediately adjoins.
2. For commercial buildings, none required on interior lots, except where the lot abuts a lot in a residential district, there must be a side yard not less than the greater minimum width required for a dwelling on the abutting lot and on corner lots the side yard on the street side shall be not less than ten (10) feet in width.

C. Rear Yards

1. Residences, hereafter erected in this district, shall be governed by all area regulations for the predominant residential district which immediately adjoins or R-8 district regulations if no residential district immediately adjoins.
2. For commercial buildings, none required except that where the rear lot line abuts a lot in a residential district zone there shall be a rear yard not less than twenty (20) feet deep.

D. Floor Area Ratio: 1.5

E. Height: 40 feet

VI. Lot Size Requirements

None.

VII. Open Space

Minimum Open space, amenity: 10%

VIII. Additional Regulations

- A. Refer to Article 1000, General Regulations, for provisions which may qualify or supplement regulations presented above.
- B. All uses shall comply with Performance Standards set forth in Article 9001.
- C. Refer to Article 9002 for regulations on signs.
- D. Refer to Article 9003 for landscaping and screening requirements.



3103 B-3 Business, Tourism District

I. Purpose and Intent

The Business, Tourism district is applied to areas with significant natural amenities and commercial recreational potential. The Business, Tourism district has an important impact on how visitors see Fayette County. To assure that this impression is a positive one, it is critical that areas with significant natural amenities and commercial recreational potential be developed in a sensitive manner.

This district is intended to encourage tourism-oriented businesses with a sensitivity toward the natural characteristics of the site and toward minimizing impacts on the surrounding area. Furthermore, the Business, Tourism district is intended to promote appropriate physical development and creative site development and architectural design which is in harmony with the natural setting consistent with the best interests of the County and the planning district in which it is located.

II. Permitted Uses

- A. Bed and breakfast lodging.
- B. Campgrounds and marinas.
- C. Home occupations.
- D. Cabins.
- E. Outfitters (i.e. rafting, kayaking, biking, and rock climbing).
- F. Artisan Village.
- G. Wilderness area camping, conference and high adventure centers

Restricted to an area of not less than 6000 contiguous undeveloped acres of land. Permitted use shall include camping, temporary and permanent housing, meetings and conferences, educational facilities, commercial sales of food, beverages, and all merchandise related to the use of the property, restaurants, agricultural uses, outdoor and indoor recreation facilities, indoor and outdoor recreational activities, (including but not limited to equestrian activities, motorized snow and all-terrain vehicles, skiing, watercraft, zip-lines, canopy tours and supervised firearms range), expositions, entertainment, special events, maintenance and storage owned by the property owner or operated for the property owner.⁷

III. Special Use Permits

- A. Amusement parks.
- B. Hotels, motels, lodges and inns.
- C. Caretaker and employee housing.
- D. Equestrian facilities.
- E. Gift Shops.

7. Amended 6/26/09 - See; References "3103 B-3 Business, Tourism District" page 3-21.



- F. Golf courses and driving ranges.
- G. Libraries and museums.
- H. Outdoor commercial recreation.
- I. Outdoor retail sales.
- J. Parks, playgrounds.
- K. Peddlers village.
- L. Recreation and fitness centers.
- M. Recreational vehicle parks.
- N. Restaurants and bars.
- O. Retail stores, general merchandise.
- P. Roadside stands for agricultural products.
- Q. Schools, Outward Bound.
- R. Sports facilities and outdoor public assembly.
- S. Temporary events.
- T. Seasonal vehicle, RV, and boat storage.
- U. Commercial motorized off-road recreation.
- V. Commercial rifle, pistol, skeet or trap range.
- W. Amusement park.

IV. Use Limitations

- A. All uses shall comply with the Performance Standards set forth in Article 9005.

V. Lot Size Requirements

- A. Minimum Lot Area: 40,000 square feet (unless Health Dept. requires a larger size)
- B. Minimum Lot Width: 100 feet

VI. Bulk Regulations

- A. Maximum Building Height
 - 1. All Structures: 30 feet
- B. Minimum Yard Requirements:
 - 1. Lots Less Than One Acre:
 - a). Front Yard: 60 feet
 - b). Side Yard: 15 feet
 - c). Rear Yard: 15 feet
 - 2. Lots One Acre or Greater:



- a). Front Yard: 60 feet
- b). Side Yard: 30 feet
- c). Rear Yard: 30 feet
- C. Maximum Site Coverage:
 - 1. 0.10 for builds and structures.
 - 2. Residential uses will not be regulated by floor area ratio.

VII. Maximum Density

Regulated by the lot size requirements and bulk regulations of this district.

VIII. Open Space

Regulated by site coverage requirements and Section 9003 of this ordinance.

IX. Additional Regulations

- A. Refer to Article 1000, General Regulations, for provisions, which may qualify or supplement the regulations presented above.
- B. Refer to Article 9002 for regulations on signs.
- C. Refer to Article 9003 for landscaping and screening requirements.
- D. Refer to Article 9005, Sections IV through VI for architectural requirements.

3104 B-4 Business, Major District

I. Purpose and Intent

The B-4 District is established to provide locations for a full range of retail commercial and service uses which are oriented to serve a regional market. The district should be located adjacent to major transportation facilities and development within the district should be encouraged in centers that are planned as a unit.

II. Permitted Uses

- A. Use permitted in the B-2 district.
- B. Animal boarding place.
- C. Automobile sales room and adjoining outdoor sales area, provided that dismantled or junked cars unfit for operation on highways shall not be stored outdoors.
- D. Boat yards.
- E. Bowling Alleys.
- F. Catering hall.
- G. Commercial beach, with provision of adequate parking area; and permitted dressing facilities, snack bar, picnic area, and boat rental.



- H. Commercial recreational enterprises, including dance halls, skating rinks, and other which, in the judgement of the County Planner, are similar, but excluding merry-go-rounds and freak shows, shooting galleries and penny arcade.
- I. Community buildings, swimming pools, or structural or land use devoted to civic, social, recreational, and educational activities.
- J. Funeral establishments.
- K. Gas Stations.
- L. Garage service.
- M. Golf course, country club, or other outdoor recreation clubs; also quasi-public camps, including day camps, but no such camp shall be located in less than five acres, and no building, parking lot, or out-of-water marine craft storage therein shall be located within sixty (60) feet of any residential property line.
- N. Hotel.
- O. Machinery sales store.
- P. Marina.
- Q. Pawn shop.
- R. Printing, lithographing, or publishing plant employing not more than twenty-five persons.
- S. Second hand store.
- T. Theatre, excluding drive-in.
- U. Warehouses.
- V. Combinations of the above uses.

III. Special Use Permits

- A. Adult uses⁸, provided it is located at least 2,000 feet⁹ from any residentially used dwelling, residential district line, church, park, child care center, or school existing prior to the filing of the application for a special permit.
- B. Arcade.
- C. Automotive-service station, oil change, gas, and inspections.
- D. Car wash.
- E. Drive-in restaurant.
- F. Golf driving range, miniature golf, and baseball batting range.
- G. Laboratory.
- H. Living quarters in a commercial building.
- I. Public utility uses other than those noted.
- J. Signs, outdoor advertising.

8. Amended 4/24/06. See; References "3104 B-4 Business, Major District" page 3-22.

9. Amended 5/27/03. See; References "3104 B-4 Business, Major District" page 3-22.



- K. Transit centers.
- L. Fire company.
- M. Wireless transmitting or receiving structure.

IV. Use Limitations

- A. All permitted uses are subject to the following conditions:
- B. They shall be contained (except in the case of signs, restaurants, swimming pools, outdoor sales or display areas, and parking lots) within a completely enclosed building.
- C. Not more than twenty-five (25) employees shall be regularly engaged in fabrication, repair, cleaning, or other processing of good or articles in any one establishment.
- D. Where the requirements would create undue hardship, the County Planner may approve a modified plan upon petition and public hearing thereon.
- E. Apartments shall be permitted, but only above the first story of a building.
- F. Elderly housing facilities shall be permitted in any story of the building. No apartment window facing a property line other than a street line shall be closer than twenty-five (25) feet thereto. The minimum distance between the center of facing windows of different apartments on the same lot shall be fifty (50) feet.

V. Lot Size Requirements

None.

VI. Bulk Regulations

A. Front Yards

1. Residences, the front yard depth of any building hereafter erected, shall be the average of the front yard depth of the lots immediately adjoining on each side, provided such adjoining lots are improved with principal buildings situated within 200 feet of the joint side property line, but where said immediately adjoining lots are not both so improved, then the depth of the front yard of any building hereafter erected shall not be less than the average depth of the front yards of all improved lots within 200 feet on each side thereof, provided that no dwelling shall be required to be set back more than sixty (60) feet.
2. Residences erected in business zones shall be governed by all area and height regulations for the predominant residence zone which immediately adjoins, or by R-8 district regulations if there is no adjoining residential district.
3. For commercial buildings, the front building line shall not be less than fifteen (15) feet from the front property line; and not less than forty (40) feet from the centerline of any other street.

B. Side Yards

1. Residences, erected in business zones, shall be governed by all area and height regulations for the predominant residence zone that immediately adjoins or by R-8 district regulations if there is no adjoining residential district.



2. For commercial buildings, same as the B-1 district.

C. Rear Yards

1. Residences, erected in business zones, shall be governed by all area and height regulations for the predominant residence zone which immediately adjoins, or by R-8 district regulations if there is no adjoining residential district.

2. For commercial buildings, same as the B-1 district.

D. Floor Area Ratio: 2.0

E. Height: 40 feet

VII. Open Space

Minimum Open space, amenity: 10%

VIII. Additional Regulations

A. Refer to Article 1000 General Regulations, for provisions which may qualify or supplement regulations presented above.

B. All uses shall comply with Performance Standards set forth in Article 9001.

C. Refer to Article 9002 for regulations on signs.

D. Refer to Article 9003 for landscaping and screening requirements.



REFERENCES

Section 3 – Article 3000

3002 O-1 Office District

1. Section III Special Use Permits, Subsection B, Number 2. - Pg 3-5

Standard restaurant, carryout restaurant, or bar without dancing or love entertainment.

Approved by Fayette County Commission April 24, 2006

3101 B-1 Business, Neighborhood District

1. Section II Permitted Uses, Subsection K. - Pg 3-7

Restaurant, excluding drive-ins. *Approved by the Fayette County Commission April 24, 2006*

2. Section III Special Use Permits, Subsection C. - Pg. 3-8

Added - Electric, gas, oil, water and communication facilities excluding tower structures and including pole, lines, transformers, pipes, meters, and related facilities for the distribution of local service and owned and operated by a public utility that directly or indirectly benefits the general public. *Approved by Fayette County Commission June 6, 2008.*

3102 B-2 Business, Local District

1. Section II Permitted Uses, Subsection U. - Pg 3-11

Ice cream parlors. *Approved Fayette County Commission April 24, 2006.*

2. Section III Special Use Permits, Subsection HH. - Pg. 3-12

Bar. *Approved by the Fayette County Commission April 24, 2006.*

3. Section III Special Use Permits, Subsection MM. - Pg. 3-13

Added - Electric, gas, oil, water and communication facilities excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for the distribution of local service and owned and operated by a public utility that directly or indirectly benefits the general public. *Approved by Fayette County Commission June 6, 2008.*

3103 B-3 Business, Tourism District

1. Section II Permitted Uses, Subsection G. - Pg 3-15

Added Wilderness area camping, conference and high adventure centers. *Approved by Fayette County Commission June 26, 2009.*



3104 B-4 Business, Major District

1. Section III Special Use Permits, Subsection A. – Pg. 3-18

Change: Adult Uses - Definition

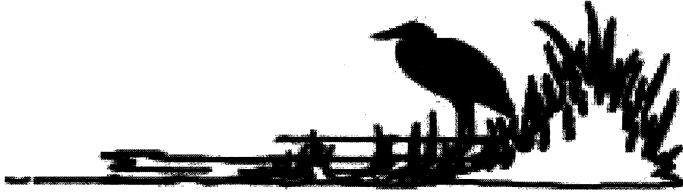
Change: "1,000 feet" to: "2,000 feet". *Approved by Fayette County Commission May 27, 2003.*

Fayette County Unified Development Code
Fayette County, West Virginia



Fayette County Unified Development Code

Fayette County, West Virginia



Section 4 - Article 4000

Industrial District Regulations



SECTION FOUR: ARTICLE 4000 – INDUSTRIAL DISTRICT REGULATIONS

4000 Industrial Districts, Generally

I. Purpose and Intent

It is intended that industrial districts hereby and hereafter created shall be for the purpose of providing places of employment and strengthening the local economic base. To this end, activities involving industrial and limited commercial land uses shall be encouraged in amounts and locations designated for such purposes in the comprehensive plan. It is further intended that the enlargement and expansion of existing uses shall be encouraged as well as development of new uses appropriate to the character of industrial districts.

II. Permitted Uses

Uses and structures which are customarily accessory and clearly incidental shall be permitted, provided establishment of the same shall not be permitted until construction has commenced on the principal building or the principal use has been established; and provided further that in no case shall a parking structure, other than a parking lot or garage located entirely at or below grade, be deemed to be accessory to any use in any industrial district. In no case shall a drive-in window be deemed to be accessory to any use in any commercial district.

III. Special Use Permits

Refer to Industrial Districts, Specifically, for special permitted uses.

IV. Use Limitations

Refer to Industrial Districts, Specifically, for use limitations.

V. Lot Size Requirements

Refer to Industrial Districts, Specifically, for lot size requirements.

VI. Bulk Regulations

A. Floor Area Ratio:

1. Maximum total floor area permissible for individual lots shall not exceed 0.70 times the land area of the lot.

B. Land Coverage:

1. Maximum land coverage by buildings of an individual lot shall not exceed 50% of the land area of the lot.

C. Height Regulations:

1. Structures may be erected to a height not to exceed sixty-five (65) feet; provided that any structure exceeding thirty-five (35) feet in height shall be set back from any street right-of-way or single-family residential or agricultural district; in addition to minimum



yard requirements, a distance of not less than two (2) feet for each one (1) foot of height in excess of thirty-five (35) feet.

D. Building Separation:

1. Whether or not located on the same parcel, main structures shall be constructed and separated in accordance with Table 401 Fire Resistance Ratings of Structure Elements of the current edition of the BOCA Basic Building Code.

E. Minimum Yard Adjacent to Public Street:

1. No portion of any structure, excluding signs, shall be erected closer than fifty (50) feet to any public street right-of-way.
2. No off-street parking or loading space shall be located closer than ten (10) feet to any public street right-of-way.

F. Minimum Yard Adjacent to Residential Districts:

1. No portion of any structure, excluding signs, shall be located closer than fifty (50) feet to any rural areas or residential district and no off-street parking space shall be closer than thirty (30) feet to any rural areas or residential district.
2. For the heavy industry (H-I) district, no portion of any structure, excluding signs, shall be located closer than one hundred (100) feet to any rural areas or residential district and no off-street parking shall be closer than thirty (30) feet to any rural areas or residential district.

G. Minimum Buffer Zone Adjacent to Residential and Rural Area Districts:

1. No construction activity, including grading or clearing of vegetation, shall occur closer than thirty (30) feet to any residential or rural areas district.

VII. Maximum Density

Refer to Industrial Districts, Specifically, for maximum density.

VIII. Open Space

Refer to Industrial Districts, Specifically, for open space requirements.

IX. Additional Regulations

A. Application

Where industrial districts have been established prior to the enactment of this ordinance, and such districts are recognized on the zoning map, the same shall be considered to have been established under this ordinance in compliance with minimum area required for establishment of districts.

B. Site Planning

Site planning within the district shall provide for the protection of individual sites from surrounding adverse influences. Site planning shall also provide for the protection of surrounding areas from adverse influences within the district.

C. Parking and Loading Requirements.



D. Vehicular Access:

Vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Pavement widths and strengths of both internal and external roads shall be adequate to accommodate projected traffic generated from the district.

E. Utility Requirements:

All utilities shall be placed underground.

F. Performance Standards

1. Each future occupant of an industrial character shall submit to the Zoning Enforcement Officer a certified engineer's report describing the proposed operation, all machines, processes, products and by-products, stating the nature and expected levels or emission or discharge to land, air and/or water or liquid, solid or gaseous effluent and electrical impulses and noise under normal operations, and the specifications of treatment methods and mechanisms to be used to control such emission or discharge. The Zoning Enforcement Officer shall review the applicant's submittal and make comments and recommendations prior to final Commission action on the proposal.
2. All uses shall comply with Performance Standards set forth in Article 9001.
3. Refer to Article 9002 for regulations on signs.
4. Refer to Article 9003 for landscaping and screening requirements.

4001 L-1 Light Industry

I. Purpose and Intent

L-1 districts are hereby created and may hereafter be established by amendment to the zoning map to permit industries, offices and limited commercial uses which are compatible with and do not detract from surrounding districts. It is intended that L-1 districts may be established in areas having all of the following characteristics:

- A. Areas served by water and sewer facilities or if such facilities are reasonably available;
- B. Areas served by major highway, rail or air service, or secondary road improved to standards approved by the WVDOH; and
- C. Areas having clearly demonstrated suitability for intended uses with regard to physical characteristics and relationship to surrounding development.

II. Permitted Uses

- A. Compounding of drugs, including biological products, medical and chemical as well as pharmaceutical.
- B. Fire and rescue squad stations.
- C. Manufacturing, re-manufacturing, processing, fabrication, assembly and disassembly, distribution of products such as but not limited to:
 1. Artists' supplies and equipment.



2. Business, office machines and equipment.
3. Cosmetics, including perfumes, perfumed toiletries and perfumed toilet soap.
4. Drafting supplies and equipment.
5. Electrical lighting and wiring equipment.
6. Electrical and electronic equipment and components including radio, telephone, computer, communication equipment, TV receiving sets, and phonographs.
7. Food products, such as bakery goods, dairy products, candy, beverages, including bottling plants.
8. Gifts, novelties including pottery, figurines and similar ceramic products.
9. Glass products made of purchased glass.
10. Industrial controls.
11. Jewelry, silverware.
12. Light machinery and machine parts, including electrical household appliances but not including such things as clothes washers, dryers and refrigerators.
13. Musical instruments.
14. Paper products such as die-cut paperboard and cardboard, sanitary paper products, bags and containers.
15. Photographic equipment and supplies including processing and developing plant.
16. Rubber, metal stamps.
17. Small electrical parts such as coils, condensers, transformers, crystal holders.
18. Surgical, medical and dental instruments and supplies.
19. Toys, sporting and athletic equipment, except firearms, ammunition or fireworks.
20. Watches, clocks and similar timing devices.
21. Wood cabinets and furniture, upholstery.
- D. Publishing, printing, lithography and engraving, including but not limited to newspapers, periodicals and books.
- E. Preparation of printing plates including typesetting, etching and engraving.
- F. Research and development activities including experimental testing.
- G. Scientific or technical education facilities.
- H. Assembly and fabrication of light aircraft from component parts manufactured off-site.
- I. Contractor's office and equipment storage yard.
- J. Engineering, engineering design, assembly and fabrication of machinery and components, including such on-site accessory uses as machining, babbitting, welding and sheet metal work employing machinery not exceeding fifteen (15) horsepower per unit and excluding such uses as drop hammering and foundry.
- K. Electric, gas, oil and communication facilities excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service



and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by a Public Service District. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with the Public Service Commission and the County Health Department.

- L. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies; public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by a Public Service District.
- M. Temporary construction uses.
- N. Business and professional office buildings.
- O. Dwellings.
- P. Temporary nonresidential mobile homes.
- Q. Warehouse facilities and wholesale businesses not involving storage of gasoline, kerosene or other volatile materials; dynamite blasting caps and other explosives; pesticides and poisons; and other such materials that could be hazardous to life in the event of accident.

III. Special Use Permits

- A. Laboratories, medical or pharmaceutical.
- B. Airport, helistop or heliport.
- C. Assembly of modular building units.
- D. Moving businesses, including storage facilities.
- E. Warehouse facilities other than those permitted "by-right."
- F. Wholesale business.
- G. Truck terminal.
- H. Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances; unmanned telephone exchange centers; micro-wave and radio-wave transmission and relay towers, substations and appurtenances.
- I. Temporary events sponsored by local nonprofit organizations.
- J. Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. Uses permitted by right, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes.
- K. Body shops.
- L. Towing and storage of motor vehicles.
- M. Indoor athletic facilities.
- N. Retail sales of any product or products manufactured in a permitted use under L-1, Light Industry and any ancillary services.¹



IV. Use Limitations

None.

V. Lot Size Requirements

A. Lot Size Requirements:

1. Minimum area required for establishment of an L-I district shall be five (5) acres.
2. There shall be no minimum area requirements for additions to an established L-I district, provided such area to be added adjoins and forms a logical addition to the existing L-I district.

VI. Bulk Regulations

None.

VII. Maximum Density

None.

VIII. Open Space

None.

IX. Additional Regulations

In addition to the requirements contained herein, the requirements of Industrial Districts, generally, shall apply within all L-I districts.

4002 H-1 Heavy Industrial

I. Purpose and Intent

H-I districts are hereby created and may hereafter be established by amendment to the zoning map to permit industries and commercial uses that have public nuisance potential and will therefore be subject to intensive review for location impact on surrounding land uses and environment. It is intended that H-I districts may be established in areas having all of the following characteristics:

- A. Areas served by a major highway, rail or air service, or secondary road improved to standards approved by the WVDOH;
- B. Areas either served by public water and sewer or adhering to the requirements of the County Health Department; and
- C. Areas having clearly demonstrated suitability for intended uses with regard to physical characteristics and relationship to surrounding development.

1. Amended 10/28/08 -See; References "4001 L-1 Light Industry" page 4-10.



II. Permitted Uses

- A. Automotive, farm and construction and machinery products assembly.
- B. Brick manufacturing, distribution.
- C. Concrete mixing plant, storage, and distribution.
- D. Dry-cleaning plants.
- E. Fire and rescue squad stations.
- F. Machine shops, tool and die, blacksmithing, boiler shops and similar operations.
- G. Manufacture of heavy household, commercial and industrial appliances.
- H. Manufacture of building components.
- I. Manufacture, distribution, service of individual sewage disposal systems.
- J. Manufacture and recycling of tires.
- K. Metal fabrication and welding operations.
- L. Mobile home manufacturing, distribution.
- M. Moving businesses, including storage facilities.
- N. Petroleum, gasoline, natural gas and manufactured gas bulk storage.
- O. Recreational vehicle and components manufacturing, distribution.
- P. Sawmills, planing mills, wood preserving operations, woodyards.
- Q. Veterinary or dog/cat hospitals, indoor accessory kennels.
- R. Warehouse facilities.
- S. Contractor's office and equipment storage yards.
- T. Electric, gas, oil and communication facilities excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by any Public Service District.
- U. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies; public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by an Public Service District.
- V. Temporary construction uses.
- W. Temporary nonresidential mobile homes.

III. Special Use Permits

- A. Airport, helistop or heliport.
- B. Asphalt mixing plants.
- C. Cement, lime gypsum manufacture or processing.
- D. Chemical, plastics manufacture or processing.



- E. Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances; unmanned telephone exchange centers; micro-wave and radio-wave transmission and relay towers; substations and appurtenances.
- F. Fertilizer manufacture or processing.
- G. Food processing plants such as meat, poultry and fish processing and packing and rendering plants.
- H. Junk yards, screened.
- I. Kennels for boarding of domestic pets.
- J. Motorcycle and off-road recreation vehicles sale and service.
- K. Petroleum refining, including by-products.
- L. Pulp, paper manufacture or processing.
- M. Slaughterhouse.
- N. Storage yards not elsewhere classified, excluding storage of nuclear products, by-products or wastes.
- O. Supporting commercial uses.
- P. Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. Uses permitted by right, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes.

IV. Use Limitations

- A. The following uses are prohibited in this district:
 - 1. The storage of scrap metal processing operation, automobile graveyards, or disassembly plants within 1,000 feet of any primary or interstate highway. The exception to this prohibition is if the prohibited use is completely enclosed, and concealed from view, within a solid wall or fence (not less than ten feet in height); both of which must be opaque.
 - 2. The storage of second hand building materials within 1,000 feet of any primary or interstate highway. The exception to this prohibition is if the prohibited use is completely enclosed, and concealed from view, within a solid wall or fence (not less than ten feet in height); both of which must be opaque.
 - 3. The storage of scrap metal processing operation, automobile graveyards, or disassembly plants within 300 feet of any street (other than a primary or interstate highway) or other property line. The exception to this prohibition is if the prohibited use is completely enclosed, and concealed from view, within a solid wall or fence (not less than ten feet in height); both of which must be opaque.
 - 4. The storage of second hand building materials within 300 feet of any street (other than a primary or interstate highway) or other property line. The exception to this prohibition is if the prohibited use is completely enclosed, and concealed from view, within a solid wall or fence (not less than ten feet in height); both of which must be opaque.



5. The storage, bailing, or treatment of junk, rags, bottles or scrap paper, except entirely within a completely enclosed building with opaque walls.

V. Lot Size Requirements

- A. Lot Size Requirements: Minimum area required for establishment of an H-I District shall be five (5) acres. There shall be no minimum area requirements for additions to established H-I districts, provided the area to be added adjoins and forms a logical addition to the existing H-I District.

VI. Bulk Regulations

None.

VII. Maximum Density

None.

VIII. Open Space

None.

IX. Additional Regulations

In addition to requirements contained herein, the requirements Industrial Districts, generally, shall apply in all H-I districts.



REFERENCES

Section 4 - Article 4001

4001 L-1 Light Industry

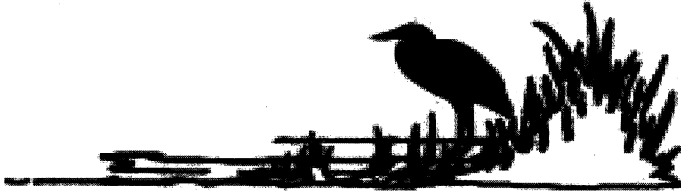
1. Section III Special Use Permits, Subsection N. - Pg. 4-5

Added - Retail sales of any product or products manufactured in a permitted use under L-1, Industry and any ancillary services.



Fayette County Unified Development Code

Fayette County, West Virginia



Section 5 - Article 5000

Building Codes



SECTION FIVE: ARTICLE 5000 – BUILDING CODES

5001 Building Codes and Enforcement

I. Building Code Official – Office Created¹

The Fayette County Building Safety Department is hereby created. The person appointed to the head of such office shall be known as director and chief Code Official and shall have responsibility for the enforcement of the provisions of the current West Virginia state building code and the administration of such department. This person shall also assume responsibilities as assigned by the Fayette County Commission, West Virginia.

II. Authority

An ordinance to adopt the state building code relating to inspection activities of Fayette County and enforcement of building provisions as provided in said codes.

WHEREAS, it is the desire of Fayette County to adopt, in all respects, the state building code relating to minimum building and housing standards and

WHEREAS, the adoption of this code is done to facilitate proper inspection activities relating to construction and maintenance of the buildings within the jurisdiction of said Fayette County and relating to public safety, health and well-being;

NOW, THEREFORE, be it ordained by Fayette County that the following state codes are hereby adopted by reference as though they were copied herein fully; (Section 3n, Article I, Chapter 7 of the Code of West Virginia, one thousand nine hundred thirty one; and the State Building Code as provided for in Section 5b, Article 3, Chapter 29 of the code of West Virginia, one thousand nine-hundred thirty one).

BE IT FURTHER ORDAINED that this ordinance shall take effect and be in force from and after its passage, the public welfare requiring it.

PASSED AND APPROVED by the Fayette County Commission on this the 16th day of May, 2005. Effective Date July 1st, 2005.

1. Adopted 3/29/04. See; References "Section 5 – Article 5000" page 5-2.



REFERENCES

Section 5 – Article 5000

5001 Building Codes

1. Article 5001 Building Codes – Pg. 5-1

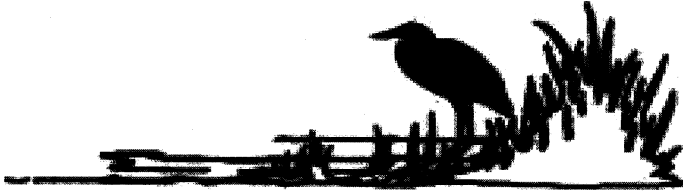
Creation of the Fayette County Building Code and Enforcement Office. *By Ordinance and vote passed by Fayette County Commission March 29 2004.*

Fayette County Unified Development Code
Fayette County, West Virginia



Fayette County Unified Development Code

Fayette County, West Virginia



Section 6 - Article 6000

Special Events / Mass Gatherings



SECTION SIX: ARTICLE 6000 – SPECIAL EVENTS / MASS GATHERINGS

6001 Special Events/Mass Gatherings¹

I. Purpose

The purpose of this section is to provide for the establishment of a well-defined process through which persons wishing to sponsor, promote and hold special events and mass gatherings for commercial purposes can be authorized and permitted to do so, provided that such events have been properly planned and organized in a manner that is consistent with the public interest and safety of the citizens of Fayette County.

The goals of this ordinance are to:

- Establish a well defined application process for the permitting of special events and massing gatherings held for commercial purposes within the County;
- Encourage responsible planning prior to the holding of special events and mass gatherings held for commercial purposes within the County;
- Provide adequate protection to citizens and property owners who may be adversely effected by such special events and mass gatherings held for commercial purposes;
- Recognize the value of such special events and mass gatherings for commercial purposes as it relates to the positive promotion of commerce and tourism within the County, provided that such special events and mass gatherings are properly planned and organized.

II. Applicability - Scope of Regulation

- A. Event Location: The requirements set forth in this ordinance shall only apply to those special events and mass gatherings where the proposed event or mass gathering sites are located outside of the incorporated boundaries of those municipalities wit in the County.
- B. Nonconforming Use: The requirements set forth in this ordinance shall only apply to special events and mass gatherings held at locations where the use of the site properties for this purpose would constitute nonconforming uses under the conditions for which the property locations are currently zoned. Any special event or mass gathering held for commercial purposes at a site location where such commercial activities would be a permitted use under the conditions for which the property area is currently zoned shall not be subject to the requirements of this ordinance.
- C. Commercial Purposes: The requirements set forth in this ordinance shall only apply to special events and mass gatherings held for commercial profit-making purposes. For purposes of this ordinance~ the charging of admission to the event or mass gathering shall be held as evidence of the fact that the event or mass gathering is being held for commercial profit making purposes.

1. Adopted 7/28/03. See; References "Section 6 – Article 6000" page 6-24.



- D. **Excluded Activities:** The requirements set forth in this ordinance are not deemed to be applicable to certain community events and activities. Specifically excluded from the requirements of this ordinance are any government sponsored events or gatherings, athletic contests~ family or community reunions~ religious services~ political rallies, or any other noncommercial events. In all instances the Fayette County Board of Zoning Appeals shall be permitted to exercise discretionary judgment concerning those events and mass gatherings that are to be included within the scope and requirements of this ordinance.
- E. **Included Activities:** The requirements set forth in this ordinance shall apply to special events or mass gatherings held for commercial profit-making purposes at site locations within the unincorporated areas of the County where such activities would constitute a non-conforming use for which the property area is currently zoned. Specifically included under the regulatory requirements of this ordinance are musical concerts, festival gatherings~ and other events held for commercial profit-making purposes.

III. Definitions

For purposes of this ordinance, the following definitions shall apply:

Mass Gathering: Any group of two hundred fifty (250) or more persons assembled together for a concert, festival or other similar purpose. For purposes of this ordinance, this definition shall not apply to any assemblage of persons excluded from the regulatory scope and application of this ordinance as previously defined in Section II. This term shall also not include assembly in any permanent buildings or permanent structures designed, equipped and intended for use by large numbers of people.

Special Event: Any concert, festival or similar gathering held in an unincorporated area within the County where the holding of the event at that location would constitute a nonconforming use for which the property is currently zoned. For purposes of this ordinance, this definition shall not apply to any assemblage of persons excluded from the regulatory scope and application as previously defined in Section II.

Health Department Regulations: For purposes of this ordinance, this term shall include all applicable provisions of the General Sanitation Rules, Title 64, West Virginia Division of Health, Series 18, effective date July 1, 1999.

IV. Application Process

A. Application Form:

Any applicant seeking to organize, sponsor and hold a special event or mass gathering within the definition of this ordinance shall be required to tender an application in the form and manner prescribed by the Fayette County Board of Zoning Appeals. For this purpose, the attached Application for Special Events Permit is hereby adopted as the form and manner of this application, which may be amended from time-to-time by the said Board of Zoning Appeals. All applications submitted for review and consideration shall be properly notarized verifying that the information contained in the application is true and correct.

B. Receipt and Processing of Application:



All applications submitted for review and consideration by the Board of Zoning Appeals shall be processed in the same manner as provided for in the processing of applications for zoning variances and exceptions. After public notice and hearing as provided for under Article XIV, Section 1400 of the Zoning Ordinances of Fayette County, the Board of Zoning Appeals may authorize the issuance of a special permit for the conduct of an event or mass gathering as defined by this ordinance. Such special permits, however, may be authorized by the Board of Zoning Appeals only upon satisfaction in each instance as to the general fitness of the use to its proposed location. In all instances, the Board of Zoning Appeals shall consider the health, comfort and convenience of the general public and the preservation of the general character of the neighborhood or area in which such uses are to be conducted.

C. Notice and Public Hearing Requirements:

Upon the receipt of an application for the issuance of a special use permit under the provisions of this ordinance, the Fayette County Board of Zoning Appeals shall fix a reasonable time for the holding of a public hearing related to the issuance of any permit. At least thirty days prior to the date set for hearing, the Board shall publish a notice of the date, time and place of the hearing. This notice shall be given as a Class I legal advertisement in compliance with the provisions of WV Code 59-3-1. The publication area for any such publication shall be Fayette County, West Virginia. In addition to this publication requirement, the Zoning Officer shall ensure that written notification is given to all adjoining property owners of the date, time and location of the public hearing to be held for considering the issuance of this special use permit.

At a public hearing held concerning the issuance of a special use permit under the provisions of this ordinance, any party may appear in person, by agent or by attorney for purposes of offering comment or objection to the issuance of any permit. Upon the conclusion of any such public hearing, the Board of Zoning Appeals shall, within a reasonable time thereafter, render a decision on whether to provide for the issuance of this special use permit. However, following any public hearing held pursuant to the requirements of this ordinance, the Board of Zoning Appeals may require the applicant to file such additional information as may be required prior to the issuance of any permit.

D. Judicial Review:

Any decision rendered or order issued by the Board of Zoning Appeals related to the issuance or non-issuance of any special use permit authorized under the provisions of this ordinance shall be subject to judicial review by certiorari in the manner authorized by West Virginia Code 8-24-59 to 8-24-65.

E. Duration of Permit:

Any permit issued pursuant to this ordinance shall be good only for the period of time specified as the duration of the special event or mass gathering documented in the application. Reoccurring events proposed to be held at the same location will require the submission of separate applications for each such event or gathering proposed.

F. Validation of Application:

Upon the receipt of any application for a permit to hold a special event or mass gathering under the requirements of this ordinance, the Board of Zoning Appeals shall act to validate the information set forth in each application. For this purpose, the Board may request the



assistance of the Sheriff of Fayette County in validating the content of each application through investigating the same to be true.

G. Conditions of Permits Issued:

The information and representations set forth in the Application for Special Events Permit shall constitute the standards of performance and conditions upon which the special permit may be issued.

H. Applicability of Other Standards:

All applicants who are issued permits to hold special events or mass gatherings pursuant to the requirements of this ordinance will be responsible for fully complying with any and all other regulatory requirements established by the Division of Health, West Virginia Department of Health and Human Resources, the West Virginia State Tax Division, Department of Tax and Revenue, and any other regulatory agency that may have standards governing the holding of special events and mass gatherings.

I. Monitoring and Enforcement of Event Standards and Performance:

All applicants who are issued permits to hold special events or mass gatherings pursuant to the requirements of this ordinance shall be responsible for conducting the event in a manner that is consistent with the representations set forth in the application. The Board of Zoning Appeals shall receive and document any complaints received concerning the manner in which the event was organized and held. The Board may request the assistance of the Sheriff of Fayette County in monitoring any such events and gatherings. In requesting the assistance of the Sheriff, the Board of Zoning Appeals may further empower the Sheriff to order the immediate termination of any event that may be operated in a manner that is inconsistent with the conditions specified in the special permit.

J. General Liability Insurance Required:

No permit shall be issued under the provisions of this ordinance to any applicant who does not intend to obtain general liability insurance coverage in an amount sufficient to indemnify the applicant against loss claims. For purposes of this ordinance, the minimum amount of liability insurance coverage shall be \$1 million. Depending upon the size and nature of the event, the Board of Zoning Appeals may establish an amount in excess of this minimum coverage specified by this ordinance. The applicant shall further ensure that the Fayette County Commission, the Fayette County Board of Zoning Appeals and the Fayette County Sheriffs Department are named as additional insured parties for all losses resulting from the special event or mass gathering.



V. Fees

The following fees are authorized for applications processed and permits issued under the provisions of this ordinance:

A. Application Fee:

Upon the filing of an Application for Special Events Permit with the Zoning Administrator, a non-refundable application fee in the amount of \$500.00 shall be due. No application shall be received or processed until such time as this application fee is paid in full. This application fee shall be applied to off-set and defer those direct expenses involved in validating and processing the application for consideration by the Board of Zoning Appeals.

B. Permit Fee:

Following the receipt, processing and approval of any use permit to be issued under the provisions of this ordinance, and prior to the issuance of any permit, the applicant shall pay a permit fee based on the following fee schedule:

Estimated Event Size	Permit Fee
Less than 500 persons	\$250.00
More than 500 but less than 1500 persons	\$500.00
More than 1500 but less than 2500 persons	\$750.00
More than 2500 persons	\$1,000.00

C. No Other Fees Authorized:

Other than the application and permit fees expressly authorized by this ordinance, no other fees, charges, or permits described in the Zoning Ordinances for Fayette County shall be imposed or collected for the issuance of any permit authorized under the provisions of this ordinance.

VI. Conflicts with Other Ordinances

This ordinance for special events and mass gatherings is an addendum to the Fayette County Zoning Ordinances. As such, if any conflicts between this Section and any other sections of the Zoning Ordinances for Fayette County arise, the provisions of this section shall prevail.



Application for Special Events Permit

1. Applicant Information

Name: _____

Address: _____

Phone No. _____ Ext. _____ Fax No. _____

Email: _____

2. Organization Information

2.01 Applicant is: (Mark appropriate selection)

___ Individual ___ Non- Profit Organization ___ Government Entity

___ Corporation ___ Limited Partnership ___ Joint Venture

___ Partnership ___ Firm ___ Co-partnership

___ Association ___ Other (Specify below, use additional sheet if required.) _____

2.02 Social Security No. (If individual) _____

2.03 Federal Taxpayer ID NO. (If other than Individual) _____

2.04 West Virginia State Business License No. _____

2.05 If other than an individual, list the name, title/position, address, and social security numbers for all officers, directors, or other persons having beneficial ownership in applicant entity: (Use additional sheet if required.)

Name: _____

Name: _____

Title: _____

Title: _____

Address: _____

Address: _____



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SSN: _____

SSN: _____

Name: _____

Name: _____

Title: _____

Title: _____

Address: _____

Address: _____

SSN: _____

SSN: _____

3. Event Organization, Production, and Promotion

3.01 Has a production company or other organizational entity been used to provide assistance in the promotion or organization of this event? ☐ Yes ☐ No

3.01.A. If yes, provide the name and address of the production or organizational entity:

Name: _____

Address: _____

Phone No. _____ Contact Person: _____

3.02 Event Advertising/Promotion – Briefly describe the advertising and promotion being used for purposes of making the public aware of this planned event:

3.03 Has this event been promoted or advertised using:

☐ Television ☐ Radio ☐ Newspapers ☐ Internet ☐ Posters

☐ Other Print Media ☐ Other (Specify) _____

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4. Estimated Size of Event

4.01 The estimated attendance at this event is: _____ Persons

4.02 This estimate is based on: _____

4.03 Have Advance (pre-event) tickets been sold for this event? ____ Yes ____ No

4.03.A. If yes, estimate the total number of advance ticket sales: _____ Tickets

5. Admission Costs

5.01. Will admission be charged for persons to attend this event? ____ Yes ____ No

5.01.A. If yes, specify ticket costs:

General Admission Cost: \$ _____

Advance Admission Cost: \$ _____

Children's Admission Cost: (if applicable) \$ _____

Senior Citizen Admission Cost: \$ _____

Other Admission Charges: (if applicable) _____

Specify Charge _____ \$ _____

Specify Charge _____ \$ _____

5.02. Has the State Tax Department been notified of this event for the purposes of providing for the remittance of all Consumer Sales Taxes to the State of West Virginia? ____ Yes ____ No

5.02.A. If yes, Contact Person Notified: _____

Date Notified : ____/____/____



6. Event Description

6.01. Name of Event: _____

6.02. This event is best described as: ____Musical Concert ____Fair/Festival
Other (specify) _____

6.03. Briefly describe the event as planned: _____

6.04. Duration of Event

The event is scheduled to begin at:

And will conclude at:

Time: _____ am pm

Time: _____ am pm

Day of Week: _____

Day of Week: _____

Month: _____

Month: _____

Date ____/____/____

Date ____/____/____

6.05. Event Schedule – Please submit as a separate attachment to his application a copy of the schedule of events for all planned activities/events, including times, dates, and location (if available).

7. Entertainment

7.01. Will musical entertainment be provided during this event? ____Yes ____No

7.01.A. If yes, will the musical entertainment be:

Live Performers

Recorded Music

7.02. Classify type of music: ____Rock & Roll ____Country ____Pop ____Bluegrass
____Other (Specify) _____



7.03. List the names and addresses of all live musical performers/bands: (Use separate sheet if required)

Name: _____ Name: _____

Address: _____ Address: _____

Name: _____ Name: _____

Address: _____ Address: _____

7.04. Has applicant taken steps to ensure that all performers have an ASCAP license in effect for the public performance of legally copyrighted music? ____ Yes ____ No

7.05. Will entertainment other than music be provided as part of this event? (Please describe any planned entertainment other than musical performances, use additional sheet if required.)

1. _____

2. _____

3. _____

4. _____

5. _____

7.06. Sound Amplification – Will sound amplification be used during this event: _____



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8. Event Location

8.01 This event will be held: ☐Indoors ☐Outdoors ☐Both in and out of doors

8.02 Describe the exact locations, within Fayette County, where this event will occur:

8.03. Approximate acreage of the site where this event will be held: _____Acres

8.04. Based on estimated attendance and approximate acreage of this event site:

8.04.A. Will there at least twenty (20) square feet per person provided for day time assemblage? ☐Yes ☐No

8.05.A. Will there be at least forty (40) square feet per person provided for overnight assemblage excluding parking areas? ☐Yes ☐No

9. Property Description

9.01. Deed Book No. _____ Page No. _____ Map & Parcel No. _____

9.02. Who is the property owner, where the event is to be held?

Name: _____

Address: _____

Phone: _____ Social Security No. _____

9.03. If the property owner is other than the applicant, is there a written agreement/contact between the property owner and the applicant concerning this planned event? ☐Yes ☐No



9.03.A. If yes, attach copy of the agreement, as a separate attachment to this application

9.04. If the property owner is other than the applicant, will the property owner share in the proceeds of this event? ___ Yes ___ No

9.04.A. If yes, attach a statement disclosing the details of this profit sharing agreement, as a separate attachment to this application.

9.05. The site location for this event is currently zoned;

- | | |
|--|--|
| <input type="checkbox"/> Agricultural & Rural Residence District (RR) | <input type="checkbox"/> Highway Business District (B3) |
| <input type="checkbox"/> Agricultural & Rural Residence District (RR1) | <input type="checkbox"/> Light Industrial District (I3) |
| <input type="checkbox"/> Residence District (R1) | <input type="checkbox"/> Heavy Industrial District (I2) |
| <input type="checkbox"/> Residence District (R2) | <input type="checkbox"/> Land Conservation District (LC1) |
| <input type="checkbox"/> Residence District (R3) | <input type="checkbox"/> Land Conservation District (LC2) |
| <input type="checkbox"/> Neighborhood Business District (B1) | <input type="checkbox"/> Planned Development District (PD) |
| <input type="checkbox"/> General Business District (B2) | |

9.06. The event site location is currently classified by the Fayette County Assessor as:

☐ Class II Property (All property owner, used and occupied by the owner exclusive of Class II property).

☐ Class III Property (All real property situated outside of municipalities, exclusive of Class II property).

☐ Class IV Property (All real property situated inside of municipalities, exclusive of Class II property).

10. Event Parking

10.01. The approximate acreage available for vehicle parking is: _____ acres

10.02. Space provided for vehicle parking will accommodate parking of approximately: _____ Cars

10.03. Will a parking space be available for every four (4) persons in attendance at this event, with a density not to exceed one hundred (100) passenger cars or thirty (30) buses per usable acre? ___ Yes ___ No

10.04 Will traffic control and parking assistance be offered? ___ Yes ___ No



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10.05. Describe your plan for the parking of cars and security of vehicles during this even:

10.06. Describe the roadway access (driving instructions) for attendance at this event:

10.07. Will parking be allowed along any public roadways? ☐ Yes ☐ No

10.08. Will applicant enforce illegal parking? ☐ Yes ☐ No

11. Camping

11.01 Will camping be permitted on the event site location? ☐ Yes ☐ No

11.01.A. If yes, what is the approximate number of camp sites? _____ Campsites

11.01.B. If yes, what is the approximate acreage allotted for camping? _____ Acres

11.01.C. If yes, will separate comfort stations, including water closets, lavatories, and bathtubs/showers, be provided within the camping area? ☐ Yes ☐ No

11.01.D. If yes, will the average campground density at the event site location exceed twenty-five (25) campsites per acre? ☐ Yes ☐ No

NOTE: The general Sanitation Rule of West Virginia Division of Health, Title 64 Series 18 contains specific standards regulating campgrounds. All applicants for event that will permit camping at the event site location will be expected to comply with these specific requirements.

11.01.E. If yes, will a fee be charged for camping? ☐ Yes ☐ No

11.01.F. If yes, what is the camping fee charge? \$ _____ per Campsite

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12. Sanitation Concerns

12.01. Will toilet facilities be provided during this event? ☐ Yes ☐ No

12.02. The toilets being provided are: ☐ Permanent Facilities

☐ Portable Facilities

☐ Both

12.03. Provide the total numbers of separate toilets that will be available:

Women's Men's Handicapped

12.04. If portable toilers specify providing delivery and removal of toilets units:

Vendor:

Business Address:

Business Phone:

12.05. Will garbage cans or other disposal receptacles be located on the event site?

☐ Yes ☐ No

12.06. Describe the plans for removal of trash from the event site:

13. Food Service and Sales

13.01. Will food be available for purchase at this event? ☐ Yes ☐ No



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13.01.A. If yes, provide a listing of the vendor who have been authorized to seel food at this event: (Use additional sheet if required)

Vendor: _____

Vendor: _____

Address: _____

Address: _____

Vendor: _____

Vendor: _____

Address: _____

Address: _____

13.02. Have food vendors be advised of the applicable regulations and permits required for the sale of food by the West Virginia Department of Health? ____ Yes ____ No

13.03. Has each vendor applied for and received a Temporary Food Service Permit issued by the Fayette County Health Department? ____ Yes ____ No

13.04. Has the Fayette County Health Department conducted a site inspection of the event location for purposes of ensuring compliance with all applicable health and sanitation rules and regulations? ____ Yes ____ No

13.04.A. If yes, provide the name of the inspector and the date of the required on-site inspection:

Inspection Performed By: _____

Date Inspected: ____/____/____

13.05. Were there any compliance problems identified during the on-site inspection?
____ Yes ____ No

13.05.A. If yes, include a separate letter documenting the problems cited and the steps taken to insure compliance, as a separate attachment to this application.

13.06. If a on-site inspection has not been performed by the Fayette County Health Department, has contact been made to request this required inspection? ____ Yes ____ No

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13.06.A. If yes, provide the date and time scheduled for this inspection:

Scheduled Inspection Date ____/____/____ Schedule Time: _____

14. Insurance Coverage

14.01 Has the applicant purchased general liability insurance coverage for this event?

____ Yes ____ No

14.01.A. If yes, provide the following insurance information:

Insurer's (Company) Name: _____

Insurer's Address: _____

Insurer's Phone No.: _____

Local Agent's Name: _____ Phone No. _____

Policy No: _____

Maximum liability coverage available under terms and conditions of policy: \$ _____

14.01.B. What is the name of the principal insured? _____

14.01.C. Provide the name(s) of any additional insured:

14.02. Attach copy of the policy or any guaranteed binder issued to cover this special event.

15. Emergency Medical Services

15.01. Will emergency medical services be made available by the applicant on the event site? ____ Yes
____ No

15.02. Provide the number of locations, on the event site, where emergency medical services will be available: No. of Locations _____



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15.03 Will medical services be available at all times during the entire event?

____ Yes ____ No

15.04. Will on-site ambulance services be available at all times to transfer persons requiring further treatment to off site medical facilities: ____ Yes ____ No

15.05. Briefly describe your plan to triage persons requiring additional medical services from the event site to off-site healthcare facilities: _____

15.06. Specify type and number of medical service provide that will be available on the event site:

Type of Provider	Number of personnel
Emergency Medical Service Attendant	
Emergency Medical Technician (EMT) - Basic	
Emergency Medical Technician (EMT) – Paramedic	
Licensed Practical Nurse (LPN)	
Registered Nurse (RN)	
Other Nurse Practitioner	
Physician’s Assistant (PA)	
Physician’s (MD or DO)	
Other Providers (specify below)	



15.07. Provide the names, address and applicable license/certificate numbers for the medical service providers who will be assigned to perform on-site medical coverage for this event:

Provider's Name	Address	License/Cert.No.

16. Event Security

16.01. Will a security company be employed for this event? ____ Yes ____ No

16.02.A. If no, provide a separate attachment documenting the manner in which security needs for this event will be met.



16.03.B. If yes, provide the following security company information:

Company Name: _____

Insurer's Address: _____

Contact Person: _____ Phone No. _____

16.04. Is there a written agreement or contact for delivery of security services?

____ Yes ____ No

16.05. Is the security company licensed to do business in the State of West Virginia?

____ Yes ____ No

16.06. Is the security company bonded or insured? ____ Yes ____ No

16.07. How many security officers/personnel will be present throughout the event?

_____ Officers/Personnel (If staffing levels will vary, provide a schedule of the actual number of security personnel physically present at the event site at any/all times.)

16.08. Will security personnel at this event be: ____ Armed ____ Unarmed ____ Both

16.09. Will security personnel be uniformed or dressed in a manner to distinguish them as security personnel at the event? ____ Yes ____ No

16.09.A. If yes, briefly describe the manner or dress identifying the authorized security personnel:

16.10. Will entry and egress to and from the event be controlled by security?

____ Yes ____ No

16.10.A. If yes, briefly describe your entry and egress control plan and policy for the event site (e.g. return passes, alcohol check points, etc.):

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16.11. Will communications be available or provided for security personnel?

☐ Yes ☐ No

16.11.A. If yes, specify communication type(s) to be used:

☐ Walkie-talkie ☐ Radios ☐ Cell Phones ☐ Other (specify) _____

16.12. Have you contact and met with any state, county, or local law enforcement agencies to advise them of this event? ☐ Yes ☐ No

16.12.A. If yes, provide the following information for each law enforcement agency contacted about this event:

Law Enforcement Agency	Contact	Meeting Date
		/ /
		/ /

16.13.B. Briefly describe the highlights of the basic security plan for this event:



17. Alcohol and Drug Policy

17.01. Will alcoholic beverages be sold on the premises during this event?

____ Yes ____ No

17.01.A. If yes, have the proper event licenses been secured through the West Virginia Alcohol Beverage Control Commission? ____ Yes ____ No

17.02. Will alcoholic beverages be permitted on the event site? ____ Yes ____ No

17.02.A. If yes, what measures will be in place to prevent underage consumption and other abuses involving the presence of alcoholic beverage?

17.02.B. If no ,what measures will be taken to ensure alcoholic beverages will not be consumed at the event site (e.g. cooler checks, signage, etc.)?



17.03 Describe measures to police and discourage the use of illegal drugs on the event site:



Certificate of Application

I do affirm and certify that the information contained in this Application for Special Events Permit is true and correct to the best of my knowledge and belief. As applicant for this permit, I do authorize the Fayette County Board of Zoning Appeals or their authorized representative to conduct an investigation into all information contained in this application for purposes of verifying the same to be true.

____/____/____
Date of Application

Signature of Applicant

Notary

Subscribed and sworn before me, in said County and State, this ____ day of _____, 20 ____.

Notary Public _____

My Commission Expires: _____

Official Seal



REFERENCES

Section 6 – Article 6000

6001 Special Events/Mass Gatherings

1. Article 6001 Special Events / Mass Gatherings – Pg. 6-1

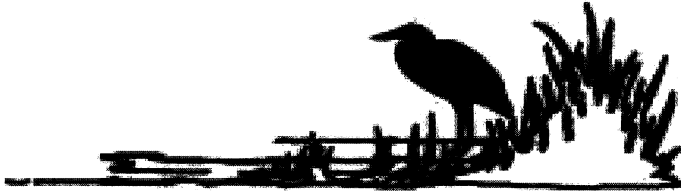
First adopted as Zoning Ordinance Amendment Article XIV, Section 1424 by the Fayette County Commission on August 29, 2001. *Adopted for amendment to the UDC as Section 6 Article 6000 Special Events / Mass Gatherings by same on July 28, 2003.*

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Section 7 - Article 7000

Subdivision Regulations



SECTION SEVEN: ARTICLE 7000 – SUBDIVISION REGULATIONS

7001 Subdivision Regulations

I. Purposes

It is hereby declared to be the policy of Fayette County that the subdivision and development of land for residential, commercial, and industrial uses shall be guided and regulated in such a manner as to meet the following requirements for orderly and harmonious growth. Land to be subdivided or developed shall be of such character that it can be used safely without danger to health, or peril from fire, flood, erosion, excessive noise or smoke, or other menace. Proper provisions shall be made for drainage, water supply, sewerage, and other appropriate utility services. The proposed streets shall provide a safe, convenient, and functional system for vehicular circulation, and shall be properly related to the comprehensive plan of the area. Streets shall be of such width, grade, and location as to accommodate prospective traffic as determined by existing and probable future land and building uses. Buildings, lots, blocks, and streets shall be arranged as to afford adequate light, view, and air, to facilitate fire protection, and to provide ample access for fire-fighting equipment to buildings. Adequate sites for schools, parks, playgrounds, and other community services shall be located so residents of all neighborhoods shall have convenient access to such facilities.

II. Authority

By authority of an ordinance adopted by Fayette County on the 30th day of October, 2002, (a certified copy of which has been duly filed with the County Clerk), a plat of the subdivision shall not be recorded by the County Clerk unless it has first been approved by the Zoning Enforcement Officer (ZEO).

III. Procedures

A. Introduction

1. The procedure for obtaining approval of a subdivision plan shall include basically two steps:
 - a). Preliminary Layout.
 - b). Subdivision Plat.
2. However, before preparing the Preliminary Layout, the subdivider, or his authorized agent, may present a pre-application sketch plan to the ZEO to facilitate a discussion of any requirements of these regulations. In addition, the subdivider should also discuss the Preliminary Layout with the Health Department whose approval is required by these regulations.



B. Preliminary Layout

1. Except as provided by item "d" below, prior to filing an application for the approval of a Subdivision Plat, the subdivider shall file an application for approval of a Preliminary Layout. This application shall:
 - a). Be made on forms available at the ZEO's Office.
 - b). Include all land that the applicant proposes to subdivide.
 - c). Be accompanied by two (2) copies of the Preliminary Layout, as described in these regulations.
 - d). Be presented to the ZEO or his representative fourteen (14) days prior to the date that the applicant intends to receive comments on the application.
2. The ZEO will carefully review the practicability of the Preliminary Layout, taking into consideration the requirements of the community and the best use of the land being subdivided. In determining whether approval of the Preliminary Layout shall be granted, the ZEO shall determine if the Preliminary Layout provides for:
 - a). Coordination of subdivision streets with existing and planned streets or highways.
 - b). Coordination with an extension of facilities included in the Comprehensive Plan.
 - c). Establishment of minimum width, depth, and area of lots within the projected subdivision.
 - d). Distribution of population and traffic in a manner tending to create conditions favorable to health, safety, convenience, and the harmonious development of the County.
 - e). Fair allocations of areas for streets, parks, schools, public, and semi-public buildings, homes, utilities, business, and industry.
3. Following the review of the Preliminary Layout and other material submitted for conformity thereof to these regulations and a discussion with the subdivider of changes deemed advisable and the kind and extent of improvements to be made by him, the ZEO shall, within forty-five (45) days, act thereon as submitted or modified, and if approved, the ZEO shall express his approval as tentative approval and state all changes and/or additions, if any, that are required for such approval, or if disapproved, shall express its disapproval and its reasons therefore in writing.
4. The action of the ZEO shall be noted on the two copies of the Preliminary Layout, referenced and attached to any conditions determined. One copy shall be returned to the subdivider and the other retained by the ZEO.
5. For any subdivision or portion of subdivision, the ZEO shall state in writing the character and extent of required public improvements for which waivers may have been requested by the subdivider. Whenever a waiver is requested, the Planning Commission shall hear the request. The waiver, in the opinion of the Planning Commission, may be granted without jeopardy to public health, safety, morals, and general welfare. Waivers may also be granted if, when following the letter of the subdivision ordinance, the improvements would be inappropriate because of inadequacy or lack of connecting facilities adjacent to or in proximity to the proposed subdivision.



6. Approval of Preliminary Layout shall not constitute approval of the Subdivision Plat. Rather, it shall be deemed an expression of approval to the layout submitted on the Preliminary Layout, as a guide to the preparation of the Subdivision Plat which will be submitted for approval of the ZEO and for recording upon fulfillment of the requirements of these regulations and the conditions of the approval, if any.

C. Subdivision Plat

1. Except as provided by item "d" below, within eighteen (18) months of the tentative approval of the Preliminary Layout, the applicant shall file with the ZEO an application for approval of a Subdivision Plat. The application shall:
 - a). Be made on forms available at the ZEO's Office.
 - b). Be presented to the ZEO at least fourteen (14) days prior to receiving notice of a decision.
 - c). Be accompanied by three (3) copies of the Subdivision Plat and the Construction Detail Sheets, as described in subsection VII.A.2 of these regulations.
 - d). Be accompanied with a certificate from the County Health Department as to the adequacy of the proposed water supply and sewerage service.
 - e). Be accompanied by a fee of \$100.00 plus \$5.00 per acre, or part thereof, that the proposed subdivision exceeds five acres in area. If the application is disapproved, one-half of the fee shall be returned. A full fee must be paid on any subsequent application, even if the same lane, or any part thereof, is involved.
2. The Subdivision Plat shall conform substantially to the Preliminary Layout as approved by the ZEO. In determining whether approval of the Subdivision Plat shall be granted, the ZEO shall determine if the Subdivision Plat satisfies the criteria set forth in Paragraph B.2 above.
3. As a condition of approval of a Subdivision Plat, the ZEO may specify:
 - a). The manner in which streets shall be laid out, graded, and improved.
 - b). Provision for water, sewage, and other utility services.
 - c). Provision for schools.
 - d). Provision for essential municipal services.
 - e). Provision for recreational facilities.
4. The ZEO may approve a Subdivision Plat in which the improvements and installations have not been completed as required by these regulations if the applicant provides a bond which shall:
 - a). Be in an amount determined by the ZEO to be sufficient to complete the improvements and installation in compliance with these regulations.
 - b). Be with surety satisfaction to the ZEO.
 - c). Specify the time for the completion of the improvements and installations.



5. Any funds received from these bonds shall be used by the legally constituted body charged with making public improvements for the County only for completion of the improvements and installations for which they were provided, and without prior appropriation.
6. The ZEO shall approve, conditionally approve, or disapprove the Subdivision Plat within forty-five (45) days after he notifies the applicant of his receipt of the request. If the ZEO approves, he shall affix his seal upon the Subdivision Plat and notify the applicant within five (5) days. If the ZEO conditionally approves, he shall set forth the conditions in his own record and provide the applicant with a copy within five (5) days. If the ZEO disapproves, he shall set forth its reasons in his own record and provide the applicant with a copy within five (5) days.
7. The subdivider shall file the Subdivision Plat with the County Clerk within ninety (90) days of the date of the seal of approval. Any Subdivision Plat not so filed shall become null and void. No changes, erasures, modifications, or revisions shall be made on any Subdivision Plat after the ZEO has affixed his seal of approval. In the event that any Subdivision Plat, when filed with the ZEO, contains any such changes, the Subdivision Plat shall be considered null and void.

D. Minor Subdivisions

1. In the case of a Minor Subdivision, four copies of a deed description of the lots to be thus created, plus four copies of a map showing lot dimensions, bearings, location of monuments, and the relationship of the lots to the street upon which they front, shall be sufficient for consideration for final approval by the ZEO. This submittal shall include the information required by item IV.G and shall be filed with an application for subdivision approval with the ZEO. If approved by the ZEO, the application shall be subject to the requirements of Paragraph C.7 above.

IV. Design Standards

A. General

The following planning and design standards shall be complied with and no higher standard may be required by the ZEO.

B. Streets

1. General Planning Standards

- a). The arrangement, character, extent, width, grade, and location of all streets shall conform to the Comprehensive Plan and shall be considered in relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
- b). Where such is not shown in the Comprehensive Plan, the arrangements of streets in a subdivision shall either (1) provide for the continuation of appropriate projection of existing principal streets in surrounding areas; or (2) conform to a plan for the neighborhood approved or adopted by the ZEO, to meet a particular situation where topo-



graphical or other conditions make continuance or conformance to existing streets impracticable.

- c). Minor streets shall be so laid out that their use by through traffic will be discouraged.
- d). Where a subdivision abuts or contains an existing or proposed arterial street, the ZEO may require marginal access streets, reverse frontage with a reserve (buffer) strip contained in a non-access reservation between the street right of way and rear property lot line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- e). Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the ZEO may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land such as for park purposes in appropriate districts. Such distances shall be determined with due regard for the requirements of approach grades and future grade separations.
- f). Reserve strips, controlling access to streets, shall be prohibited except where their control is placed with the County under conditions approved by the ZEO.
- g). Intersections of minor streets with arterial or collector streets shall be held to a minimum to avoid hazard and delay.
- h). Half streets shall be prohibited except where it is necessary to provide the remaining half of a previously approved half street.

No duplicate street names shall be used which in the opinion of the ZEO, will be confused with the names of existing streets. Streets that are extensions of, or in alignment with, existing named streets shall bear the names of the existing streets.

- i).
- j). Where the subdivision abuts or fronts on arterial streets, sidewalks shall be required, and shall be of size and type as approved by the ZEO.
- k). No dead-end streets shall be permitted without a suitable turn-around. Dead-end streets extending to tract boundary lines which are intended to connect to future streets in adjoining tracts and dead-end streets within a tract which are to be extended shall be provided with a temporary turn-around. Appropriate arrangements shall be made for those portions of temporary turn-arounds outside of street right-of-way to revert to abutting property owners at such time as streets shall be extended.
- l). When continuing street lines (project right-of-way tangents) deflect from each other at any one point by more than 10 degrees, they shall be connected by a curve, with a radius at the inner street right-of-way line not less than 350 feet; where continuous street lines of arterial streets deflect more than 5 degrees from each other, they shall be connected by a curve of not less than 800 feet radius.
- m). Where street grades exceed 5 percent, gutters shall be paved.
- n). Minor streets leading from the same subdivision shall not intersect on the same side of a major thoroughfare at intervals of less than 800 feet.
- o). Radius corners or diagonal cut-offs shall be provided on the property line substantially concentric with or parallel to the chord of the curb radius corners.

Fayette County Unified Development Code

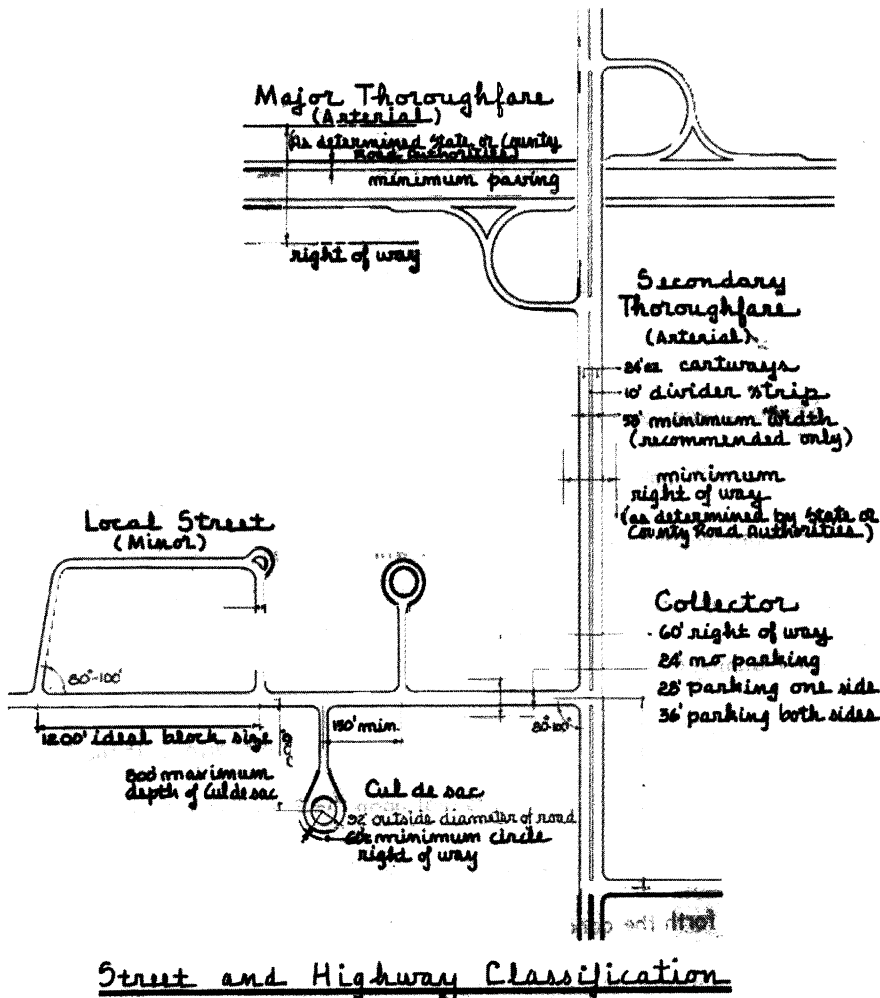
Fayette County, West Virginia



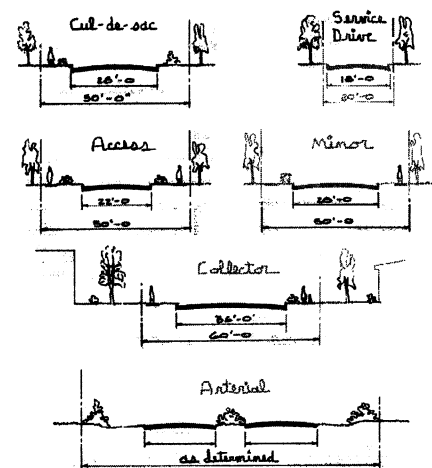
Article 7001 Subdivision Regulations

Section 7

- p). Where any street intersection will involve topographic features or existing vegetation inside any lot corner that might create a traffic hazard through limiting visibility, such ground and/or vegetation shall be cut and kept cut to a height not exceeding 3½ feet in conjunction with the grading of the public right-of-way to the extent deemed necessary to provide adequate sight distance and a vision clearance within the triangle formed.
- q). Service Drives Service drives may be provided in residential, commercial, and industrial districts as private access ways.
- Service drive intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movements.
- r). Dead-end service drives shall be avoided when possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead-end as determined by the ZEO.



TYPICAL STREET CROSS SECTIONS





Fayette County Unified Development Code

Fayette County, West Virginia

Section 7

Article 7001 Subdivision Regulations

Design Standards

			Local Roads			
			Minor	Marginal Access	Cul-de-Sac	Service Drive
Minimum Right-of-Way Width	As Determined by the State Rd. Commission	60'	50'	50'	50' (Turn around Radius)	20'
Pavement Width	As Determined by the WVDOT	36'	28'	22'	28'	18'
Maximum Grade	3%	8%	12%	12%	12%	10%
Minimum Grade	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%
Minimum Center Line Radius of Curves	500'	300'	100'	300'	100'	*
Minimum Length of Vertical Curves	500'	200'	150'	150'	150'	75'
		(but not less than 25' for each% algebraic difference of grade)			(but not less than 15' for each% algebraic difference at grade)	
Minimum Curb Radii Corner	30'	30'	20'	20'	20'	*
Minimum Tangent Length Between Reverse Curves	200'	100'	*	*	*	*
Maximum Grades within 150' of Centerline Intersections	1.5%	3%	3%	3%	3%	3%
Minimum Braking Site Distance	300'	200'	100'	100'	100'	100'
Minimum Distance Between Centerlines at Street Jogs	400'	150'	150'	150'	150'	*
Maximum Length of Cul-de-Sac ***					800'	
Minimum Outside Radius of Cul-de-Sac Pavement					46'	
Angle of Intersections of Street Centerlines	90°	80-100°	80-100°	80-100°	80-100°	

* No Standard

1.0% Grades under 1.0% acceptable when approved stormwater drainage facilities are provided.

***Except where in the judgement of the ZEO, the cul-de-sac does not impose any problem and constitutes a positive design feature.



C. Blocks

1. General Planning Standards

- a). The length, width, and shape of blocks shall be determined with due regard to:
 - Provision of adequate building sites suitable to the special needs of the type of use contemplated.
 - Zoning requirements as to lot sizes and dimensions.
 - Need for convenient access, circulation, and control safety of street traffic.
 - Limitations and opportunities of topography.
- b). Irregular shaped blocks or oversize blocks indented by cul-de-sacs, parking courts, or loop streets and containing interior block parks or playgrounds will be acceptable when properly designed, as determined by the ZEO. Such blocks shall include adequate off-street parking, facilities for pedestrian access from streets to all lots, proper easements for utility lines, and satisfactory provision for maintenance of park and open space, where included.
- c). Non-residential blocks intended for commercial or industrial use shall be of such length and width as is suitable for their prospective use. Such blocks shall include adequate provisions for off-street parking and servicing.

2. Design Standards

- a). Zoning requirements as to lot sizes and dimensions.
- b). Block lengths shall not exceed 1,200 feet, not be less than 400 feet, except however, blocks abutting on designated arterial streets shall be no less than 1000 feet and may exceed 1200 feet.
- c). Blocks over 800 feet in length may be required to have a crosswalk, if necessary, to facilitate pedestrian circulation to a school, park, recreation area, shopping center, or other similar neighborhood facility.
- d). The minimum lot depth for single frontage lots shall be 125 feet or as specified in the Unified Development Code.
- e). Where double frontage lots are necessary, the minimum depths of lots shall be 150 feet.

D. Lots

1. General Planning Standards

- a). The lot size, width, depth, shape, and orientation shall be appropriate for the location of the subdivision and for the type of development and use proposed.
- b). Side lot lines shall be substantially at right angles or radial to street lines.
- c). Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. An easement of suitable width, across which there shall be no right-of-way, may be required along the line of lots abutting such traffic artery or other disadvantageous use.



- d). The subdivision plan shall provide each lot with satisfactory access to an existing public street or to a subdivision street that will be offered for dedication at the time of the Subdivision Plat approval.
- e). Corner lots shall have extra width as provided by the Unified Development Code to permit appropriate building setback from and orientation to side streets.

2. Design Standards

- a). Lot dimensions shall conform to the requirements of the Unified Development Code.
- b). Excessive depth in relation to the width shall be avoided. A proportion of 1½ to 1 is normally considered to be desirable.

E. Trees and Natural Features

- 1. Reasonable requirements for the preservation of outstanding natural features may be specified. These include large trees or groves, watercourses and falls, historic spots, exceptional views, and similar irreplaceable assets in which there is general public interest.
- 2. There shall be at least one tree per lot and spaced at intervals of not more than fifty (50) feet, two trees per lot on corner lots.
- 3. No trees shall be planted within the street right-of-way. Required trees shall be located five to ten feet outside the right-of-way.
- 4. Trees shall be hardy, suitable to local soil and climate, and shall be of species approved by the ZEO.
- 5. New trees shall measure at least 1½ inches in diameter as measured at a point four (4) feet above finished grade level (in addition to other requirements of the Unified Development Code).

F. Easements

- 1. Easements across lots or centered on rear or side lot lines shall be provided for utilities where they are anticipated.
- 2. Permanent utility easements shall not exceed 30 feet in width, unless exceptional circumstances require additional width.

G. Storm Drainage

- 1. All subdivisions shall be related to the drainage pattern affecting the areas involved, with proper provision to be made for adequate storm drainage facilities. Storm drainage plans shall reflect potential surface runoff within the drainage area after development and shall comply with the requirements of an engineer.
- 2. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm easement of drainage right-of-way conforming substantially with the lines of such watercourse, and of such width as to encompass the 25-year flood area of such watercourse.
- 3. Right-of-way for storm drainage must be sufficient for facilities to handle not only the anticipated discharge from the property being subdivided, but also the anticipated runoff that will occur when property at a higher elevation in the drainage basin is developed.



H. Public Sites and Open Spaces

1. Where a proposed park, playground, school, or other public use shown in a Comprehensive Plan is located in whole or in part in a subdivision, the ZEO may require the dedication or reservation of such area within the subdivision in those cases in which the ZEO deems such requirements to be reasonable.
2. Where deemed essential by the ZEO, upon consideration of the particular type of development proposed in the subdivision, and especially in large-scale neighborhood unit developments not anticipated in the Comprehensive Plan, the ZEO may require the dedication or reservation of such other area or sites of a character, extent, and location suitable to the needs created by such development for schools, parks, and other neighborhood purposes.

V. Required Improvements

A. Monuments

1. Permanent monuments made of concrete, granite, or some suitable equivalent and at least thirty-six (36) inches in length and four (4) inches square, shall be so placed that all block corners, angle points, and points of curves can be accurately re-established. Iron pipes, at least twenty-four (24) inches in length and with a diameter of three-fourths (3/4) inches, shall be placed at all points on lot boundary lines where there is a change of direction and at all lot corners, unless a permanent monument is required at such point.

B. Utility Improvements

1. Utility and street improvements shall be provided in each new subdivision in accordance with the following:

a). Water Supply and Fire Hydrants

i). Public or Central Water Supply Available

If public or approved central water supply is utilized, the system shall be designed with adequate main sizes and fire hydrant water supply to meet the Association of Fire Underwriters specifications for a protected area. Such system shall be approved by the public agency or authority, operating the central water system.

ii). No public water

- (a) **Project System.** If a project system is planned, it shall be approved by the County Health Department and the central well drilled, tested, and approved prior to filling the application for the subdivision. All land within 100 feet of a project well shall be suitably protected and restricted from development. All lines shall be 6 inch minimum in size unless smaller sizes are permitted by the ZEO and shall be according to the standards of the nearest central or public water supply system if one exists within two miles of the development.
- (b) **Individual Wells.** If the water supply is to be from individual wells, the developer shall provide at least one test well for each unit of ten or less lots in the subdivision, location of such well to be approved by the ZEO. Test wells shall be drilled, cased, and grout sealed into bedrock, shall be not less than 25



Fayette County Unified Development Code

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Article 7001 Subdivision Regulations

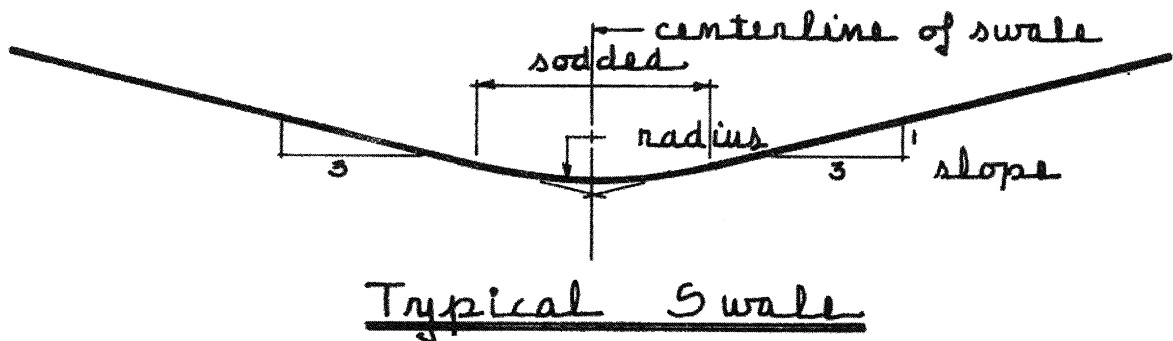
feet deep, and shall have a production capacity of not less than five (5) gallons per minute, of safe drinking water as certified by the County Health Department.

b). Sanitary Sewer Facilities

i). Public Sewer Available

No storm water shall be allowed to enter sanitary sewers. Proof shall be submitted showing that all plans of sewer extensions have been approved by the County Health Department.

- (a) On-the-lot sewage disposal systems are generally unsatisfactory even when carefully designed and constructed and given the best of maintenance. Poor design, inadequate construction, or poor maintenance can result in conditions dangerous to health and generally obnoxious to the senses. In view of the above, individual lot on site sewage disposal systems will not be approved within the limits of the County.
- (b) Project Systems. Project systems shall be designed by a licensed engineer, shall provide a six (6) inch minimum size connection to each lot, and shall have an adequate sewage disposal plant with suitable arrangements for the operation thereof. Plans shall be approved by the County Health Department.



c). Storm Drainage

i). Capacity

- (a) Storm drainage facilities shall provide a clear and protected channel fully adequate to handle runoff from a 5 year storm.



- (b) The rational method shall ordinarily be used in computing runoff, using the formula $Q = CIA$ where:

Q = water reaching channel, culvert bridge, or storm sewer in cfs.

I = rainfall in inches per hour.

C = coefficient of runoff suggested is as follows:

- Areas primarily paved or in building (such as shopping centers).... 85
- Primarily residential areas with lots smaller than 7,500 SF or apartment areas..... 55
- Primarily residential areas with lots 7,500 SF to ½ acre..... 40
- Primarily residential areas with lots 20,000 SF or over..... 35
- Cemeteries, park land, or other permanent open areas..... 30

A = Area in Acres

- (c) Minimum pipe size shall be 12 inches.
- (d) In small drainage areas intended for residential development, the following rule of thumb may, if desired, be substituted where applicable.

For drainage areas less than one acre in area 12" pipe

For drainage areas 1 to 2 acres in area..... 15" pipe

For drainage areas 2 to 4 acres in area..... 18" pipe

ii). General Design

- (a) Preferred runoff pattern. Preferred design of streets and grading in relation to storm drainage shall be such that runoff from roofs, driveways, and other impervious surfaces will be collected in the ditches and/or gutters along the street in short runs (three or four hundred feet), and will then be diverted from the street surface into storm sewers or natural watercourses. Streets shall be located away from watercourses unless storm sewers are to be installed.
- (b) Downstream Disposal. Subdivision and development of an area increases and concentrates the runoff of stormwater from the area. Subdividers are warned that such increase may cause flood or erosion damage to undeveloped properties lying downstream. Storm drainage channels opening on unimproved land shall empty into natural watercourses unless suitable agreement is reached with the owner of the downstream property for other method of handling. In any instance, the disposal of storm drainage downstream shall be satisfactory to the ZEO as advised by an engineer.

iii). Open Watercourses

The use of open watercourses for drainage may involve problems relating to safety, erosion control, stagnant water, protection of capacity, and appearance, all of which shall be given adequate attention by the developer as follows:

- (a) Safety. Broad, shallow courses shall be created wherever necessary to increase capacity or eliminate steep banks. Ditches shall, wherever feasible, be in the shape of a wide top V with rounded or squared invert.



- (b) Erosion Control. Adequate measures shall be taken to prevent erosion. The ZEO shall require seeding, sodding, planting, riprap, or such other measures as may be necessary to prevent scouring.
- (c) Drainage. The developer shall guard against the creation or continuation of swampy areas or stagnant pools. The ZEO shall require fill and/or channel improvements in order to forestall such problems.
- (d) Protection of Capacity. The developer shall provide adequate measures for the protection of open drainage channels by establishing drainage easements sufficiently wide (generally 20 ft.), to enable the working of the channel by motorized equipment or alternately, where authorized by the ZEO, a center block park of a minimum width of 50 ft. All easements shall prohibit the erection of structures, the dumping of fill, or the alteration or obstruction of the watercourses without the written permission of the ZEO. Property lines shall be so designed as to allow drainage easements, except that drainage easements may be allowed to cross lots larger than one acre.
- (e) Appearance. The developer should keep in mind that natural watercourses can be an attractive asset to the subdivision as well as to the community and, where possible, should improve and beautify the watercourses to this end.

iv). Design of Storm Sewers

- (a) Size and grade. Storm sewers shall have a minimum diameter of 12 inches and a minimum grade of 0.5 percent.
- (b) Manholes. Manholes shall not be more than 300 feet apart where pipe sizes of 24 inches or less are used, and not more than 540 feet apart where larger sizes are installed.
- (c) Change in Direction. Special sections of 10 to 15 feet radii shall be installed where abrupt changes are made in alignment.

v). Design of Ditches and Gutters

- (a) Length of Flow. Subdivisions should be so designed that length of flow or water in gutter or roadside ditch does not exceed 400 feet, except that in exceptional cases, runs up to 800 feet in length may be permitted by the ZEO. Runs exceeding the maximum shall be put in storm sewers or diverted to natural drainageways.
- (b) Minimum Grade. All enclosed drainage courses shall be designed with sufficient grade to create a cleansing velocity of 3 feet per second. A lesser grade may be permitted by the ZEO where a greater grade cannot be achieved.
- (c) Street Crossing. Water in gutters and ditches shall not be allowed to flow over intersecting streets but shall be placed in adequate culverts.



(d) Depth and Shape of Ditches

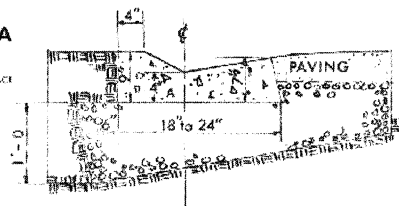
- Where roadside ditches are permitted for runs of more than 300 feet, or where subgrade drainage is necessary, the bottom of such ditch should be below the subgrade, and, at a minimum, should be approximately 18 inches below the crown of the road.
- Ditches shall be V shaped or parabolic with sides sloping at approximately 1 inch vertical to 3 inches horizontal except where other cross section plans are authorized.

vi). Erosion Control. Suitable headwalls, endwalls, ditch seeding or sodding, and other procedures or devices to prevent erosion shall be used.

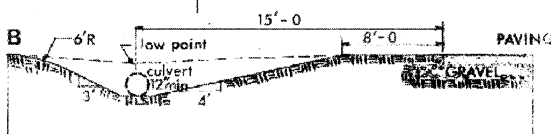
**SURFACE DRAINAGE
 DESIGN ALTERNATIVES**

**ALTERNATE A
 VALLEY GUTTER**

—PRECAST OR CAST-IN-PLACE
 —UNREINFORCED
 —CAST IN A BEDDING

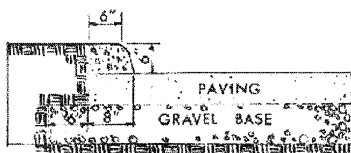


**ALTERNATE B
 OPEN DITCH**



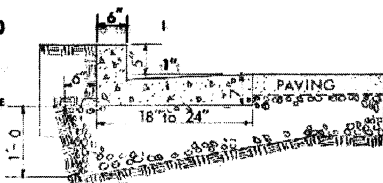
**ALTERNATE C
 ASPHALT CONCRETE
 CURBING**

—PLACED IMMEDIATELY
 ON MACADAM



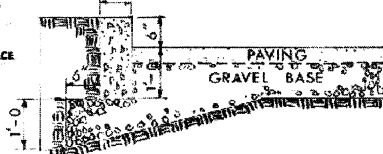
**ALTERNATE D
 COMBINATION
 CURB-GUTTER**

—REINFORCED
 —PRECAST OR CAST-IN-PLACE



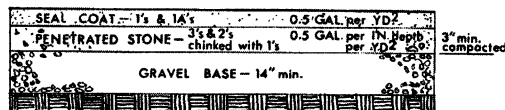
**ALTERNATE E
 STRAIGHT CURB**

—REINFORCED
 —PRECAST OR CAST-IN-PLACE

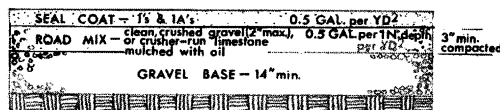


**BITUMINOUS MACADAM PAVEMENT
 DESIGN ALTERNATIVES**

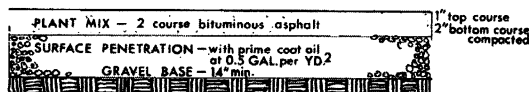
ALTERNATE A — PENETRATION



ALTERNATE B — ROAD MIX



ALTERNATE C — PLANT MIX



PITCH OF CROWN $\frac{1}{4}$ INCH per FOOT $\pm \frac{1}{16}$



- d). Street and Other Improvements
 - i). Arterial Streets: Cross sections as determined by the engineer and ZEO, or by the WVDOH.
 - ii). Collector Streets: Two 5-foot sidewalks each 1 foot from the property line.
 - iii). Minor Streets and Cul-de-Sacs: Two 5 foot sidewalks each 1 foot from property line.
 - iv). Marginal Access Streets: Approximately 14 feet to be used as part of the separation strip between marginal road and adjacent arterial or collector.
 - v). Streets along development boundaries, and streets connecting the development with existing improved street system; cross sections as determined by the ZEO.
 - vi). Grading and Centerline Gradients: Per plans and profiles approved by the ZEO.
 - vii). Street Lighting: Per plans and specification approved by the ZEO.
 - viii). Street name signs at all intersections, the design of which must be approved by the ZEO.
 - ix). Residential street construction standards shall meet the specifications set forth on the drawings in this section. These specifications are established for natural conditions of satisfactory subgrades, slope, and drainage. Where these natural conditions are other than favorable, the ZEO, after consultation with an engineer, may require reasonably higher standards for gravel base and pavement and may specify special treatment of the subgrade.
 - x). For commercial, industrial, and other non-residential subdivisions, construction standards for required improvements shall be specified by the ZEO.
 - xi). The developer shall furnish a performance bond or cause a deposit sufficient to cover the full costs of the construction of such utility and street improvements as may be required by the ZEO pursuant to the West Virginia Code.

Developer may install such utility and street improvements at his own expense or, in the alternative, may secure the formation of a special district to install such utility and street improvements pursuant to laws of the state.



VI. Information to be Supplied by Subdivider

A. Preliminary Layout

1. Preliminary Layouts submitted to the ZEO shall be drawn to a convenient scale of not more than one hundred (100) feet to the inch, and shall show the following information:
 - a). The location of the property with respect to surrounding property and streets. An area map at a scale on one inch equals four hundred (400) feet shall be included. All streets and property within one thousand (1000) feet of the applicant's property shall be indicated including the names of all property owners.
 - b). The location and approximate dimensions of all existing property lines. (Include entire area proposed to be subdivided and remainder of the tract owned by the applicant).
 - c). Topography at a contour interval of not more than five (5) feet. Other physical features such as bodies of water, streams, swamps, large trees, existing buildings, streets, and railroads.
 - d). The location, width, and approximate grade of all proposed streets. Approximate elevations shall be shown at the beginning and end of each street, and at street intersections.
 - e). The approximate location and dimensions of all property proposed to be set aside for playground or park use.
 - f). The approximate location, dimensions, and area of all proposed or existing lots.
 - g). The names of all adjoining property owners of record, or the names of adjoining developments.
 - h). The name and address of the owner of the land to be subdivided, the name and address of the developer, if other than the owner.
 - i). The date, approximate true north point, and scale.
 - j). Proposed provision of water supply, fire protection, disposal of sanitary waste, storm water drainage, street trees, street lighting fixtures, street signs and sidewalks, data on which must be available for consideration at this stage.
 - k). The provisions of the Unified Development Code applicable to the area to be subdivided by showing zoning district boundaries affecting the tract.

2. Subdivision Plat

- a). Subdivision Plats shall be accompanied by separate Construction Detail Sheets, and both shall be submitted to the ZEO for approval.
- b). The Subdivision Plat and Construction Detail Sheets shall be clearly and legibly drawn with black waterproof ink on transparent linen tracing cloth, or the equivalent. In areas zoned for lots of minimum size of 20,000 square feet or more, maps and profiles shall be at a scale of one inch equals 100 feet. In areas zoned for lots less than 20,000 square feet, maps and profiles shall be at a scale of one inch equals fifty (50) feet. Maps shall be on uniform size sheets, not larger than 36 inches by 48 inches. Whenever any project is of such size that more than one sheet is required, then an index map on the same size sheet shall accompany these sheets.



- c). Subdivision Plats shall show the following information:
 - i). Proposed subdivision name or identifying title, which shall not duplicate or too closely approximate that of any other development in the County.
 - ii). The date, approximate true north point, and scale.
 - iii). Name, address, and signature of owner, subdivider, and licensed professional engineer.
 - iv). Names or owners of record of abutting properties or developments.
 - v). Locations, names of widths of existing streets, highways and easements, building lines, parks, and other public properties.
 - vi). Locations and widths of all streets and sidewalks, together with names of streets, and location, dimensions and status of all easements proposed by the subdivider.
 - vii). Lot areas in square feet.
 - viii). Lot lines with accurate dimensions and bearings of angles.
 - ix). Sufficient data to determine readily the location, bearing, and length of all lines, and to reproduce such lines upon the ground.
 - x). Radii of all curves and lengths of arcs.
 - xi). Location, material, and approximate size of all monuments.
 - xii). The accurate outline of all property which is offered, or to be offered, for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant for the common use of the property owners of the subdivision.
- d). Construction Detail Sheets shall show the following information, except that where requirements have been waived, applicable specifications may be omitted.
 - i). Profiles showing existing and proposed elevations along the center lines of all streets. Where a proposed street intersects an existing street or streets, the elevation along the center line of the existing street or streets, within 100 feet of the intersection, shall be shown. All elevations must be referred to established U.S. Government or approved local bench marks, where they exist within one-half mile of the boundary of the subdivision.
 - ii). The ZEO may require, where steep slopes exist, that present elevations of all proposed streets shall be shown every 100 feet at five points on a line at right angles to the center line of the street, and said elevation points shall be at the center line of the street, each property line, and points 30 feet inside each property line.
 - iii). Plans and profiles showing the location and a typical section of street pavements, including curbs and gutters, sidewalks, manholes, and catch basins; the locations of street trees, street lighting standards and street signs; the location, size, and invert elevations of existing and proposed sanitary sewers, storm water drains, and fire hydrants; and the exact location and size of all water, gas, or other underground utilities or structures.



VII. Variances

A. Hardship

1. Where the applicant finds that compliance with these regulations would cause unusual hardship or extraordinary difficulties because of exceptional and unique conditions of topography, access, location, shape, size, drainage, other physical features of the site, the minimum requirements of the regulations may be modified to mitigate the hardship; provided that the public interest is protected.
2. Only the Planning Commission may grant a variance of the Subdivision Ordinance.
3. No such modifications may be granted if it would have the effect of nullifying the intent and purpose of the Unified Development Code, the Comprehensive Plan, or these regulations.

B. Large Scale Development

1. The standards and requirements of these regulations may be modified by the Planning Commission in the case of a plan and program for neighborhood unit or similar large-scale development which, in its judgement, provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan. This plan should conform to Planned Development Districts pursuant to the Unified Development Code.

C. Unnecessary or Inappropriate Improvements

1. The Planning Commission may waive the requirements for such subdivision improvements as, in its judgement of the special circumstances of a particular plat or plats, are not requisite in the interest of the public healthy, safety, and general welfare.
2. The Planning Commission may also waive the requirements for such subdivision improvements as, in its judgement of the special circumstances of a particular plot or plots, are inappropriate because of inadequacy or lack of connecting facilities adjacent to or in proximity to the subdivision.

D. Conditions to Waivers and Modifications

1. In granting waivers or modifications, the Planning Commission may require such reasonable conditions as will in its judgement secure substantially the objectives of the standards or requirements so waived or modified.



VIII. Enforcement, Remedies & Penalties

A. Building Permits

1. No permit for the erection of any building shall be issued unless a street or highway giving access to such proposed structure is an existing public street or highway, or unless such street appears on a recorded plot approved by the ZEO.
2. No such permit shall be issued unless such street or highway has been suitably improved or, alternatively, where a performance bond has been posted to cover the full cost of such improvement.

B. Improvement in Streets

1. No public municipal street utility or improvement shall be constructed by the County in any street or highway until it has become a public street or highway or has been offered for public dedication and appears on a recorded plot approved by the ZEO, unless a public easement satisfactory to the County is obtained for such utility or improvement.
2. Subject to the discretion of the County, a subsurface utility or improvement operated from revenue by the County, or by a public service district, may be constructed in a private street, provided a public easement satisfactory to the County is obtained for such utility or improvement.

C. Injunction

1. The ZEO may institute a suit for injunction in the County Circuit Court to restrain an individual or a governmental unit from violating the provisions of this Ordinance.
2. The ZEO may institute a suit for a mandatory injunction directing an individual or a governmental unit to remove a structural erected in violation of the provisions of this Ordinance.

D. Penalty

1. A person who violates any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than ten dollars (\$10.00) and not more than three hundred dollars (\$300.00).

IX. Validity

A. Provisions Supplemental

1. The provisions of this ordinance are supplemental to and do not abrogate the powers extended to agencies, bureaus, departments, commissions, divisions, or officials of the State Government by other State statute and these powers shall remain in full force and effect. Powers of supervision and regulation by such divisions of the State government over the County and other local governmental units, individuals, firms or corporations also are not abrogated and shall continue in full effect.
2. Wherever the regulations of this ordinance require higher standards than are required in any other statute or local ordinance or regulation, the provisions of this ordinance shall govern. Whenever the provisions of any other statute or local ordinance or regulation require higher standards than are required by the regulations of this ordinance, the provision of such statute or local ordinance or regulation shall govern.



B. Severability

1. The provisions of this ordinance are considered severable, and if any provisions are found to be unconstitutional, the remainder shall have full force and effect.

C. Effective Date

1. This ordinance shall be in full force and effect from and after its passage, approval, and publication as required by law.

X. Landscaping and Screening

- A. Refer to Article 9003 for landscaping and screening requirements. *Amended on May 8, 2009*.¹

1. Amended 5/8/09 - See; References "Section 7 - Article 7000" page 7-21.



REFERENCES

Section 7 - Article 7000

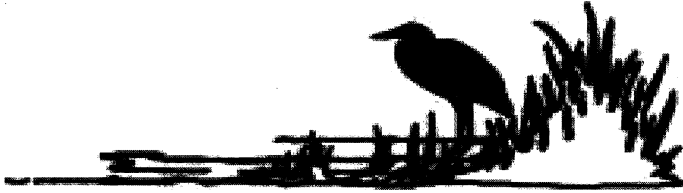
7001 Subdivision Regulations

1. Article 7001 Subdivision Regulations, Subsection X,a. - Pg.7-20
Added, a, " Additional Regulations, refer to ARticle 9003 for landscaping and screening requirements. *Approved by the Fayette County Commission May 8 , 2009.*



Fayette County Unified Development Code

Fayette County, West Virginia



Section 8 - Article 8000

Planned Development Districts



SECTION EIGHT: ARTICLE 8000 – PLANNED DEVELOPMENT DISTRICTS

8001 PRD Planned Residential Development

I. Intent, Where Permitted

PRD districts may hereafter be established by amendment to the zoning map in accordance with the provisions of this ordinance and with densities and uses in locations in accordance with the recommendations of the Comprehensive Plan for Fayette County.

The PRD is intended to encourage sensitivity towards the natural characteristics of the site and toward impacts on the surrounding area in land development. More specifically, the PRD is intended to promote economical and efficient land use, an improved level of amenities, appropriate and harmonious physical development, and creative design consistent with the best interest of the County and the planning district in which it is located.

To these ends, the PRD provides for flexibility and variety of development for residential purposes and uses ancillary thereto. Open space may serve such varied uses as recreation, protection of areas sensitive to development, buffering between dissimilar uses and preservation of agricultural activity.

II. Permitted Uses

The following uses shall be permitted subject to the requirements and limitations to this ordinance:

- A. Detached single-family dwellings.
- B. Semi-detached and attached single-family dwellings such as duplexes, triplexes, quadruplexes, townhouses, atrium houses, and patio houses provided that density is maintained, and provided further that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall.
- C. Multiple-family dwellings.
- D. Parks, playgrounds, community centers, and non-commercial recreational and cultural facilities such as tennis courts, swimming pools, game rooms, libraries and the like.
- E. Electric, gas, oil, and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters, and related facilities for distribution of local service. Water distribution and sewage collection lines, pumping stations, and appurtenances owned and operated by any Public Service District. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with the Public Service Commission (PSC) and the Fayette County Health Department.
- F. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds, and roads funded, owned or operated by local, state or federal agencies; public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by a Public Service District.
- G. Accessory uses.



III. Special Use Permits

The following uses shall be permitted only by special use permit, provided that no separate application shall be required for any such use as shall be included in the original PRD rezoning petition:

- A. Home Occupations.
- B. Storage facilities.
- C. Day care, childcare or nursery.
- D. Fire and rescue squad stations.
- E. Rest home, nursing home, convalescent home, orphanage or similar institution.
- F. Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances; unmanned telephone exchange centers; microwave and radio-wave transmission and relay towers, substations and appurtenances.
- G. Churches.
- H. Parking structures located wholly or partly above grade.
- I. Swim, golf, tennis or similar athletic facilities.
- J. Temporary construction uses.
- K. Professional offices.

IV. Residential Densities

The gross residential densities permitted in any PRD district shall be shown on the approved application plan. This shall be binding upon its approval. The overall gross density so approved shall be determined by the County Commission with reference to the comprehensive plan, but shall, in no event, exceed the density prescribed in the underlying zoning district.

V. Minimum Area Required for Establishment of District

- A. Minimum area required for the establishment of a PRD district shall be five (5) acres.
- B. Additional area may be added to an established PRD district if it adjoins and forms a logical addition to the approved development. The procedure to an addition shall be the same as if an original application was filed, and all requirements shall apply except the minimum acreage requirements of section.

VI. Minimum Area Requirements for Common Open Space and Recreational Uses

Not less than twenty-five (25) percent of the area devoted to residential use within any PRD shall be in common open space and recreational uses except as hereinafter expressly provided.



VII. Recreational Area Requirements

In the case of any proposed PRD having more than three hundred (300) acres and a gross residential density of not more than two (2) dwelling units per acre, the County Commission may waive the provision of common open space and recreation area as herein above required provided that not less than thirty-five (35) percent of the gross area of such proposed PRD shall be devoted solely to agriculture (as defined in Section 1002 of this Ordinance). For purposes of this section only, the term "devoted solely to agriculture" shall be deemed to include not more than one (1) dwelling unit, which shall be included in the determination of the gross density of the PRD.

VIII. Height Regulations

Structures may be erected to a height not to exceed forty (40) feet; provided that any structure exceeding thirty (30) feet in height shall be set back from any street right-of-way or single-family residential or agricultural district; in addition to maximum yard requirements, a distance of not less than two (2) feet for each one (1) foot of height in excess of thirty (30) feet.

IX. Building Separation

There shall be a minimum of thirty (30) feet between main structures.

X. Setback and Yard Regulations

- A. Structures to be located on the outer perimeter of a PRD district shall conform to the setback and yard regulations at time of establishment of such district.
- B. Within the PRD district, the Planning Commission shall establish minimum setback and yard requirements at time of establishment of such district.

XI. Minimum Off-Street Parking Regulations

The Planning Commission shall establish off-Street parking and loading space requirements.

XII. Sign Regulations

Sign regulations shall be prescribed in Article 9000.



8002 PUD Planned Unit Development

I. Intent, Where Permitted

PUD districts may hereafter be established by amendment to the zoning map in accordance with the provisions set forth in this Article and with densities and uses in locations in accordance with recommendations of the Comprehensive Plan for Fayette County. As described by the comprehensive plan, PUD districts are intended to serve as neighborhood or mini-neighborhoods within designated communities and the urban area. Additionally, PUD districts may be appropriate where the establishment of a "new village" or the nucleus of a future community exists and where the PUD development would not preclude the achievement of the County's objectives for the planning districts.

In order to encourage the community function, appropriate commercial uses are provided in addition to a variety of residential uses. It is intended that commercial development may be limited to a scale appropriate to the support of the residential uses within the PUD; provided that additional commercial activity may be permitted upon a finding that the area in which the PUD is to be located is not adequately served by such use.

It is intended that these regulations provide flexibility in residential development by providing for a mix of residential uses with appropriate nonresidential uses, alternative forms of housing, and flexibility in internal relationships of design elements.

II. Uses - Residential

Within areas approved as residential on the application plan, permitted uses shall be as follows:

A. Permitted Uses:

The following uses shall be permitted subject to the requirements and limitations to this ordinance:

1. Accessory uses.
2. Detached single-family dwellings.
3. Electric, gas, oil, and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters, and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewage collection lines, pumping stations, and appurtenances owned and operated by a Public Service District. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with the Public Service Commission and Fayette County Health Department.
4. Multiple-family dwellings.
5. Parks, playgrounds, community centers, and non-commercial recreational and cultural facilities such as tennis courts, swimming pools, game rooms, libraries and the like.
6. Public uses and buildings including temporary or mobile facilities such as schools, offices, parks, playgrounds, and roads funded (owned or operated by local, state or federal agencies); public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like (owned and/or operated by a Public Service District).



7. Semi-detached and attached single-family dwellings such as duplexes, triplexes, quadrplexes, townhouses, atrium houses, and patio houses provided that density is maintained, and provided further that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall.

B. Special Permit Uses:

The following uses shall be permitted only by special use permit, provided that no separate application shall be required for any such use as shall be included in the original PUD rezoning petition:

1. Churches.
2. Day care, child care or nursery facility.
3. Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances; unmanned telephone exchange centers; microwave and radio-wave transmission and relay towers, substations and appurtenances.
4. Fire and rescue squad stations.
5. Home Occupations.
6. Parking structures located wholly or partly above grade.
7. Rest home, nursing home, convalescent home, orphanage or similar institution.
8. Storage buildings.
9. Temporary construction uses.

III. Uses – Commercial/Service

Within areas approved as commercial/service on the application plan, permitted uses shall be as follows:

A. Permitted Uses:

The following uses shall be permitted subject to the requirements and limitations to this ordinance:

1. Uses permitted by right in sections R-5, R-8 and R-12.
2. Uses permitted by right in sections O-1, B-1 and B-2.

B. Special Permit Uses:

The following uses shall be permitted only by special use permit, provided that no separate application shall be required for any such use as shall be included in the original PUD rezoning petition:

1. Uses permitted by special permit in sections R-5, R-8 and R-12.
2. Uses permitted by special permit in sections O-1, B-1 and B-2.



IV. Minimum Area Required for Establishment of District

- A. Minimum area required for the establishment of a PUD district shall be fifty (50) acres.
- B. Additional area may be added to an established PUD district if it adjoins and forms a logical addition to the approved development. The procedure to an addition shall be the same as if an original application was filed.

V. Regulations Governing Residential Areas

- A. Residential Density:
 - 1. The gross and net residential densities permitted in any PUD district shall be shown on the approved application plan; therefore, which shall be binding upon its approval.
 - 2. The overall gross density so approved shall be determined by the County Commission with reference to the comprehensive plan, but shall, in no event, exceed the density of the underlying zoning district.
- B. Minimum Area Requirements For Open Space/Recreation:
 - 1. Not less than twenty-five (25) percent of the residential area of any PUD shall be in open space/recreation.
- C. Height Regulations:
 - 1. Structures may be erected to a height not to exceed forty (40) feet; provided that any structure exceeding thirty-five (35) feet in height shall be set back from any street right-of-way or single-family residential or agricultural district; in addition to maximum yard requirements, a distance of not less than two (2) feet for each one (1) foot of height in excess of thirty-five (35) feet.
- D. Building Separation:
 - 1. There shall be a minimum of thirty (30) feet between main structures.
- E. Setback And Yard Regulations:
 - 1. Structures to be located on the outer perimeter of a PUD district shall conform to the setback and yard regulations of the adjoining district. With the PUD district, the Planning Commission shall establish a minimum setback and yard requirements at time of establishment of such district.



VI. Regulations Governing Commercial/Service Areas

- A. Commercial/service areas are intended to be of a scale, character, and location appropriate provided convenience services primarily for the residents of the PUD district. To this end, where practical, commercial/service area shall be internally oriented and separated from dissimilar areas surrounding the PUD district. External vehicular access shall be discouraged and internal pedestrian access shall be encouraged. Total commercial/service area shall be based on dwellings served. Individual establishments shall be limited in size to avoid the impression of general commercial development.
- B. Commercial/service area shall comply with the requirements of O-1, B-1 and B-2 districts. For such areas as may be located on the perimeter of a PUD district, the Planning Commission shall be particularly mindful of the intent to protect the character of adjoining development.
- C. The total gross floor area of uses permitted in commercial/service areas shall not exceed twenty (20) square feet per dwelling unit approved on the application plan. Outdoor display service or sales areas shall be included in gross floor area calculations. For gasoline service stations, each fuel pump shall count as two hundred (200) square feet of gross floor area and all service bays shall be included in gross floor area calculations. No individual commercial establishment shall have a gross floor area in excess of five thousand (5000) square feet.
- D. Building permits for commercial/service uses shall not be issued prior to issuance of building permits for eighty (80) percent of the dwelling units approved on the application plan.

VII. Minimum Off-Street Parking Regulations and Loading Space Requirements

Off-Street parking and loading space requirements shall be in accordance with the requirements of the underlying zoning district.

VIII. Sign Regulations

Sign regulations shall be prescribed in Article 9000.



8003 PD-IP Planned Development-Industrial Park

I. Purpose and Intent

PD-IP districts are hereby created and may hereafter be established by amendment to the zoning map to permit a variety of industrial uses, together with certain uses ancillary thereto, which are compatible with and do not detract either from each other or from surrounding districts. It is intended that PD-IP districts may be established in areas in conformity with the comprehensive plan and having all of the following characteristics:

- A. Areas served by water and sewer facilities, or if such facilities are reasonably available;
- B. Areas served by major highway, rail or air service, or secondary roads improved to standards approved by the West Virginia Division of Highways; and
- C. Areas having clearly demonstrated suitability for intended uses with regard to physical characteristics and relationship to surrounding development.

In the establishment of any PD-IP district, the County Commission shall designate the category of uses, which shall be permitted in each parcel, or part thereof, which is the subject of the application for such amendment.

II. Permitted Uses

A. Category I:

The following uses shall be permitted in any area designated as Category I on the approved application plan:

- 1. Permitted uses shall include uses permitted by right in the L-I light industry district.

B. Category II:

The following uses shall be permitted in any area designated as Category II on the approved application plan:

- 1. Uses permitted by right shall include uses permitted by right in the L-I light industry district and the H-I heavy industry district.

III. Special Permitted Uses

A. Category I:

The following uses shall be special permitted uses provided that no separate application shall be required for any use included on the approved application plan:

- 1. Uses permitted by special use permit in the L-I light industry district.
- 2. Hotels, motels, inns.

B. Category II:

The following uses shall be special permitted uses provided that no separate application shall be required for any such use included on the approved application plan:

- 1. Uses by special use permit shall include uses permitted by special use permit in the L-I light industry district and the H-I heavy industry district; provided that no separate application shall be required for any use included on the approved application plan.



IV. Use Limitations

- A. The number of permitted uses shall not exceed the total number of acres within the district divided by ten (10).

V. Lot Size Requirements

- A. Minimum Area Required for a District:
1. Minimum area required for creation of a PD-IP district shall be fifty (50) acres; provided, however that when an initial PD-IP district has been created, incremental additions to such district shall be permitted if such incremental addition adjoins and forms a logical addition to the existing district.

VI. Bulk Regulations

None.

VII. Maximum Density

None.

VIII. Open Space

None.

IX. Additional Regulations

- A. Transportation Analysis:
1. A transportation analysis plan shall be submitted with the application for PD-IP district designation. Such plan shall show: projected automobile and truck traffic generation; percent of truck traffic by type; internal and access point turning movement; general alignments of internal roads; rights-of-way widths and roadway typical sections including base strength designs; proposed improvements to the existing transportation network; percentage estimate of traffic distribution to and from the site on external roads; and bus and car pool programs, if any.
- B. Phasing Plan:
1. The phasing of improvements enumerated in this section shall be indicated on the plan.
- C. Site Planning:
1. Site planning within the district shall provide for the protection of individual sites from surrounding adverse influences. Site planning shall also provide for the protection of surrounding areas from adverse influences within the district.
- D. Parking and Loading Requirements:
- None.
- E. Vehicular Access:
1. Vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic.



Pavement widths and strengths of both internal and external roads shall be adequate to accommodate projected traffic generated from the district.

F. Utility Requirements:

1. All utilities shall be placed underground.

G. Performance Standards:

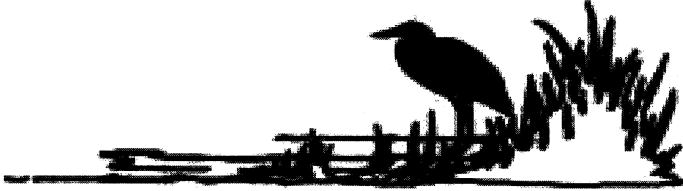
1. Each future occupant of an industrial character shall submit to the Zoning Enforcement Officer a certified engineer's report describing the proposed operation, all machines, processes, products and by-products, stating the nature and expected levels or emission or discharge to land, air and/or water or liquid, solid or gaseous effluent and electrical impulses and noise under normal operations, and the specifications of treatment methods and mechanisms to be used to control such emission or discharge. The Zoning Enforcement Officer shall review the applicant's submittal and make comments and recommendations prior to final Commission action on the proposal.
2. All uses shall comply with Performance Standards set forth in Article 9001.
3. Refer to Article 9002 for regulations on signs.
4. Refer to Article 9003 for landscaping and screening requirements.

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Section 9 - Article 9000

Development Standards



SECTION NINE: ARTICLE 9000 – DEVELOPMENT STANDARDS

9001 Performance Standards

I. General Provisions

A. Applicability:

1. No permitted or special permit use hereafter established, altered, modified, or enlarged shall be operated or designed so as to conflict with the applicable performance standards established by this Article, except as qualified in Sect. A. 2. below.
2. Any existing use that complies with the applicable performance standards of this Article on the effective date of this Ordinance shall continue to so comply. If, at such time, the operations of any lawful existing use violate any of the applicable performance standards of this Article, such operations shall not be varied or changed in such a way as to increase the degree of such violation.
3. Any use which is a lawful nonconforming use, and which on the effective date of this Ordinance complies with the applicable performance standards of this Article, shall continue to comply. If, at such time, the operations of such lawful, nonconforming use violate the specified standards, such operations shall not be varied or changed in such a way as to increase the degree of such violation.
4. Residential use of certain sites may not be economically feasible in some predominately, moderate-density, residential areas that are within or near town centers, are near business districts, or lie along commercial motorways;

B. Administration of Certain Performance Standards:

1. For the purpose of administering the required performance standards relative to Vibration and Glare, the standards are presented in two (2) basic groups, namely: Group I and Group II. Table IV sets forth the applicable performance standard that must be met in each zoning district.

II. Noise Standards

All noise shall be muffled so as not to be objectionable due to intermitting, beat frequency or shrillness. Noise levels shall not exceed the following sound levels dB (a). The sound-pressure level shall be measured at the property line with a sound level meter.

The following sources of noise are exempt:

- A. Transportation vehicles not under the control of the industrial use.
- B. Occasionally-used safety signals, warning devices, and emergency pressure relief valves.
- C. Temporary construction activity between 7:00 am and 7:00 pm.

Sound Measured In:	7AM – 6 PM (Day)	6PM – 7AM (Night)
Adjoining Rural Agricultural Districts	–	–
Residential Uses in Residential Districts	65 dB(A)	55 dB(A)
Commercial Uses	70 dB(A)	60 dB(A)
Light Industrial Uses adjacent to Noise Source	85 dB(A)	80 dB(A)



III. Glare Standards

A. Required Performance Level:

All uses, operations, and activities shall be conducted so as to comply with the performance standards governing glare prescribed below.

B. Method of Measurement:

Illumination levels shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination.

C. General Requirements:

Uses subject to Group I and Group II standards shall not produce glare so as to cause illumination in Residential Districts in excess of 0.5 foot candles. Flickering or bright sources of illumination shall be controlled so as not to be a nuisance in Residential Districts.

D. Group I and Group II Standards

Uses subject to Group I and Group II standards shall limit the use of light sources and illuminated surfaces which are located in or are within 500 feet of and visible within any Residential District so as to comply with the light intensities indicated in Table 1 below.

Table 1: Maximum Intensity of Light Sources

SOURCE	INTENSITY	
	Group I	Group II
Bare incandescent bulbs	15 watts	40 watts
Illuminated buildings	15 ft. candles	30 ft. candles
Back lighted or luminous background signs	150 ft. lamberts	250 ft. lamberts
Outdoor illuminated signs and poster panels	25 ft. candles	50 ft. candles

Table 2: Required Performance Standards (Group I or Group II)

TOPIC	ZONING DISTRICT		
	All R Districts	R-O, O-1	O-2, B-L, B-M
Glare	I	I	II



9002 Sign Ordinance

I. Sign Regulations by Use and District

All signs require a sign permit by the provisions of the following regulations. The following regulations are based on the zoning district in which the use and accessory sign are located, the use itself, and the location of the use.

A. Residential, Single Family Uses:

The following regulations shall apply to all signs, which are accessory to single family residential uses, to include single family detached, single family attached, and mobile home dwellings.

1. Unless otherwise stated, or safety is compromised, permitted signs may be located anywhere on the lot to which the sign is an accessory.
2. Building-mounted signs may be permitted; however, such signs shall be flush against the building and shall not exceed a height of ten (10) feet above grade.
3. Illumination, if used, shall be white and not colored. All illumination shall be in conformance with the performance standards for glare set forth in Article 9001.
4. Freestanding signs, which identify the name of a single family residential subdivision or development, shall be permitted at each major entrance thereto. Such signs shall not exceed thirty (30) square feet in area or eight (8) feet in height. More than one (1) sign may be placed at each major entrance; however, the aggregate area of all such signs shall not exceed thirty (30) square feet at each entrance.

B. Residential, Multiple Family Uses:

1. Unless stated otherwise, or safety is compromised, permitted signs may be located anywhere on the lot of the use to which the sign is an accessory.
2. Building-mounted signs identifying the name of the building and the address shall be permitted. Such signs shall be flush against the building and shall not exceed twelve (12) square feet in area per building nor be located at a height exceeding thirty (30) feet above grade.
3. Illumination, if used, shall not be blinking, fluctuating, or moving. Light rays shall shine only on the sign or upon the property within the premises and shall not spill over the property line in any direction except by indirect reflection.
4. Freestanding signs, which identify the name of a multiple family development, shall be permitted at each major entrance thereto. Such signs shall not exceed thirty (30) square feet in area or eight (8) feet in height. More than one (1) sign may be placed at each major entrance; however, the aggregate area of all such signs shall not exceed thirty (30) square feet at each major entrance.
5. In addition to the signs permitted above, each multiple family development shall be permitted one (1) sign identifying a rental office. Such sign shall not exceed four (4) square feet in area and shall not exceed four (4) feet in height or be located closer than five (5) feet to any lot line.



C. Commercial Uses-General:

The following regulations shall apply to all signs, which are accessory to permit and special permit uses, located in the Planned Unit Development District. The provisions set forth in Sections D and E below supplement the regulations of this section.

1. Building-mounted signs may be located anywhere on the surface of the walls or roof of the building, but no part of any sign shall extend above or beyond the perimeter of the building wall, parapet wall, or roof, except as permitted by Par. 2 below. No sign shall be located on a chimney, flue, antenna, monopole, transmission tower or cable, smoke-stack, or other similar rooftop structure or mechanical appurtenance. A sign may be mounted flat against a rooftop penthouse wall or rooftop screening wall which is an integral architectural element of the building through the continuation of materials, color, and design exhibited by the main portion of the building. Such signs shall conform to the following:
 - a). No part of the sign shall extend above or beyond the perimeter of the penthouse wall or screening wall to which it is attached or project outward from the penthouse wall or screening wall.
 - b). The sign shall not extend more than twelve (12) feet above the lowest point of the wall and shall be limited to identification signs consisting of an organizational logo and/or the name of a company or premises.
2. A building-mounted sign may extend beyond the wall of a building when such sign is erected at a right angle to the wall, does not extend into the minimum required yard, and is not located closer than two (2) feet to any street line.
3. Signs may be located on the vertical face of a marquee, but no part of the sign shall extend above or below the vertical face. The bottom of a marquee sign shall be no less than ten (10) feet above a walkway or grade, at any point.
4. Unless further restricted by the provisions that follow, no freestanding sign shall exceed a height of twenty (20) feet.
5. Freestanding signs, where permitted, shall in no instance project beyond any property line or be within five (5) feet of the curb line of a service drive, travel lane, or adjoining street, provided the sign does not interfere with site distance of an on-coming vehicle.
6. Illumination of signs shall be in conformance with the performance standards for glare as set forth in Article 9001.
7. Signs shall be limited to identifying or advertising the property, the individual enterprises, the products, services, or the entertainment available on the same property where the sign is located.
8. Building-mounted signs on buildings housing only one (1) tenant or multiple tenants that access the building via a common outside entrance(s) shall not exceed one and one-half (1 ½) square feet of sign area for each of the first 100 linear feet of building frontage plus one (1) square foot of sign area for each linear foot over 100 linear feet of building frontage. No one sign, however, shall have a sign area in excess of 200 square feet.



9. Building-mounted signs on buildings housing more than one (1) tenant where each tenant has its own outside entrance(s) shall not exceed one and one-half (1 ½) square feet of sign area for each linear foot of building frontage occupied by each tenant. The maximum allowable sign area for any one tenant, however, shall not exceed a total of 200 square feet, except that a tenant, which has building frontage that results in an allowable sign area greater than 200 square feet and occupies an area with more than one perimeter wall containing a main entrance for use by the general public, may place a maximum of 200 square feet of allowable sign area on each such perimeter wall; however, in no instance shall the square footage of sign on any such wall exceed one and one-half (1 ½) times the length of such wall.
10. A shopping center shall be permitted one (1) freestanding sign; provided, however, that a shopping center with frontage on two (2) or more major thoroughfares may have one (1) freestanding sign for each frontage on a major thoroughfare with a maximum of two (2) such signs. No freestanding sign(s), other than those noted above shall be permitted for individual enterprises located within or on the same lot with a shopping center.
11. Service stations may be allowed (1) additional square foot of sign area on each gasoline pump for the sole purpose of identifying the specific product dispensed from that pump.
12. Notwithstanding the provisions of this Ordinance, motor vehicle fuel price signs shall be permitted and the sign area of such sign(s) shall not be computed in the maximum sign area permitted by this Ordinance.
13. The following signs are permitted as accessory to office parks:
 - a). One (1) freestanding sign may be erected at each major entrance to an office park. Such sign(s) shall identify the name of the office park. No such sign shall exceed forty (40) square feet in area or twenty (20) feet in height or be located closer than ten (10) feet to any street line.
 - b). One (1) freestanding building identification sign may be permitted for each detached building which houses a principal use within an office park. Such sign(s) shall be limited to identifying the name of the building and/or the individual enterprises located therein, the address, trademark, or identifying symbol or any combination thereof. No such sign shall exceed twenty (20) square feet in area, eight (8) feet in height, or be located closer than ten (10) feet to any lot line.
 - c). One (1) freestanding on-site directory sign may be permitted in close proximity to each major entrance of an office park. Such sign(s) shall be limited to identifying and providing directional information to the individual enterprises located within the office park. No such sign shall exceed fifteen (15) square feet in area, eight (8) feet in height, or be located closer than ten (10) feet to any street line.
14. Hospitals shall be permitted one (1) freestanding sign at each entrance. No freestanding sign shall exceed eighty (80) square feet in area, twelve (12) feet in height, or be located closer than five (5) feet to any lot line. Hospitals shall also be permitted one (1) building-mounted sign for each building entrance for the purpose of identifying a hospital function. No such sign shall exceed fifty (50) square feet in area.



D. Commercial Uses with Frontage on Primary Highways and Major Thoroughfares:

The following regulations shall supplement the provisions set forth in Sect. C above and shall apply to all uses located on commercially zoned lands which have frontage on a primary highway or on a major thoroughfare as shown on the adopted comprehensive plan.

1. Building-mounted signs shall be limited to the sign area as specified in Sect. C above.
2. An individual enterprise, which is not located within or on the same lot with a shopping center, shall be permitted one (1) freestanding sign. Such sign shall be limited to a maximum sign area of eighty (80) square feet.
3. Shopping centers shall be permitted freestanding signs in accordance with the provisions of Par. 10 of Sect. C above. Such signs shall be limited to a maximum sign area of eighty (80) square feet.
4. Office parks shall be permitted freestanding signs in accordance with the provisions of Sect. C above.
5. Hospitals shall be permitted signs in accordance with Sect. C above.

E. Commercial Uses in Other Commercial Areas:

The following regulations shall supplement the provisions set forth in Sect. C above and shall apply to all uses located on commercially zoned lands or which do not have frontage on primary highway or on a major thoroughfare, except as provided in Sect. F below.

1. Building-mounted signs shall be limited to the sign area as specified in Sect. C above.
2. No individual enterprise shall be permitted a freestanding sign.
3. Shopping centers shall be permitted freestanding signs in accordance with the provisions of Sect. C above. Such signs shall be limited to a maximum sign area of eighty (80) square feet.
4. Office parks shall be permitted freestanding signs in accordance with the provisions of Sect. C above.
5. Hospitals shall be permitted signs in accordance with the provisions of Sect. C above.

F. Special Permits:

The following regulations shall apply to signs accessory to all uses, which require approval of a special permit. In addition, the regulations shall apply to signs accessory to such uses where they are permitted by right and to existing such uses which were established prior to the effective date when a special permit was required for a given use in a given zoning district. The BZA, in approving a special permit use, may specify the area, height, color, or illumination of a sign accessory to such a use; but in no event shall the area or height of a sign exceed the limits prescribed below.

1. In all Commercial Districts, Industrial Districts, and commercial areas of the Planned Development Districts, signs accessory to special permit uses shall be subject to the applicable provisions set forth in Sections C, D, E, and F.
2. In all Residence Districts and the residential areas of all Planned Development Districts, signs accessory to special permit uses shall be subject to provisions set forth in the paragraphs that follow. Illumination, if used, shall be white and not colored. All illumina-



tion shall be in conformance with the performance standards for glare as set forth in Article 9001. Building-mounted signs shall be flush against the building and shall not extend above or beyond the perimeter of the wall or roof of the building to which they are attached.

- a). Airports and heliports may be permitted:
 - i). Building-mounted signs not to exceed a combined total sign area of fifty (50) square feet, and
 - ii). One (1) freestanding sign, not to exceed a sign area of forty (40) square feet or eight (8) feet in height. No such sign shall be located closer than ten (10) feet to any lot line.
- b). Churches, chapels, synagogues, and other such places of worship including schools, monasteries, and seminaries directly affiliated with such uses may be permitted:
 - i). Building-mounted signs not to exceed a combined total sign area of fifty (50) square feet, and
 - ii). One (1) freestanding sign, with or without a reader board, not to exceed a sign area of forty (40) square feet or eight (8) feet in height. No such sign shall be located closer than ten (10) feet to any lot line.
- c). Convenience centers may be permitted one (1) building-mounted sign not to exceed twelve (12) square feet.
- d). Country clubs, colleges, universities, all medical care facilities which have a capacity of fifty (50) beds or more, except hospitals, cultural centers, museums, and housing for the elderly may be permitted:
 - i). Building-mounted signs not to exceed a combined total sign area of fifty (50) square feet, and
 - ii). One (1) freestanding sign not to exceed a sign area of forty (40) square feet or eight (8) feet in height. No such sign shall be located closer than ten (10) feet to any lot line.
- e). Establishments for scientific research and development may be permitted:
 - i). Building-mounted signs not to exceed a combined total sign area based on one (1) square foot for each one (1) linear foot of building frontage, and
 - ii). One (1) freestanding sign not to exceed a sign area of forty (40) square feet or eight (8) feet in height. No such sign shall be located closer than fifty (50) feet to any lot line.
- f). Funeral chapels may be permitted:
 - i). One (1) building-mounted sign not to exceed a sign area of fifteen (15) square feet.



- ii). One (1) freestanding sign not to exceed a sign area of twelve (12) square feet or five (5) feet in height. No such sign shall be located closer than ten (10) feet to any lot line.
- g). Hospitals shall be permitted one (1) freestanding sign at each entrance. No free-standing sign shall exceed eighty (80) square feet in area or twelve (12) feet in height, or be located closer than five (5) feet to any lot line. Hospitals shall also be permitted one (1) building-mounted sign for each building entrance for the purpose of identifying a hospital function. No such sign shall exceed fifty (50) square feet in area.
- h). Parking in Residential Districts may be permitted one (1) sign not to exceed a sign area of four (4) square feet.
- i). Temporary farmers markets may be permitted one (1) sign.
- j). Any other use located in structures that have the exterior appearance of a single family detached dwelling may be permitted one (1) sign, either building-mounted or freestanding. Such sign shall not exceed six (6) square feet in area.
 - i). If building-mounted, such sign shall not exceed a height of ten (10) feet above grade.
 - ii). If freestanding, standing, such sign shall not exceed a height of four (4) feet or be located closer than ten (10) feet to any lot line.
- k). Any other use located in structures that do not have the exterior appearance of a single family detached dwelling and uses which are predominantly outdoor uses such as golf courses, marinas, and cemeteries may be permitted one (1) building-mounted sign and one (1) freestanding sign. No such sign shall exceed a sign area of twelve (12) square feet and the combined total sign area for a given use shall not exceed twenty (20) square feet.
 - i). If building-mounted, such sign shall not exceed a height of twenty (20) feet above grade.
 - ii). If freestanding sign shall not exceed a height of ten (10) feet or be located closer than ten (10) feet to any lot line.

G. Accessory Service Uses:

Accessory service uses shall be permitted one (1) building-mounted sign not to exceed fifteen (15) square feet in area for all such uses in a given building. Such signs shall be calculated as part of the sign area permitted for the building by the provisions of this Article.

H. Uses In Planned Development Districts (PD):

The provisions set forth in the preceding Sections shall be applicable to signs accessory to uses in the PD Districts. However, in keeping with the intent to allow flexibility in the design of planned developments, the following options may be applicable to signs in the PD Districts.

1. As an alternative, signs may be permitted in the PD Districts in accordance with a comprehensive plan of signs subject to the approval of the Planning Commission following a public hearing. The comprehensive plan of signs shall show the location, size, height,



and extent of all proposed signs within the PD Districts or section thereof as well as the nature of the information to be displayed on the sign.

2. Any application submitted pursuant to Par. 1 above may be made by any property owner, owner of an easement, lessee, contract purchaser, or their agent. Such application shall be accompanied by a statement setting forth the names of the record owners of the properties upon which such signs are proposed to be located. When such application requests permission to erect a sign on property owned by someone other than the applicant, then such application shall be accompanied by a written statement signed by the record owners of such properties which indicates their endorsement of application.
3. All proposed signs shall be in scale and harmonious with the development and shall be so located and sized as to ensure convenience to the visitor, user, or occupant of the development while not adding to street clutter or otherwise detracting from the planned unit nature of the development and the purposes of architectural and urban design elements.

II. Billboard Regulations by Use and District

Billboards shall not be permitted anywhere in the County except within view of Interstate 77.

III. Tourist Oriented Directional Signs

- A. Purpose and Application.
- B. Design.
- C. Style and Size of Lettering.
- D. Arrangement and Size of Signs.
- E. Advance Signing.
- F. Sign Locations.
- G. State Policy.



9003 Landscaping and Screening

I. General Provisions

A. Purpose and Intent

The purpose and intent of this article is to preserve and promote the health, safety, and general welfare of the public; to facilitate the creation of a convenient, attractive, and harmonious community; to conserve natural resources including adequate air and water; to conserve properties and their values; to preserve the character of an area by preventing the harmful effects of prejudicial uses; and to encourage the appropriate use of land. More specifically this Article is intended to make incompatible uses compatible by requiring a screen or buffer between the uses in order to minimize the harmful impact of noise, dust, and other debris, motor vehicle headlight glare or other artificial light intrusion, and other objectionable activities or impacts conducted on or created by an adjoining or nearby use. Additionally, this Article is intended to require the landscaping of certain parking lots in order to reduce the harmful effects of wind and air turbulence, heat and noise, and the glare of motor vehicle lights; to preserve underground water reservoirs and to permit the return of precipitation to the ground water strata; to act as a natural drainage system and ameliorate storm water drainage problems; to reduce the level of carbon dioxide and return pure oxygen to the atmosphere; to prevent soil erosion; to provide shade; and to enhance the blighted appearance of parking lots. Additionally, this Article is intended to require the preservation and planting of trees on sites to provide a specified percentage of tree cover in ten years.

B. Applicability:

The provisions of this Article shall apply to all development.

C. Administration:

The Zoning Enforcement Officer shall be responsible for the administration of this Article.

D. Standards:

The following standards shall apply to the preservation, installation, and maintenance of all landscaping, tree cover, screening, and barriers required by the provisions of this Article.

1. All trees required by the provisions of this Article shall be a minimum of six (6) feet in overall height at the time of planting.
2. Generally, planting required by this Article should be in an irregular line and spaced at random.
3. Existing vegetation, which is suitable for use in compliance with the requirements of this Article, when supplemented so as to provide planing and screening in accordance with the purpose and intent of this Article, may and should be used as required.

E. Landscaping Plan and Planting Requirements:

1. A landscaping plan shall be submitted as determined by the Zoning Enforcement Officer.
2. Landscaping plans shall be drawn to scale, including dimensions and distances, and clearly delineate all existing and proposed parking spaces or other vehicle areas,



access aisles, driveways, and the location, size, and description of all landscaping materials and tree cover in accordance with the requirements of this Article.

3. The landscaping measures and tree cover required by this Article shall be shown on such plan.

F. Maintenance:

1. The owner, or his agent, shall be responsible for the maintenance, repair, and replacement of all landscaping materials and barriers as may be required by this Article.
2. All plant material shall be tended and maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris.
3. Fences and walls shall be maintained in good repair. Openings within the barriers may be required by the Zoning Enforcement Officer for accessibility to an area for necessary maintenance.
4. When required tree cover is provided on individual lots in residential districts, the homeowner shall not be precluded from adding, removing, or relocating tree cover.

II. Parking Lot Landscaping

A. Interior Parking Lot Landscaping:

1. Any parking lot of twenty (20) or more spaces shall be provided with interior landscaping covering not less than five (5) percent of the total area of the parking lot. Such landscaping shall be in addition to any planting or landscaping within six (6) feet of a building; planting or landscaping required as peripheral planting by Sect. B below; and transitional screening as may be required by Sections III. A. and III. B. below.
2. The primary landscaping materials used in parking lots shall be trees that provide shade or are capable of providing shade at maturity. Shrubs and other live planting material may be used to complement the tree landscaping, but shall not be the sole contribution to the landscaping.
3. The landscaping areas shall be reasonably dispersed throughout the parking lot.
4. The interior dimensions of any planting area shall be sufficient to protect all landscaping materials planted therein.

B. Peripheral Parking Lot Landscaping:

If any parking lot contains twenty (20) or more spaces and transitional screening is not required by Sections III. A. and III. B. below, then the peripheral parking lot landscaping shall be required as follows:

1. When the property line abuts land not in the right-of-way of a street:
 - a). A landscaping strip four (4) feet in width shall be located between the parking lot and the abutting property lines, except where driveways or other openings may necessitate other treatment.
 - b). At least one (1) tree for each fifty (50) feet shall be planted in the landscaping strip; however, this shall not be construed as requiring the planting of trees on fifty (50) foot centers.



2. Where the property line abuts the right-of-way of a street:
 - a). A landscaping strip ten (10) feet in width, which shall not include a sidewalk or trail, shall be located between the parking lot and the property line.
 - b). At least one (1) tree for each forty (40) feet shall be planted in the landscaping strip; however, this shall not be construed as requiring the planting of trees on forty (40) foot centers.

III. Transitional Screening and Barriers

A. Transitional Screening and Barriers, General Provisions:

1. Transitional screening and barriers shall be provided in accordance with the matrix present at the end of this Article and in accordance with the provisions of this Section and Section B and C below.
2. Transitional screening and barriers shall be provided within the zoning district and on the lot of the use indicated in the left column of the matrix where it is contiguous or across the street from land uses or zoned for uses indicated across the top of the matrix.
3. Where the structure is to contain more than one use or category of uses as presented in the matrix, the more stringent requirements of the matrix shall apply.
4. The uses in the matrix are listed in abbreviated form. Other similar uses, as may be included in a listing presented in the district regulations, shall be subject to the same regulations as are presented for a use listed on the matrix.
5. In those instances where a proposed use and/or an existing use on the abutting property is not listed in the matrix, the Zoning Enforcement Officer, using the matrix as a guide, shall determine whether or not and to what extent transitional screening and barriers shall be provided.
6. In addition to the standards set forth for special permit for a particular uses, all uses allowed by special permit in a given district shall be required to provide transitional screening and barriers as determined by the BZA or County Commission, as the case may be, using the matrix as a guide.

B. Transitional Screening Requirements:

1. Transitional screening shall be required only at the outer boundaries of a lot and shall be provided except where driveways or other openings may be required.
2. Transitional screening may be provided within the required minimum yard.
3. There shall be three (3) different transitional screening requirements as identified on the matrix, which shall be provided as follows:
 - a). Transitional Screening 1 shall consist of an unbroken strip of open space a minimum of 25 feet wide and planted with;
 - b). One large evergreen tree with an ultimate height of 40 feet or greater for every 10 linear feet, plus one medium evergreen tree with an ultimate height of 20 to 40 feet for every 5 linear feet; or



- c). With approval of the Zoning Enforcement Officer, one large deciduous tree with an ultimate height of 50 feet or greater for every 15 linear feet plus one medium evergreen tree with an ultimate height of 20 to 40 feet every 5 linear feet.
 - 4. Transitional Screening 2 shall consist of an unbroken strip of open space a minimum of 35 feet wide and planted with:
 - a). One large evergreen tree with an ultimate height of 40 feet or greater for every 10 linear feet, plus one medium evergreen tree with an ultimate height of 20 to 40 feet for every 5 linear feet, plus one deciduous tree with an ultimate height of 50 feet or greater for each 30 linear feet, or
 - b). With approval of the Zoning Enforcement Officer, one large deciduous tree with an ultimate height of 50 feet or greater for every 15 linear feet, plus one medium evergreen tree with an ultimate height of 20 to 40 feet for every 5 linear feet, plus one small deciduous tree with an ultimate height of 20 feet or less for each 12 linear feet.
 - 5. Transitional Screening 3 shall consist of an unbroken strip of open space a minimum of 50 feet wide and planted with:
 - a). One large evergreen tree with an ultimate height of 40 feet or greater for every 10 linear feet, plus one medium evergreen tree with an ultimate height of 20 to 40 feet for every 5 linear feet, plus one deciduous tree with an ultimate height of 50 feet or greater for each 30 linear feet, plus one medium evergreen shrub with an ultimate height of 12 feet or less for every 15 linear feet, or
 - b). With approval of the Zoning Enforcement Officer, one large deciduous tree with an ultimate height of 50 feet or greater for every 15 linear feet, plus one medium evergreen tree with an ultimate height of 20 to 40 feet for every 5 linear feet, plus one small deciduous tree with an ultimate height of 20 feet or less for each 12 linear feet, plus 7 medium evergreen shrubs with an ultimate height of 12 feet or less for each 10 linear feet.
- C. Barrier Requirements:
- 1. Barriers shall be generally located between the required transitional screening and the use or activity in connection with which they are required where they will most adequately screen such activities from the existing or proposed first floor level of adjoining development as determined by the Zoning Enforcement Officer. Any bracing, supports, or posts shall be on the side of the barrier facing the use, which must provide the barrier.
 - 2. Where options are presented on the matrix for a type of barrier, such option shall be available to the developer unless otherwise qualified.
 - 3. In certain unusual circumstances of topography, or to alleviate certain specific problems, i.e., the blocking of glare, muting of noise, etc., the Zoning Enforcement Officer may require the use of an earth berm or more specialized fence material in lieu of, or in combination with, any of the barrier types set forth below.



4. There shall be different barrier requirements as identified on the matrix, which shall be provided as follows:
 - a). Barrier A shall consist of a 42-48 inch wall, brick or architectural block faced on the side facing the existing use and may be required to be so faced on both sides as determined by the Zoning Enforcement Officer.
 - b). Barrier B shall consist of a 42-48 inch solid wood or otherwise architecturally solid fence.
 - c). Barrier C shall consist of an evergreen hedge with an ultimate height of at least 42-48 inches and planted size of 36 inches.
 - d). Barrier D shall consist of a 42-48 inch chain link fence and may be required by the Zoning Enforcement Officer to have inserts in the fence fabric, to be coated, or to be supplemented by trees and/or shrubs.
 - e). Barrier E shall consist of a 6-foot wall, brick or architectural block faced on the side facing the existing use and may be required to be so faced on both sides as determined by the Zoning Enforcement Officer.
 - f). Barrier F shall consist of a 6-foot high solid wood or otherwise architecturally solid fence.
 - g). Barrier G shall consist of a 6-foot chain link fence and may be required by the Zoning Enforcement Officer to have inserts in the fence fabric or to be coated.
 - h). Barrier H shall consist of one row of 6 foot trees averaging 50 feet on centers, such trees being a variety of types. This requirement may be omitted in cases where the building is 6 feet or less from the property line.

D. Transitional Screening and Barrier Waivers and Modifications

Transitional screening and barriers may be waived or modified by the Zoning Enforcement Officer in any of the following circumstances. The Zoning Enforcement Officer may attach conditions to any waiver or modification that would assure that the results of the waiver or modifications would be in accordance with the purpose and intent of this Part.

1. Transitional screening and barriers may be waived or modified between uses that are to be developed under a common development or site plan or series of development or site plans within a PD District when compatibility between uses has been addressed through a combination of the location and arrangement of buildings or through architectural or landscaping treatments.
2. Where the strict provisions of the Part would reduce the usable area of a lot due to lot configuration or size to a point which would preclude a reasonable use of the lot, transitional screening and/or barriers may be waived or modified by the Zoning Enforcement Officer where the side of a building, a barrier, and/or the land between that building and the property line has been specifically designed to minimize adverse impact through a combination of architectural and landscaping techniques.
3. Transitional screening may be modified where the building, a barrier, and/or the land between the building and the property line has been specifically designed to minimize adverse impact through a combination of architectural and landscaping techniques.



4. The transitional screening yard width and planting requirements may be reduced as much as two-thirds (2/3) where the developer chooses to construct a seven (7) foot brick or architectural block wall instead of the lesser barrier indicated by the matrix. This wall may be reduced to a height of six (6) feet where the Zoning Enforcement Officer deems such a height will satisfy the purposes and intent of this Part.
5. Transitional screening and barriers may be waived or modified where the adjoining land is designated in the adopted comprehensive plan for a use which would not require the provision of transitional screening between the land under site plan and the adjoining property.
6. Transitional screening and barriers may be waived or modified when the adjacent property is zoned to allow a use similar to that of the parcel under site plan.
7. Transitional screening and barriers may be waived or modified where the adjoining property is used for any public purposes other than a school or hospital.
8. Transitional screening and barriers may be waived or modified when the adjoining land is used for a saw milling operation or for a wayside stand.
9. Transitional screening and barriers may be waived or modified where adjacent residential property is used for any use permitted by the BZA or the County Commission as a special permit use except nursery schools, day care centers, schools of general and special education.
10. Transitional screening may be waived or modified when the adjoining land is a Residential District and is used for off-street parking.
11. Transitional screening and barriers may be waived or modified where the subject property abuts a railroad or interstate highway right-of-way.
12. The Zoning Enforcement Officer may waive or modify the barrier requirements where the topography of the lot is such that by providing the transitional screening for the lot being protected such barrier would not be effective.
13. The Zoning Enforcement Officer may waive or modify the barrier requirements for single family attached dwelling units where a six (6) foot fence has been provided to enclose a privacy yard on all sides, and such fence is architecturally designed and coordinated with landscaping techniques to minimize adverse impacts on adjacent properties.
14. Transitional screening and barriers may be waived or modified for any public use when such use has been specifically designed to minimize adverse impact on adjacent properties.



IV. Tree Cover Requirements

A. Tree Cover Requirement Standards:

1. All developments requiring submission and approval of a development plan shall include the preservation and planting of trees on the site to the extent that, at maturity of ten years, minimum tree cover shall be provided as follows:

Zoning Districts	Percentage Cover
Commercial, Industrial, PDC	Ten Percent (10%)
R-12	Fifteen Percent (15%)
R-A, R-2, R-4, R-5, R-8	Twenty Percent (20%)

2. The tree cover requirement shall be calculated and shown on a landscaping plan.

B. Tree Preservation Credit:

1. Existing trees, which are to be preserved, may be included to meet all or part of the tree cover requirements if the existing trees are identified on the landscape plan.
2. The credit provided per freestanding tree or cluster of trees will be 1.25 multiplied by the area defined by the boundaries of the existing drip line of a freestanding tree or group of trees as surveyed in the field and delineated on the plan. A credit of up to 2.0 may be granted by the Zoning Enforcement Officer for trees of outstanding size and quality.

C. Tree Planting Credit:

1. Planted trees that may qualify for tree cover shall include the trees in interior parking lot landscaping, peripheral parking lot landscaping, foundation planting, transitional screening, landscaped open space, revegetation, tree supplementation, tree replacement, and other trees that are planted on the site.
2. The minimum size planted tree that will qualify for tree cover credit shall meet the minimum six-foot height requirements of Sect. I.D.1.

D. Modifications, Waivers and Exceptions:

1. The tree cover requirements may be modified by the Zoning Enforcement Officer for areas comprised of the following features, provided those areas are identified and delineated on a site plan:
 - a). Flood plains and wetlands.
 - b). Non-wooded developed recreation areas, such as athletic fields, tennis courts, multi-use courts, playgrounds, and tot lots.
2. An exception to the tree cover requirements may be approved by the Zoning Enforcement Officer for areas comprised of the following features, provided those areas are identified and delineated on a development plan:
 - a). Lakes and retention ponds based on the normal water surface elevation, and swimming pools.
 - b). Lands under active commercial production or management of agricultural, horticultural or forest crops; landfills; and quarries.
 - c). Major utility distribution easements of twenty-five (25) feet or more in width.
 - d). Absorption fields and seepage pits for on-site sewage disposal systems.



Fayette County Unified Development Code

Fayette County, West Virginia

Section 9

Article 9003 Landscaping and Screening

Transitional Screening and Barrier Matrix (Sheet 1)

	1. Dwellings, Detached	2. Dwellings, Attached	3. Dwellings, Multiple Family Dwellings, Mobile Homes	4. Home Occupation, Level 3 Uses	5. Child Care Centers, Churches, Chapels, Nursery Schools, Private Schools	6. Community Uses	7. Institutions Providing Housing, Medical Care Facilities	8. Financial, Institutions, Funeral Chapel	9. Business Services & Supply Establishments, Funeral Homes, Offices, Personal Service, Repair Service & Retail Service Establishments w/out Outside Display	10. Bus, Railroad Stations, Car Washes, Drive-in Banks, Fast Food Restaurants, Plant Nurseries, Retail Estab. with outside display, Service Stations, Theatres- to include drive-in motions pictures, Vehicle Light Services Estab., Vehicle Sale & Rental
1		1+ B,A*	1+ D,E or F	E,F or G	1+ D,E or F	1+ D,E or F	2+ D,E or F	1+ D,E or F	2+ D,E, or F*	3+ E,F or G
2				E,F or G	1+ D,E or F	1+ D,E or F	2+ D,E or F	1+ D,E or F	2+ D,E, or F*	3+ E,F or G
3					1+ D,E or F	1+ D,E or F	2+ D,E or F	1+ B or C	1+ D,E or F	2+ D,E or F
4				E,F or G	H	A,B or C		H	1+ A,B or C	D,E or F
5				E,F or G		H			H	H
6				E,F or G						
7				E,F or G						
8				E,F or G						
9				E,F or G		H				
10				E,F or G						
11				E,F or G						
12				E,F or G						
13										
14										
15										
16										
17										

Fayette County Unified Development Code

Fayette County, West Virginia



Article 9003 Landscaping and Screening

Section 9

Transitional Screening and Barrier Matrix (Sheet 2)

	11. Hotels & Motels	12. Commercial Recreation uses	13. All Other Quasi-Public Uses	14. Mini-warehousing Estab., Production Processing Estab., as Permitted in I-3, I-4 Districts, Scientific Research and Development Estab., Wholesale Trade Estab.	15. Light Public Utility Uses	16. Contractor's office & Shops, Heavy Equipment & Spec. Vehicle Sale, Rental & Service Estab., Heavy Public Utility uses (Category 2), Lumber & Bldg. Material Yard, Motor Freight Terminals, Storage Yards, Warehousing	17. Production, Processing Estab., Junkyards, Motor Vehicle Storage and Impoundment yards, Recycling Centers, Vehicle Major Service Estab.	18. Heavy Industrial Uses (Category 5), Mixed Waste Reclamation Facilities
1	2+ E,F or G	2+ D,E or F	2+ D,E or F	2+ D,E or F	3+ D,E or F	3+ D,E or F	3+ D,E or F	3+ D,E or F
2	2+ E,F or G	2+ D,E or F	2+ D,E or F	2+ D,E or F	2+ D,E or F	3+ D,E or F	3+ D,E or F	3+ D,E or F
3	1+ E,F or G	1+ D,E or F	2+ D,E or F	2+ D,E or F	2+ D,E or F	3+ D,E or F	3+ D,E or F	2+ D,E or F
4		D,E or F	1+ A,B or C	D,E or F	1+ D,E or F	1+ D,E or F	1+ D,E or F	1+ D,E or F
5		H	D,E or F	H	1+ D,E or F	1+ D,E or F	1+ D,E or F	1+ A,B or C
6				H	1+ A,B or C	1+ A,B or C	1+ D,E or F	1+ D,E or F
7					1+ A,B or C	1+ A,B or C	1+ D,E or F	1+ D,E or F
8				H	D,E or F	D,E or F	1+ D,E or F	1+ A,B or C
9				H	D,E or F	D,E or F	1+ A,B or C	1+ A,B or C
10							1+ A,B or C	1+ A,B or C
11							1+ A,B or C	1+ A,B or C
12							D,E or F	D,E or F
13								
14								
15							1+ A,B or C	1+ D,E or F
16								1+ D,E or F
17								



9004 Tower Ordinance

I. Purpose

- A. The purpose of this Section is to ensure the citizens of Fayette County have access to wireless technology under the provision of the Telecommunications Act of 1996. This Section is also intended to protect the citizens of the County from the proliferation of freestanding towers, which detract from the beauty of the County. The goals of this ordinance are to:
- B. Encourage the location of towers in nonresidential areas and minimize the total number of towers and tower sites throughout the community;
- C. Encourage co-location of new and existing tower sites;
- D. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- E. Encourage users of towers and antennas in a way that minimizes the adverse visual impact of the towers and antennas; and
- F. To provide adequate site location opportunities for the provision of telecommunication services with minimal negative impact on the resources of the County.

II. Applicability

- A. District Height Limitations: The requirements set forth in this ordinance shall govern the location of all new towers.
- B. Amateur Radio Antennas: This ordinance shall not govern any antenna, less than one hundred (100) feet, that is owned and operated, exclusively, by a federally licensed amateur radio station operator.
- C. Amateur Radio Antennas: This ordinance shall govern any antenna, one hundred (100) feet or greater in height, that is owned and operated by a federally licensed amateur radio station operator.
- D. New antenna that locates on an existing tower.
- E. Towers in existence on the effective date of this ordinance are required to comply with this Section in the event they increase in height beyond the height of the existing tower as measured on the effective date of this ordinance. All towers above one hundred (100) feet in height in existence on the effective date of this ordinance are also required to comply with the landscaping requirements of this Section within eighteen (18) months of the effective date of this ordinance.
- F. Temporary towers are required to comply with this Section.
- G. Mobile towers are not required to comply with this Section.
- H. Amateur Radio Antennas²- This Ordinance shall not govern any antenna less than one hundred (100) feet, that is owned and operated exclusively by a federally licensed, non-profit radio station operator.

2. Adopted 6/28/03. See; References "9004 Tower Ordinance" page 9-69..



III. Approving Body

For the purposes of this Section, the approving bodies are the Board of Zoning Appeals (BZA) and the Zoning Administrator.

A. Applications subject to BZA approval include the following:

1. A new tower;
2. All towers in Residence zoning districts; and
3. Extending the height of an existing tower greater than forty (40) feet above its existing height.

B. The Zoning Administrator will approve, within ten (10) business days from the date of receipt of the application, all administratively approved applications. No public hearings are required for administratively approved applications. Applicants subject to administrative approval include the following:

1. New antenna locating and co-locating on an existing tower or alternative antenna support structures.
2. New alternative antenna support structures in all zoning districts.
3. New antenna installed on a structure other than a tower; provided the antenna and supporting electrical and mechanical equipment must be of a neutral color that is closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
4. Towers that are extended in height up to forty (40) feet beyond existing height as measured on the effective date of this Ordinance.
5. New towers that are up to one hundred (100) in height.
6. Replacement of an existing tower to accommodate a co-location opportunity. Replacement tower must not exceed forty (40) feet greater than the existing tower. The replacement tower must be built on the same property within one hundred (100) feet of the existing tower. The existing tower must be removed after the replacement tower is constructed and service providers are on the air.

IV. Definitions

Alternative Antenna

Support Structure: Man-made trees, clock towers, bell steeples, light poles, flag poles, signs, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna: Any apparatus designed for telephonic, data, radio, or television communications through the sending and/or receiving of electromagnetic waves.

Co-locate: To locate wireless communications equipment from more than one provider on a single site.

Co-location: The use of a tower or alternative antenna support structure by more than one telecommunications provider.



- Communications Antenna:** Any device used to collect or radiate electromagnetic waves, including directional antennae, microwave dishes and satellite dishes, and omni-directional antennae.
- Radio Frequency (RF)**
- Propagation Map:** A multicolored map depicting a visual representation of the proposed coverage area and signal strength within the proposed coverage area, regularly used by radio frequency engineers when designing a communications network.
- Tower:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and the like.
- Tower, Abandoned:** Any tower not in service. A tower not in service may be characterized as not having any antennas (panel type and whip type), or any other device that looks like an antenna, on the tower.
- Tower, Guyed:** Any tower using wire guys connecting above grade portions of a tower diagonally with the ground to provide support for tower and/or antennae.
- Tower Height:** Measured from the base on which the tower is mounted to the top of the tower or other structure, even if the highest point is an antenna or lightning rod, whichever is greater.
- Tower, Lattice (Self-support):** Structure which generally has three or four legs consisting of vertical, horizontal, and diagonal cross strips or bars that is designed to support communication antenna arrays. The structure legs are anchored to concrete and steel foundations (caissons) embedded into the soil.
- Tower, Mobile:** Any tower capable of being transported in, or by, a motor vehicle. A mobile tower parked for more than twenty-four hours will be classified as a temporary tower.
- Tower, Monopole:** Structure which consists of a single freestanding pole designed to support communication antennae arrays. The structure is anchored to a single concrete and steel foundation (caisson) embedded into the soil.
- Tower, Temporary:** Towers standing for sixty (60) consecutive days or less.
- Zoning Administrator:** Referred to the Zoning Enforcement Officer in the Fayette County Zoning Ordinance.



V. Towers, General

The provisions of this Section shall apply to all towers erected in the County after the effective date of this ordinance.

- A. The Zoning Administrator, upon request by the applicant, will provide a list of the information required for the submission of an application for approval of a new tower.
- B. Towers are permitted in all zoning districts in Fayette County subject to the provisions of this Section.
- C. All lattice, monopole, and guyed towers cannot be sited closer than 300 feet to any existing habitable structure located in a Residence zoning district.
- D. For purposes of determining compliance with the area requirements within the underlying zoning districts, towers are considered accessory uses.
- E. Each applicant for a new tower shall provide, to the Zoning Administrator, an inventory of its existing towers that are within a three (3) air mile radius of the proposed site.
- F. The owner shall maintain the tower in compliance with standards contained in applicable Federal and State regulations.
- G. All towers shall be designed for co-location, which shall mean the ability of the structure to allow for the placement of antennae for three (3) or more tenants. As a condition of issuing a permit to construct or operate a tower in the County, the owner/operator of the tower is required to allow co-location until said tower has reached maximum structural capacity.
- H. All towers must meet or exceed current standards and regulations of the American National Standards Institute.
- I. All applications for new towers shall include:
 - 1. A map illustrating the location of the site for the proposed tower. The site shall be physically and visually marked in the field, for immediate identification, with any combination of survey irons or flags.
 - 2. Explanation from the applicant as to why the site was selected. No new tower shall be permitted unless the applicant submits evidence that demonstrates that no existing tower or structure can accommodate the applicant's proposed antenna.
 - 3. A written commitment to the Zoning Administrator from the owner/operator of the tower that the owner/operator shall allow co-locations on the tower where structurally and economically feasible.
 - 4. The co-location agreement.
 - 5. A visual analysis, which may include photo simulation or other techniques, which identifies the potential visual impacts of the proposed tower. Visual analysis of the tower shall be from at least two (2) directions. All costs for the visual analysis shall be borne by the applicant.
 - 6. Radio Frequency Propagation Maps.
 - 7. A NEPA (National Environmental Policy Act) Environmental Compliance Checklist prepared in accordance with Section 106 of NEPA; which shall be provided prior to the issuance of a permit.



8. A copy of the State Historic Preservation Office (SHPO) review; which shall be provided prior to the issuance of a permit.
9. Site plans.
 - a). A concept plan shall be submitted with the application showing the location and dimensions of all improvements in the project area, including information concerning (if required) rights-of-way and easements, topography, setbacks, ingress/egress, parking, fencing, landscaping, and adjacent zoning and uses. Concept plan approval by the Board of Zoning Appeals is required for applications requiring BZA approval. Concept plan approval by the Zoning Administrator is required for administratively approved applications.
 - b). As part of the concept plan review, screening, fencing, or anti-climbing security features may be required around the base of the tower and any shelters. If security fencing is required, it shall not be less than six (6) feet in height.
 - c). A site plan, sealed by a licensed professional engineer, shall be submitted prior to the issuance of a permit. This requirement applies to applications submitted for administrative approval and BZA approval. The sealed plan must show the location and dimensions of all improvements in the project area, including information concerning (if required) rights-of-way and easements, topography, setbacks, ingress/egress, parking, fencing, landscaping, and adjacent zoning and uses.
10. Proof of a surety bond, or irrevocable letter of credit, in the amount of \$100,000.00 to the County, prior to issuance of a permit by the Zoning Administrator, to cover the costs of the removal of the tower. The applicant shall provide the Zoning Administrator a copy of the policy stating that the bonding agent must provide a thirty (30) notification of cancellation to the Fayette County Zoning Administrator.
- J. Setbacks for towers and shelters shall meet the setback requirements in the underlying zoning district for accessory structures.
- K. Signs shall be provided per Federal Communications Commission (FCC) requirements.
- L. Towers should be sited within or adjacent to areas of mature vegetation. Towers should only be considered elsewhere on the property when technical data or aesthetic reasons indicate there is no other preferable location.
- M. The following requirement shall govern the landscaping surrounding towers:
 1. Towers shall be landscaped within six (6) months after the tower is erected with a visual buffer of plant materials that effectively screens the view of the shelters from adjacent property. The standard visual buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the security fencing (if provided) enclosing the facilities. The visual buffer strip shall include trees eight (8) feet tall and ten (10) feet apart and a contiguous hedge three (3) feet deep capable of growing three (3) feet high within eighteen (18) months planted in front of the trees.
 2. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, the BZA may determine the natural growth around the property perimeter may be a sufficient visual buffer without the need for additional landscaping or screening.



3. Existing trees within 200 feet of the tower shall not be removed except as needed to construct towers, install ingress/egress and utilities, and to maintain the operation of the structure.
- N. The design and lighting requirements set forth in this section shall govern the installation of all towers and antennas governed by this ordinance.
1. Towers, except alternative antenna support structures, shall maintain a galvanized steel finish subject to the standards of the Federal Aviation Administration (FAA).
 2. At a facility site, the design of the shelters shall, to the extent possible, use materials, colors, and textures that will blend the tower facilities to the natural setting and surrounding structures.
 3. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, lighting methods shall be used that would cause least disturbance to surrounding uses; provided the lighting meets FAA requirements.
 4. No advertising of any type may be placed on the tower, shelter, or fence. Identification signs required by the FCC are exempt from this provision.
 5. Towers shall be designed to collapse within the lot lines or lease area in case of structural failure.
- O. Compliance with the U.S. Route 19 Corridor Management Plan if within 1,000 ft. of center of highway.

VI. Abandoned Towers

- A. The tower shall be utilized continuously for communication services. In the event the tower ceases to be used for communication services for a period of twelve (12) consecutive months the special use permit will terminate. The applicant may be granted an extension up to six (6) months at the discretion of the Zoning Administrator.
- B. The tower owner shall remove all improvements above ground and to three (3) feet below grade within ninety (90) days after termination of the special use permit. The time period may be extended, as necessary, by the BZA.
- C. The Zoning Administrator will monitor the towers for signs of abandonment.

VII. Damaged/Destroyed Towers

- A. Any tower damaged/destroyed by vandalism, terrorism, faulty construction or design, wind, ice, snow, earthquake, fire, or other act of nature or God, that was completely operational/functional at the time of the damage/destruction, must be repaired/replaced within twelve (12) months of damage/destruction. If the tower is not repaired/replaced within twelve (12) months the requirements under "Abandoned Towers" will apply.
- B. If the tower is repaired/replaced within twelve months of damage/destruction, no permits, applications, reviews, or fees will be required as long as the tower is reconstructed to meet the requirements of this Section.



VIII. Replacement Towers

- A. Any tower can be replaced with a similar tower for reasons of structural integrity or advances that have been made in technology since the installation of the existing tower.
- B. Replacement towers must meet the requirements of this Section.
- C. Replacement towers must receive administrative approval and are subject to the fee schedule in this Section.

IX. Fees

- A. Fees to be paid to the Zoning Administrator (due at the time the application is submitted to the Zoning Administrator) shall be \$500.00 for an application fee. This application fee applies to all new towers, replacement towers, extension of existing towers, alternative antenna support structures, antenna installed on a structure other than a tower, and co-locations on existing towers or alternative antenna support structures. The application fee is non-refundable.
- B. Prior to the issuance of a permit, a \$2,000.00 permit fee is required for all new towers, replacement towers, extension of existing towers, and alternative antenna support structures.
- C. Each co-location on an existing or new tower or alternative antenna support structure requires no permit fee.
- D. Antenna installed on a structure other than a tower requires no permit fee.
- E. Temporary towers require a \$50.00 application fee. The application fee is non-refundable. Permit fees are not required for temporary towers.
- F. Other than the application and permit fees listed in Sub-sections IX.A through IX.E above, no other fees, charges, or permits described in the Fayette County Zoning Ordinance shall be imposed by the Zoning Administrator for the construction or installation of new towers or antennas.

X. Waiver of Statutory Waiting Period

The Board of Zoning Appeals' denial of a special exception (Use Permit) application for the construction of a tower prior to the effective date of this Section shall not preclude the consideration or approval by the Board of Zoning Appeals within twelve (12) months of such denial of an application filed after the effective date of this Section for a special exception (Use Permit) to construct such tower.

XI. Conflicts With Other Ordinances

This is an addendum to the Fayette County Zoning Ordinance. If any conflicts between this Section and other sections of the Fayette County Zoning Ordinance, or part thereof, arise, the provisions of this Section shall prevail.



9005 U.S. Route 19, U.S. Route 60, and Route 16 Corridor Overlay District

I. Purpose

The purpose of the U.S. Route 19, U.S. Route 60, and Route 16 Corridor Overlay District is to create an identity for local residents and businesses. To assure that this identity is a positive one, both now and in the future, it is critical to the County's long-term development goals that these gateways be developed in a sensitive manner. Guidelines in this article apply to 1) the entire length of U.S. Route 19 in Fayette County, 2) U.S. Route 60 east of the Town of Gauley Bridge to the County line, 3) Route 16 from Fayetteville to Chimney Corner. Any subdivision of three dwelling units or less is exempt from guidelines outlined in this article. The Corridor Overlay District encourages:

- A. Increased buffering requirements (which provide for a mix of canopy, understory trees, and shrub-level plantings) to partially screen buildings and parking areas from view;
- B. Special standards for sign height, design, size, materials, and lights to maintain and enhance visual qualities;
- C. Special consideration of new development within this district, including the assessment of visual impact of development, the assessment of pre-development visual conditions, and how the proposed development will affect them;
- D. The acknowledgment that the existing villages are integral to the unique visual character of the Corridor;
- E. Landscaping to soften lighting and groupings of signs to identify entrances to the Corridor;
- F. Use of service roads to achieve access control within the Corridor Overlay District;
- G. Use of reverse lot frontage concepts to shield off-street parking areas behind buildings and landscaping; and
- H. Designation of scenic easements along the corridors to preserve views of natural vistas.

This chapter establishes standards for the construction, reconstruction, and expansion of buildings, as well as the development of sites, in order to protect and promote the health, safety, and general welfare of the community, and to prevent deterioration of the appearance of the corridors. The standards in this chapter are intended to prevent the development of buildings and sites that have the potential to negatively impact or destroy the corridors. This chapter also establishes the Fayette County Planning Commission as the approval authority for architectural review of all types of development, and to hear appeals of the orders or decisions of the Zoning Enforcement Officer relative to the enforcement of this Article. The Fayette County Planning Commission has the authority to regulate the appearances of all development proposed for the Route 19 Corridor and to set standards for procedures and approval.



II. Design Review

For all projects, the Fayette County Planning and Zoning Commission may retain a qualified consultant who will submit findings and recommendations on the compliance of all proposed development plans with the standards of the U.S. Route 19, U.S. Route 60 and Route 16 Corridor Overlay District, the U.S. Route 19 Corridor Design Guidelines, and the U.S. Route 19 Corridor Management Plan. Findings and recommendations will be submitted to the Planning and Zoning Commission for consideration in their decision-making process. The Fayette County Planning Commission shall review and act upon all applications for all development along the U.S. Route 19, U.S. Route 60 and Route 16 corridors. Development in the U.S. Route 19, U.S. Route 60, and Route 16 Corridor Overlay District shall comply with the following standards and requirements. Development must also meet the letter of the U.S. Route 19 Corridor Design Guidelines and the U.S. Route 19 Corridor Management Plan.

III. Approval Process

- A. Submission Requirements: Submission of all public and private development plans for plan review, for all projects within the U.S. Route 19, U.S. Route 60 and Route 16 Corridor Overlay District, shall contain a note and drawings referencing designated scenic routes and significant views. The following shall be shown on the plan:
1. Location of all views and viewsheds from the road, indicated on the plan with arrows and verbal descriptions.
 2. Photographs, perspective sketches, and/or elevations of the property as necessary to adequately portray the visual quality of the existing site as viewed from the road. For sites within or adjacent to residential or historic development, provide illustrations of the adjacent properties as necessary to portray the community's scenic character.
 3. Perspective sketches, elevations, and/or cross-sections of the proposed development as viewed from the road and that demonstrate compatibility of project design with the community and the conservation of the existing scenic vistas.
 4. The location and size of minor deciduous trees over four inches in caliper, major deciduous over twelve inches in caliper, and conifer trees over twenty-five feet in height.
 5. Schematic planting plan.
 6. Proposed permanent sign location and elevations, including size, material, color, and lighting.
 7. Drawings and plans showing locations, coverage, floor areas, heights, character, and exterior materials of all proposed structures, existing structures to be retained, existing structures to be removed; signs visible outdoors; all principal uses; hours of operation, maximum number of employees, maximum level of emanations (including sound and other vibrations, dust, odors, gases, light, and heat); parking and loading facilities; existing and proposed public and quasi-public facilities on and adjacent to the site (including storm drain systems, water lines, sewerage, streets, drives, and railroad sidings); existing ponds and other water bodies, water courses, one-hundred year floodplains, major vegetative and unusual natural formations and proposed changes with respect to any of



these; screening and landscaping; and existing topography and proposed major changes in grade.

8. A grading and vegetation removal plan if area to be graded or cleared is greater than 10,000 square feet.
9. Completion of the following checklist, in addition to the items required by this Ordinance and these Design Guidelines, to the satisfaction of the Zoning Enforcement Officer:
 - a). Schedule and attend a pre-application meeting;
 - b). Notify neighbors of intent;
 - c). Prepare application letter;
 - d). Prepare application form;
 - e). Prepare concept plan;
 - f). Obtain sanitary permits;
 - g). Pay required fees;
 - h). Inventory and map adjacent land uses;
 - i). Prepare plan and drawings illustrating items required in Section 3.A.viii.
 - j). Prepare construction schedule;
 - k). Report on compliance with Comprehensive Plan in general and U.S. Route 19 Corridor Management Plan in particular;
 - l). Map all infrastructure and public improvements (water, sewer, storm sewer, and roads); and
 - m). Assessment of traffic impacts.

B. Modification of Standards

The Fayette County Planning and Zoning Commission may approve the modification of existing standards when it can be demonstrated that the action will more fully achieve the objective of preserving visual quality, without impairing public health, safety, and welfare.

C. Review Process

All applications involving exterior design shall include the information required in paragraph 3.A. of this section with such other information as may be required by the Fayette County Planning and Zoning Commission to ensure compliance with the standards set forth in Section 4B.

If the Planning and Zoning Commission determines that the exterior design of buildings does not conform to the provisions of this chapter, he/she may disapprove the application or conditionally approve it by specifying conditions to be modified in order to make it acceptable. If he/she finds the building's exterior design is, by reason of non-compliance with any standard set forth in Section 4B, producing one or more of the effects set forth in Section 1, he/she shall disapprove the application. Decisions made by the Planning and Zoning Commission may be appealed to the Fayette County Commission. The appeal shall be made in writing within thirty days after said refusal has been filed. The Planning and Zoning Commission shall hear the appeal and make a decision with such conditions as the Commission shall deem appropriate within a reasonable time.



IV. Standards for Evaluation

- A. The exterior design of a building or structure is required to be evaluated in accordance with the following design guidelines, standards, and criteria for industrial, commercial, and residential uses.
 - 1. The proposed architectural design is suitable in terms of architectural features, general design and arrangement, texture, color, line, mass, and material.
 - 2. The proposed structure, building, or improvement is compatible with existing structures conforming to this chapter.
 - 3. The proposed structure, building, or improvement would promote the general welfare and prevent deterioration of the appearance of the U.S. Route 19, U.S. Route 60 and Route 16 corridors. The improvement is intended to maintain or augment Fayette County's tax base and generate business activity.
 - 4. The proposed freestanding buildings and partially freestanding buildings use should use architecturally harmonious materials, color, and treatment on all portions of all exterior walls.
 - 5. The combination of architectural elements proposed for a structure, building, or improvement, in terms of design, mass, color, material, lighting, landscaping, roofline, and height conform to accepted architectural principles and detailing required for permanent and durable buildings.
 - 6. The proposed structure, building, or improvement, in terms of design, material, texture, color, lighting, landscaping, mass, roof line, and height should not be designed to serve primarily as an advertisement or commercial display, or exhibit exterior detailing likely to deteriorate rapidly. These standards designate these types of buildings as plainly offensive to human sensibilities and constitute a reasonable foreseeable detriment to the community.
 - 7. The proposed structure, building, or improvement conforms to the principles outlined in the U.S. Route 19 Corridor Design Guidelines.
- B. The exterior design of a building or structure will be deemed to conform only if the exterior design of a building or structure is not excessively similar in relation to any other structure existing, or for which a permit has been issued on a site within three contiguous lots along a single street of the proposed construction. Lot lines shall be considered to extend to the centerline of the street. Building elevations shall not be apparently identical, including the arrangement of either doors, windows, porches, or other openings or breaks in the façade, nor shall there be a direct reverse arrangement. Other significant features, such as but not limited to, exterior materials, roof line, color or other design elements, shall not be employed or arranged in such a way that the structure being constructed appears to be identical with other nearby structures as referred to above.

V. Approval of Design

The Zoning Enforcement Officer shall not issue any building permit for which the application has not been approved by the Planning and Zoning Commission. Approval is subject to draw-



ings and plans required and the review and conformance to the U.S. Route 19 Corridor Design Guidelines for industrial, commercial, and residential development.

VI. Checklist

1. ☐ Introduce cluster development that requires new buildings to be sited in groups, with varying setbacks and well-landscaped areas between the structures and the roadway. (section V.A.3.a)
2. ☐ Implement nodal development by designating business zones only at major intersections rather than being lined up along the entire length of the Corridor. (section V.A.3.b)
3. ☐ Divide the roadway into several distinct sections where each section would have an appropriate level of intensity of permitted land use adjacent to the property. (section V.A.3.c)
4. ☐ Develop high points (hills and knolls) as public open spaces. (section V.A.3.d.i)
5. ☐ Use existing landmark structures as focal points on or in open spaces. (section V.A.3.d.ii)
6. ☐ Protect streams, wetlands, and natural features as part of the open space system. (section V.A.3.d.iii)
7. ☐ Locate open spaces strategically to take advantage of knolls and other topographic elements. (section V.A.3.e.i)
8. ☐ Vary the character of open spaces so that different parts of the neighborhood are identifiable. (section V.A.3.e.ii)
9. ☐ Organize buildings around open spaces to reinforce the qualities of the space. (section V.A.3.e.iii)
10. ☐ Determine the street layout concurrently as open spaces. (section V.A.3.f.i)
11. ☐ Link a number of open spaces as part of a sequence. (section V.A.3.f.ii)
12. ☐ Connect major open spaces visibly to each other and to important buildings. Use landscaping to reinforce these connections. (section V.A.3.g.i.)
13. ☐ Make open space settings for monuments and landmarks that terminate on lines of sight and mark important points. Highlight important intersections, changes in topography, vistas, and gateways. (section V.A.3.g.ii)
14. ☐ Terminate the vistas of important streets within a neighborhood with a visual landmark. (section V.A.3.g.iii)
15. ☐ Ensure that a minimum of one side of each open space is visible and accessible from the street. (section V.A.3.h.i)
16. ☐ Continue the landscape treatment of the adjacent streets to define the edge of the open space. (section V.A.3.i.i)



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Section 9

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17. ____ Use variations in planting material and paving to accent circulation zones and areas for social activities and recreation. (section V.A.3.j.i)
18. ____ Ensure a variety of public spaces to accommodate a variety of uses and conditions found within a community. Ensure this variety includes one of the following:
 - Residential square;
 - Parks and recreational area;
 - Neighborhood gateway and buffer;
 - Commercial center; or
 - Conservation area. (section V.A.3.k.i)
19. ____ Plan to accomplish a desirable transition with the Corridor and provide for adequate planting, safe pedestrian movement, and parking areas. (section V.B.3.a)
20. ____ Encourage site planning, in which setbacks and yards are in excess of zoning restrictions, to provide an interesting relationship between buildings. (section V.B.3.b.)
21. ____ Treat parking areas with decorative elements, building wall extensions, plantings, berms, or other innovative means to screen parking areas from view from public ways. (section V.B.3.c)
22. ____ Without restricting the permissible limits of the applicable zoning district, ensure the height and scale of each building is compatible with its site and existing (or anticipated) adjoining buildings without restricting the permissible limits of the applicable zoning district. (section V.B.3.d)
23. ____ Ensure that all newly installed utility services, and service revisions necessitated by exterior alterations, are underground. (section V.B.3.e)
24. ____ Emulate local street patterns such as interconnecting streets that influence the overall arrangement of buildings and outdoor spaces within the Corridor. (section V.C.3.a.i)
25. ____ Develop streets to fit the contours of the land, avoiding high terraces and harsh straight lines. Avoid extensive grading that results in steep side slopes. (section V.C.3.a.ii)
26. ____ Continue the alignment of existing streets when extending these streets through the proposed development. (section V.C.3.a.iii)
27. ____ Align intersections at right angles and avoid offset intersections. (section V.C.3.a.iv)
28. ____ Avoid dead-end streets. (section V.C.3.a.v)
29. ____ Arrange buildings, parking areas, and other site improvements to approximate the development of massing of adjacent neighborhoods. (section V.C.3.b.i)
30. ____ Organize buildings to define usable outdoor spaces that contribute to the Corridor. (section V.C.3.b.ii)
31. ____ Group buildings around existing tree groves, rock outcrops, and other natural features. (section V.C.3.b.iii)



- 32. ____ Arrange buildings to take advantage of significant views. (section V.C.3.b.iv)
- 33. ____ Terrace building masses and large parking areas with the existing slope. (section V.C.3.c.i)
- 34. ____ Provide smooth grade transitions between newly graded areas, undisturbed terrain, and adjacent properties. (section V.C.3.c.ii)
- 35. ____ Avoid placement of earth embankments or cut slopes along adjacent properties that may create drainage problems, restrict light, or block views. (section V.C.3.c.iii)
- 36. ____ Incorporate distinctive topographic features into the site design. (section V.C.3.c.iv)
- 37. ____ Respect prevailing grading techniques and building relationships to topography. (section V.C.3.c.v)
- 38. ____ Maintain similar building-to-street grade relationships. (section V.C.3.c.vi)
- 39. ____ Avoid construction of extensive slope areas that are visible from the corridors. (section V.C.3.c.vii)
- 40. ____ Provide visual relief by varying the slope ratios along embankments visible from the corridors and connecting public streets. (section V.C.3.c.viii)
- 41. ____ Conduct all uses, operations, and activities so as to comply with the performance standards governing glare prescribed in this section. (section V.D.3.a)
- 42. ____ Measure illumination levels with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination. (section V.D.3.b)
- 43. ____ Ensure that uses subject to Group I and Group II standards do not produce glare so as to cause illumination in residential districts in excess of 0.5 foot candles. Control flickering or bright sources of illumination so that they are not a nuisance in residential districts. (section V.D.3.c)
- 44. ____ Limit the use of light sources and illuminated surfaces that are located in or are within 500 feet of and visible within any residential district so as to comply with the light intensities indicated in Table I. (section V.D.3.d)
- 45. ____ Preserve areas where natural or existing topographical patterns contribute to beauty and utility of a development, and permit modification to topography where it contributes to good appearance. (section V.E.3.a)
- 46. ____ Ensure grades of walks, parking spaces, terraces, and other paved areas provide an inviting and stable appearance for walking, and if seating is provided, for sitting. (section V.E.3.b)
- 47. ____ Provide landscape treatment to enhance architectural features, strengthen vistas and important axes, and provide shade. Reserve spectacular effects for special locations only. (section V.E.3.c)



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48. ____ Achieve unity of design by repetition of certain plant varieties and other materials as well as by correlation with adjacent developments. (section V.E.3.d)
49. ____ Select plant material for interest in its structure, texture, and color, and for its ultimate growth. (section V.E.3.e)
50. ____ Protect locations where plants are susceptible to injury by pedestrian or motor traffic through tree guards or other devices. (section V.E.3.f)
51. ____ Enhance traffic with landscaped spaces containing trees or tree groupings. (section V.E.3.g)
52. ____ Follow existing street tree patterns, spacing, and relationship to curbs, and sidewalks where possible. (section V.E.3.g.i)
53. ____ Reinforce and maintain the continuity of the street canopy by using trees with design characteristics and growth habits that are similar to the existing street trees. (section V.E.3.g.ii)
54. ____ Preserve healthy street trees where possible. (section V.E.3.g.iii)
55. ____ Replace existing street trees that are removed during construction with an equivalent species so that landscape functions and patterns of the original trees is restored. (section V.E.3.g.iv)
56. ____ Encourage the placement of trees in parkways or paved areas where building sites limit parking. (section V.E.3.h)
57. ____ Screen service yards, blank building walls, and other unsightly places by use of walls, fencing, planting, or combinations of these measures. (section V.E.3.i)
58. ____ Use materials such as fences, walls, and pavings of wood, brick, stone, gravel, and cobbles in areas where general planting will not prosper. (section V.E.3.j)
59. ____ Use exterior lighting to enhance the building design and the adjoining landscape. Ensure lighting standards and building fixtures that are of a design and size compatible with the building and adjacent areas. (section V.E.3.k)
60. ____ Parking areas should be enhanced with landscaped spaces containing trees or tree groupings. (section V.E.3.l)
61. ____ Ensure parking lots are at the sides or rear of buildings and buildings address the street (not parking lots). (section V.E.3.l.i)
62. ____ Ensure parking for shopping centers is attractive and easily accessible. (section V.E.3.l.ii)
63. ____ Integrate trees into parking areas. (section V.E.3.l.iii)
64. ____ Screen parking lots from streets, public spaces, and private yards. (section V.E.3.l.iv)
65. ____ Evaluate the appearance of a project based on the quality of its design and relationship to surroundings. (section V.F.3.a)



66. ____ Ensure buildings have good bulk, massing, and scale and are harmonious with existing neighboring development. (section V.F.3.b)
67. ____ Select materials that have good architectural character for harmony of the building with adjoining buildings. (section V.F.3.b.i)
68. ____ Select materials for suitability to the type of buildings and the design in which they are used. (section V.F.3.b.ii)
69. ____ Ensure materials are of durable quality. (section V.F.3.b.iii)
70. ____ Ensure that structural materials are compatible within themselves and harmonious with their surroundings in any design in which the structural frame is exposed to view. (section V.F.3.b.iv)
71. ____ Relate the height of new buildings to the predominant building height of the neighborhood. (section V.F.3.b.v)
72. ____ Set back from the property line that portion of the building mass exceeding the predominant height of surrounding buildings. (section V.F.3.b.vi)
73. ____ Make gradual transitions in building width and height, avoiding abrupt and excessive differences in scale. (section V.F.3.b.vii)
74. ____ Make desirable visual linkages between surrounding buildings and proposed buildings by repeating or incorporating similar ridge lines, eaves, and window and door openings. (section V.F.3.b.viii)
75. ____ Repeat predominate width dimension of building facades facing the street. (section V.F.3.b.ix)
76. ____ Offset building walls and rooflines to approximate widths and heights of surrounding buildings. (section V.F.3.b.x)
77. ____ Incorporate similar roof forms and slopes to reduce the scale of new buildings and relate them to nearby residential structures. (section V.F.3.b.xi)
78. ____ Ensure building components, such as windows, doors, eaves, and parapets have good proportions and relationships to one another. (section V.F.3.c)
79. ____ Ensure colors are harmonious and use only compatible accents. (section V.F.3.d)
80. ____ Screen mechanical equipment or other utility hardware on roof, ground, or buildings from public view with materials harmonious with building design. (section V.F.3.e)
81. ____ Ensure exterior lighting is part of the architectural concept and all fixtures, standards, and all exposed accessories are harmonious with building design. (section V.F.3.f)
82. ____ Screen refuse and waste removal areas, service yards, storage yards, and exterior work areas from view from public ways, using materials as stated in criteria for equipment screening. (section V.F.3.g)
83. ____ Avoid monotony of design in single or multiple building projects and vary detail, form, and siting to provide visual interest. (section V.F.3.h)



Fayette County Unified Development Code

Fayette County, West Virginia

Section 9

Article 9005 U.S. Route 19, U.S. Route 60, and Route 16 Corridor Overlay Dis-

- 84. ____ Ensure every sign has good scale and proportion in its design and in its visual relationship to buildings and surroundings. (section V.G.3.a)
- 85. ____ Design every sign as an integral architectural element of the building and site to which it principally relates. (section V.G.3.b)
- 86. ____ Ensure the colors, materials, and lighting of every sign are restrained and harmonious with the building and site to which it principally relates. (section V.G.3.c)
- 87. ____ Minimize the number of graphic elements on a sign needed to convey the sign's major message. (section V.G.3.d)
- 88. ____ Ensure that each sign is compatible with signs on adjoining premises and they do not compete for attention. (section V.G.3.e)
- 89. ____ Ensure all identification signs of a prototype design and corporation logos conform to the criteria for all other signs. (section V.G.3.f)
- 90. ____ Design attractive exterior ground-mounted signs and discourage pole-mounted signs. (section V.G.3.g)
- 91. ____ Incorporate ground signs into the landscape design. (section V.G.3.h)
- 92. ____ Control glare from lighting of building-mounted and ground-mounted signs and prevent light from spilling over onto adjacent sites. (section V.G.3.i)
- 93. ____ Design signs that are not obtrusive, calling attention to themselves beyond their purpose of identifying place or direction. (section V.G.3.j)
- 94. ____ Prevent off-premises signs within a 200-foot zone on either side of the corridors. Restrict on-premises signs to one small monument-style sign integrated into the landscaping plan. (section V.G.3.k)
- 95. ____ Permit only one freestanding commercial sign on each parcel of the corridors. (section V.G.3.l)
- 96. ____ Discourage more than one vehicular access point, except in the case of larger, multi-tenant retail centers. (section V.H.3.a)
- 97. ____ Provide service for buildings in the rear. (section V.H.3.b)
- 98. ____ Permit service trucks access from the main street corridor, provided such trucks have direct access to the rear of the building. (section V.H.3.c)
- 99. ____ Accentuate entranceways, whether to a parking area or interior roadway, with street trees as long as site lines for traffic are maintained. Border all entryways with landscaping. (section V.H.3.d)
- 100. ____ Consolidate vehicular entrances/exits to a site at a sufficient distance away from the intersections. (section V.H.3.e)
- 101. ____ Introduce a planted median strip of at least six feet in width between incoming and outgoing traffic, if two or more lanes are provided in one direction of a two-way entrance. (section V.H.3.f)



- 102.____ Space aisles intersecting with entrance drives at a minimum of twenty feet from the property line to allow for smooth turning movements. (section V.H.3.g)
- 103.____ Ensure that any activity, operation, or device that causes or tends to cause the release of air contamination into the atmosphere complies with the rules and regulations of the State. (section V.I.3)
- 104.____ Minimize tree and vegetation removal for all scenic routes and significant views. Clear selectively to open up obscured views or create filtered views of compatible development. (section VI.C.1.a.i)
- 105.____ Minimize grading to preserve the quality of the existing landforms for all scenic routes and significant views. (section VI.C.1.a.ii)
- 106.____ Minimize the number of access roads and driveways intersecting the scenic road for all scenic routes and significant views. (section VI.C.1.a.iii)
- 107.____ Use the narrowest road pavement section possible while ensuring adequate public safety. Use shoulders and curbs appropriate to the character of the road for all scenic routes and significant views. (section VI.C.1.a.iv)
- 108.____ Design and locate utilities, drainage structures, bridges, lighting, signs, fences, walls, and street furniture to harmonize with the surroundings and to create the least visual impact for all scenic routes and significant views. (section VI.C.1.a.v)
- 109.____ Design new structures to complement the site and surrounding community through the repetition of scale, proportion and mass, materials and/or details of the existing buildings on the site or in the community for all scenic routes and significant views. (section VI.C.1.a.vi)
- 110.____ Use indigenous species or ones commonly found in the area when landscaping. Ensure planting designs reinforce the character of the site, its ecological significance, and its environmental function for all scenic routes and significant views. (section VI.C.1.a.vii)
- 111.____ Complement existing vegetation with flowering or evergreen trees and shrubs and wildflowers for seasonal interest for all scenic routes and significant views. (section VI.C.1.a.viii)
- 112.____ Use plant materials to frame particularly attractive views for all scenic routes and significant views. (section VI.C.1.a.ix)
- 113.____ Create an interesting sequence of visual experiences with selective clearing and planting for all scenic routes and significant views. (section VI.C.1.a.x)
- 114.____ Locate parking, service, and storage areas at the side or rear of the building(s) and screen them from the road to reduce their visual impact for all scenic routes and significant views. (section VI.C.1.a.xi)
- 115.____ Encourage pedestrian or bike paths along scenic corridors. (section VI.C.1.a.xii)



- 116.____ Maintain a buffer area between the road and the new development and ensure the buffer is wide enough to maintain the road's visual character, with a minimum width of at least thirty feet from the right-of-way, for enclosed views. (section VI.C.1.b.i)
- 117.____ Supplement a wooded buffer with evergreen trees and shrubs planted on the interior side to screen or partially screen new development for enclosed views. (section VI.C.1.b.ii)
- 118.____ For enclosed views, design new development compatible with the existing development in respect to building setbacks, height, scale, proportion, materials, and design; site materials and design; paving design (vehicular and pedestrian); and landscaping, including street trees where the scenic road is bordered by residential or historic buildings. (section VI.C.1.b.iii)
- 119.____ For expansive views, site new buildings behind natural screens or beyond primary views. Cluster development at the edges of fields and hedgerow or adjacent to existing buildings. (section VI.C.1.c.i)
- 120.____ For expansive views, site development in relation to the natural contours. Avoid placing structures on the tops of prominent ridges. (section VI.C.1.c.ii)
- 121.____ Use berms and vegetated buffers to screen distracting development from the scenic road for expansive views. (section VI.C.1.c.iii)
- 122.____ Preserve the foreground meadow, pasture, or cropland and nestle development into the background for expansive views. Maintain the foreground through a homeowner's association for use as an open space or a community garden, or rent it to a neighboring farmer to continue an agricultural use. (section VI.C.1.c.iv)
- 123.____ Site new buildings in small groups to resemble the existing development where a cluster of farm buildings comprise part of an expansive view. Maintain large open areas between the clusters to preserve the open character of the view. (section VI.C.1.c.v)
- 124.____ Site new buildings beyond the angle of view for focused views. (section VI.C.1.d.i)
- 125.____ Retain vegetation to frame the focal point for focused views. (section VI.C.1.d.ii)
- 126.____ Design new buildings to enhance the focal point for focused views. (section VI.C.1.d.iii)
- 127.____ Screen incompatible new development from the primary view for focused views. (section VI.C.1.d.iv)



9006 Mobile Home Parks

I. Purpose and Intent

It is intended that a mobile home park be located and designed so as to provide and maintain a desirable residential environment for the residents of the park and the residents of adjacent properties.

The following provisions related to mobile home subdivisions are designed primarily to benefit those who wish to acquire ownership or equity in a lot and occupy the premises themselves, but who may find it undesirable or difficult to construct a conventional single-family dwelling. It is intended that conventional homes may be built in mobile home subdivisions and that owners of mobile homes in these subdivisions may improve, convert or change their residences from mobile homes to conventional dwellings.

II. Permitted Uses

Mobile home parks can only be considered for location in Rural Districts by the BZA.

III. Special Permitted Uses

If BZA approves a Mobile Home Park, any off-street parking will be considered a special use and will require approval from the BZA under a separate application and hearing.

IV. Use Limitations

- A. Fayette County specifically provides for the restriction of mobile homes solely to mobile home parks among other regulatory provisions applicable to mobile home. However, in an effort to provide for affordable housing for all residents, Fayette County permits mobile homes to be situated on individual lots in certain zoning districts. To ensure use of such mobile homes for residential purposes, the following regulations shall apply:
 - 1. Such mobile home shall be located on a foundation approved pursuant to the West Virginia Uniform Statewide Building Code, and
 - 2. Such mobile home shall not be used for any purpose other than a primary place of residence.
- B. The BZA may establish a mobile home park by special use permit obtained pursuant to this ordinance.
- C. Mobile home subdivisions may be established in a Mobile Home Park by the Planning Commission pursuant to this ordinance.
- D. Temporary Mobile Home Permit
 - 1. Temporary mobile home permits may be authorized by the Zoning Enforcement Officer provided the mobile home is used only as an interim means of housing during construction of a permanent dwelling. The mobile home shall be removed within thirty (30) days of issuance of a certificate of occupancy for the permanent dwelling. Temporary mobile home permits shall be subject to the following conditions:
 - a). Fayette County Zoning Enforcement Officer approval;



- b). The applicant and/or owner of the subject property shall certify as to the intent for locating the mobile home at the time of application;
- c). Minimum frontage setback and side and rear yard setbacks shall be determined by the Zoning Enforcement Officer;
- d). Provision of potable water supply and sewerage facilities to the reasonable satisfaction of the Zoning Enforcement Officer and County Health Department.

2. Expiration, Renewal:

Any permit issued pursuant to this Article shall expire eighteen (18) months after the date of issuance unless construction shall have commenced and is thereafter prosecuted in good faith. The Zoning Enforcement Officer may revoke any such permit after ten (10) days written notice, at any time upon a finding that construction activities have been suspended for an unreasonable time or in bad faith. In any event, any such permit shall expire three (3) years from the date of issuance; provided, however, that the Zoning Enforcement Officer may, for good cause shown, extend the time of such expiration for not more than two (2) successive periods of one (1) year each.

E. Temporary Nonresidential Mobile Homes

- 1. A temporary nonresidential mobile home may be authorized by the Zoning Enforcement Officer provided the mobile home is necessitated to provide additional space for employees, students or other people and is to be an activity area as opposed to being employed for storage purposes or equipment which could be accommodated in an accessory structure. Such mobile home shall be located on the same site as the main established use for which additional space is needed. In the event of the expansion of the main permanent structure, the mobile home shall be removed within thirty (30) days of issuance of a certificate of occupancy for the permanent structure. Temporary non-residential mobile home permits shall be subject to the following conditions:
 - a). Planning Commission approval of site development plan after submittal to the Zoning Enforcement Officer;
 - b). Zoning Enforcement Officer final approval;
 - c). The applicant and/or owner of the property shall certify as to the intent for locating the mobile home at the time of application; and
 - d). Skirting to be provided from ground level to base of mobile home within thirty (30) days of the issuance of a certificate of occupancy.

2. Expiration, Renewal:

Any permit issued pursuant to this Article shall expire three (3) years after the date of issuance unless expansion of the main permanent structure shall have commenced and is thereafter prosecuted in good faith. The Zoning Enforcement Officer may revoke any such permit after ten (10) days written notice, at any time upon a finding that construction activities have been suspended for an unreasonable time or in bad faith. In any event, any such permit shall expire three (3) years from the date of issuance; provided, however, that the Zoning Enforcement Officer may, for good cause shown, extend the time of such expiration for not more than two (2) successive periods of one (1) year each.



V. Lot Size Requirements

- A. Minimum Size for Mobile Home Parks: A mobile home park shall consist of five (5) or more contiguous acres.
- B. Minimum Size for Mobile Home Subdivisions: A mobile home subdivision shall consist of ten (10) lots or more.
- C. Each mobile home lot shall comply with the following area and width requirements:
 - 1. Mobile home lots shall consist of four thousand five hundred (4,500) square feet or more and shall have a width of forty-five (45) feet or more.
 - 2. Mobile home lots served by either central water or central sewerage system shall consist of forty thousand (40,000) square feet or more and shall have a width of one hundred (100) feet or more.
 - 3. Mobile home lots served by neither a central water supply nor a central sewerage system shall consist of sixty thousand (60,000) square feet or more and shall have a width of one hundred thirty (130) feet or more.

VI. Bulk Regulations

- A. Location of Mobile Homes:
 - 1. Each mobile home shall be located on a mobile home lot. The lot shall also provide space for outdoor living and storage areas and may provide space for a parking area.
 - 2. Each mobile home lot shall front on an internal street.
 - 3. No mobile home shall be located closer than fifty (50) feet from any service or recreational structure intended to be used by more than one (1) mobile home.
 - 4. The minimum distance between mobile homes shall be thirty (30) feet. The Fayette County fire official may require additional space between mobile homes if public water is not available or is inadequate for fire protection.
- B. Setbacks and Yards for Mobile Homes:
 - 1. Mobile homes and other structures shall be set back at least fifty (50) feet from the right-of-way of an existing public street.
 - 2. Mobile homes and other structures shall be set back at least fifty (50) feet from the mobile home park property line when it is adjacent to a residential or rural areas district.
 - 3. Mobile homes and other structures shall be set back at least fifteen (15) feet from the right-of-way of internal private streets, common walkways and common recreational or service areas. This distance may be increased to twenty-five (25) feet for mobile homes or structures at roadway intersections and along internal public streets.
 - 4. Mobile homes and other structures shall be set back at least six (6) feet from any mobile home space lot line.

VII. Maximum Density

- A. Mobile Home Parks: A mobile home park shall conform to the maximum gross density requirements of the district in which it is located.



VIII. Open Space

None

IX. Additional Regulations

A. Application Plan Requirements for a Mobile Home Park:

An application plan shall be submitted as part of the application for a mobile home park. The plan shall be reviewed by the Planning Commission, but shall be considered preliminary. Following approval of the special use permit, and prior to the issuance of a building permit or any clearing of the site, the Zoning Enforcement Officer shall approve a final site development plan. The final site development plan shall contain all the information required on the application plan in addition to any other requirements of this Ordinance. The application plan shall contain the following information at a scale of one (1) inch equals forty (40) feet or larger:

1. Location of tract or parcel by a vicinity map, and landmarks sufficient to identify the location of the property;
2. An accurate boundary survey of the tract;
3. Existing roads, easements and utilities; watercourses and their names; owners, zoning and present use of adjoining tracts, and location of residential structures on adjoining tracts;
4. Location, type and size of ingress and egress to the site;
5. Existing and proposed topography accurately shown with a maximum contour interval of five (5) feet; areas shown with slopes of twenty-five (25) percent or greater;
6. Flood plain limits;
7. Proposed general road alignments and rights-of-way; general water, sewer and storm drainage lay-out; general landscape plan; common area with recreational facilities and walkways; service areas; common trash container locations; parking areas; a typical lot detail showing the mobile home stand, outdoor living and storage areas, parking area, setbacks and utility connections; and any other information necessary to show that these requirements can be met.

B. Improvements Required for Mobile Home Lots:

1. Utilities:
 - a). Each mobile home lot shall be provided with an individual connection to an approved sanitary sewage disposal system. Each mobile home lot shall be provided with an individual connection to an approved central water supply or other potable water supply.
 - b). Each mobile home lot shall be provided with electrical service installed in accordance with the National Electrical Code.
2. Markers for mobile home lots:
 - a). Each mobile home lot shall be clearly defined on the ground by permanent markers. There shall be posted and maintained in a conspicuous place on each lot a number corresponding to the number of each lot as shown on the site plan.



3. Outdoor living and storage area:
 - a). An outdoor living area shall be provided on each mobile home lot. At least one hundred (100) square feet shall be hard surfaced.
 - b). Storage buildings not to exceed one hundred fifty (150) square feet in aggregate shall be permitted in a designated area on each lot. Additional storage facilities may be provided in common areas.
4. Additions to mobile homes are permitted, subject to the following conditions:
 - a). Fayette County building official approval;
 - b). Applicable setbacks are met;
 - c). Total roof area lot coverage shall not exceed forty (40) percent of the mobile home lot.
5. Installation of mobile homes:
 - a). Installation of mobile homes shall comply with the requirements of the West Virginia Uniform Statewide Building Code.
 - b). Skirting shall be provided around the mobile home from ground level to the base of the mobile home within thirty (30) days of the issuance of an occupancy permit.
- C. Phasing Plan: The phasing of improvements enumerated in this section shall be indicated on the plan.
- D. Site Planning:
 1. Service areas and accessory uses:
 - a). Centrally located service buildings may provide common laundry facilities and office space for management and accessory uses as are customarily incidental to the operation and maintenance of a mobile home park. Consolidation of the service building and indoor recreational facilities is permitted. Other uses may be established in accordance with the regulations of the zoning district in which the park is located.
- E. Lighting: All proposed exterior lighting shall be shown. Lighting shall be directed away from mobile homes, adjacent properties and roadways such that it does not create a nuisance or safety hazard and shall be shielded when necessary.
- F. Parking Requirements:
 1. Parking for mobile homes may be provided on individual lots or in convenient bays.
 2. Off-street parking is permitted; provided such space is on land in same ownership as that of the land on which is located the use to which such space is appurtenant.
 3. Additional parking area for recreational vehicles shall be provided in a common area at a rate of one (1) space per ten (10) units.



G. Vehicular Access and Internal Streets:

1. A minimum right-of-way width of forty (40) feet shall be established on internal private streets for the purpose of measuring setbacks. The right-of-way shall be maintained clear of all obstructions.
2. Internal private streets shall be constructed to the following minimum standards:
 - a). Minimum typical section for access, entrance, or other connecting streets that do not abut mobile home sites and for streets that do abut mobile home sites where the lot frontage (measured at the mobile home setback line) is an average of 85 feet or greater.
 - b). Minimum typical section for all park streets that abut mobile home sites where the lot frontage (measured at the mobile home setback line) is an average of less than 85 feet.
 - c). General Design Notes:
 - i). Increase street width to 24 feet for streets that serve over 50 mobile home sites.
 - ii). Pavement shall be prime and double seal bituminous surface treatment. Base shall be six inches of 21 or 21A aggregate base.
 - iii). Maximum longitudinal street grade is 10 percent.
 - iv). Minimum vertical stopping sight distance is 100 feet.
 - v). Minimum horizontal centerline curve radius is 250 feet.
 - vi). Cup-de-sacs shall have a minimum radius of 45 feet measured to the edge of pavement.
 - vii). Minimum radius of edge of pavement at intersections is 25 feet.
 - viii). Roadside ditches shall be designed to contain the ten-year storm below the shoulder using Mannings "n" of 0.06 if lined with grass, or 0.015 if lined with concrete. Ditches may be grassed if the flow from the two- year storm does not exceed three feet per second for a Mannings "n" of 0.03. If the three foot per second velocity is exceeded, the ditches shall be paved with class A-3 concrete, four inches thick, to the depth of the ten-year storm. When the depth of the required roadside ditch (measured from the shoulder to the invert) exceeds 2.5 feet, the flow shall be piped in a storm sewer system.
 - ix). Driveway entrance culverts and culverts crossing streets shall be designed to contain the ten-year storm below the road shoulder using the appropriate WVDOT standards. When paved ditches are smoothly transitioned into the culverts, the culverts may be sized using Mannings formula. All culverts shall be concrete. Erosion control protection shall be placed at culverts when the outlet velocity exceeds five feet per second. Driveway culverts shall be a minimum of 12 feet long.
 - x). Driveways shall be paved the same as streets to the right-of-way line. Aggregate base may be four inches thick.



- xi). Curb drop inlets shall be placed along the tangent portions of the street or at the points of curve at intersections. Curb drop inlets shall be sized and located to prevent overtopping of the curb during the ten-year storm.
 - xii). Storm sewers shall be designed in accordance with WVDOH criteria.
 - xiii). All construction and materials shall be in accordance with current WVDOH road and bridge standards and specifications.
- H. Utility Requirements: All utilities shall be placed underground.
- I. Performance Standards:
 - 1. All uses shall comply with Performance Standards set forth in Article 9001.
 - 2. Refer to Article 9002 for regulations on signs.
 - 3. Refer to Article 9003 for landscaping and screening requirements.



9007 Flood Plain District³

BE IT ENACTED AND ORDAINED by the Fayette County Commission, Fayette County, West Virginia, as follows:

I. General Provisions

A. Intent

The intent of this ordinance is to:

1. Promote the general health, welfare and safety of the community.
2. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
3. Minimize danger to public health and safety by protecting water supply, sanitary sewage disposal, and natural drainage.
4. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing the unwise design and construction of development in areas subject to flooding.

B. Abrogation and Greater Restrictions

This ordinance supersedes any ordinance currently in effect in flood prone areas. However, any underlying ordinance shall remain in full force and effect to the extent that those provisions are more restrictive.

C. Applicability

Provisions of all other codes, ordinances, and regulations shall be applicable insofar as they are consistent with the provisions of this ordinance and the County's need to minimize the hazards and damage resulting from flooding.

3. Amended 11/03/07. See; References "9007 Floodplain District" page 9-69.



II. Definitions

Appurtenant Structure: A structure on the same parcel of property as the principal structure and use of which is incidental to the use of the principal structure. This does not include a gas or liquid storage tank.

Base Flood: The flood which has been selected to serve as the basis upon which the flood plain management provisions of this and other ordinances have been prepared; for purposes of this ordinance, the one hundred-year flood.

Base Flood Elevation: The one hundred-year flood elevation. Within the approximated floodplain the base flood elevation shall be established as a point on the boundary of the approximated floodplain that is nearest to the construction site in question.

Basement: Any area of the building having its floor sub grade (below ground level) on all sides.

Certificate of Compliance: A certification that the entire development, including the elevation of fill or the lowest floor of the structure is in compliance with all provisions of this ordinance.

Contractor - WV State Code 21-11-3(c): A person who in any capacity for compensation, other than as an employee of another, undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, structure or excavation associated with a project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, where the cost of the undertaking is one thousand dollars or more. Contractor include a construction manager who performs management and counseling services on a construction project for a professional fee.

Contractor does not include:

1. One who merely furnishes materials or supplies without fabricating or consuming them in the construction project.
2. A person who personally performs construction work on the site of real property which the person owns or leases whether for commercial or residential purposes.
3. A person who is licensed or registered as a professional and who functions under the control of any other licensing or regulatory board, whose primary business is real estate sales, appraisal, development, management and maintenance, who acting in his or her respective professional capacity and any employee of such professional, acting in the course of his or her employment, performs any work which may be considered to be considered to be performing contracting work.
4. A pest control operator licensed under the provisions of section seven, article sixteen-a, chapter nineteen of this code to engage in the application of pesticides for hire, unless the operator also performs structural repairs exceeding one thousand dollars on property treated for insect pest; or
5. A corporation, partnership or sole proprietorship whose primary purpose is to prepare construction plans and specifications used by the contractors defined in section (C) of



this section and who employs full time a registered architect licensed to practice in this state or a registered professional engineer licensed to practice in this state. Employees of such corporation, partnership or sole proprietorship shall also be exempt from the requirements of this article.

- Development:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structure mining, dredging, filling, grading, paving, excavation or drilling operations.
- Flood:** A general and temporary inundation of normally dry land areas.
- Floodplain:** (1) A relatively flat or low land area adjoining a river, stream, or watercourse that is subject to partial or complete inundation; (2) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.
- Floodproofing:** Any combination of structural and non-structural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.
- Floodplain Administrator:** The Fayette County Building Code Official (BCO) shall be the Floodplain Administrator. The Floodplain Administrator may also be identified as the Floodplain Manager.
- Floodway:** The channel of a river or other watercourse and the adjacent land area that must be reserved to discharge the base flood without increasing the water surface elevation of that flood more than one foot at any point.
- Freeboard:** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for unknown factors that may contribute uncertainty to flood heights of any given flood and floodway condition, such as wave action, blockage at stream crossings, and increased runoff from urbanization of the watershed.
- Historic Structure:**
- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements of individual listing on the National Register;
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district.
 - C. Individually listed on a state inventory of historic preservation programs which have been approved by the Secretary of the Interior; or,
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior; or,
 2. Directly by the Secretary of the Interior in states without approved programs.
- Licensed Manufactured Home Dealer:** A business licensed to sell Manufactured Homes in the state of West Virginia as set forth in the West Virginia state code.



Licensed Manufactured Home Installer: A contractor licensed to install Manufactured Homes in West Virginia as set forth in the West Virginia state code.

Licensed Professional Surveyor: Any person licensed by the West Virginia state board of examiners of land surveyors to engage in the practice of land surveying as defined in West Virginia state code.

Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term manufactured home also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term manufactured home does not include park trailers, travel trailers and other similar vehicles.

Manufactured Home Park/Subdivision: A parcel or contiguous parcel of land divided into two or more manufactured home lots for rent or sale.

New Construction: Structures for which the start of construction as herein defined commenced on or after the effective date of this ordinance. This term does not apply to any work on a structure existing before the effective date of this ordinance.

Non Conversion Agreement: Agreement that must be signed by the homeowner and recorded on the deed in the County Clerk's office stating that if a home is built in the floodplain with a basement below the BFE, that the area designated as the basement may only be used for vehicle parking, access to dwelling, and limited storage space and that this space may not be converted to habitable space by the owner, his or her heirs, successors, future owners and assigns.

One-hundred (100) Year Flood: A Flood that has one chance in one-hundred or one percent chance of being equaled or exceeded in any given year.

Person: Any individual or group of individuals, corporation, partnership, association, or other entity, including State and local governments and agencies.

Practice of Engineering: Any service or creative work, as described in West Virginia state code Article 13, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and subjects, engineering surveys and studies; and the review of construction for the purpose of assuring compliance with drawings and specifications any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings machines, processes, work systems, projects and hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services. Engineering surveys include all survey activities required to support the sound conceptions, planning, design, construction maintenance and operation of engineered projects.



Any person who practices any branch of the profession of engineering or who, by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself or herself to be a registered professional engineer, or by using another title implies that he or she is a registered professional engineer or that he or she is register under West Virginia state code, Article 13 or who holds himself or herself out as able to perform, or who perform any engineering service or work or any other service designated by the practitioner which is recognized as engineering, is considered to practice or offer to practice engineering within the meaning and intent of West Virginia state code Article 13.

Principally Above Ground: Where at least fifty-one percent of the actual cash value of a structure, less land value, is above ground.

Recreational Vehicle: A vehicle which is:

- a). built on a single chassis:
- b). 400 square feet or less when measured at the largest horizontal projection:
- c). designed to be self-propelled or permanently towable by a light duty truck; and
- d). designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Registered Professional Engineer: A person who has been duly registered or licensed as a registered professional engineer by the West Virginia state board of registration for professional engineers as required under West Virginia state code Article 13 et seq.

Remedy a Violation: To bring a structure or other development into compliance with the requirements of this ordinance, or, if full compliance is not possible, to reduce the adverse impacts of the non-compliance to the greatest extent feasible.

Reasonably Safe from Flooding: Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Start of Construction: The first placement of permanent construction of a structure (other than a manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as sheds or garages not occupied as dwelling units or not as part of the main structure. For a structure (other than a manufactured home without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes not within a manufactured-home park or subdivision, "start of construction" means the affixing of the manufactured home to its permanent site. For manufactured homes within manufactured home parks or subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the manufactured home is to be affixed (including at a minimum the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.



State Coordinating Office: The West Virginia Division of Homeland Security and Emergency Management.

Stream: As defined West Virginia State Code 7-1-3U, any water-course, whether natural or man-made, distinguishable by banks and a bed, regardless of their size, through which water flows continually or intermittently, regardless of its volume.

Structure: A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty percent of the market value of the structure before the damage occurred. Substantial damage also means cumulative flood-related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each flood event equals or exceeds twenty-five year percent of the market value of the structure before the damage occurred.

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure, with, (a) before the improvement or repair is started or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either, (a) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (b) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Top of Bank: The lines depicted on the FIRM maps delineating each side a stream indicate the top of bank. In the field a professional familiar with geomorphology should document the top of bank. When a professional is not employed the top of the bank will be considered to be the top of the first significant slope landward of the waters edge when it is followed by at least fifty feet of relatively flat land.

Violation: The failure of any structure or development to be fully compliant with all requirements of this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be violation until such time as that documentation is provided.

III. Establishment of the Floodplain District

A. Floodplain District Identification

The identified floodplain area shall be those areas of Fayette County which are subject to the one hundred (100) year flood, as shown on the Flood Insurance Rate Map (FIRM) and described in the Flood Insurance Study (FIS) prepared for Fayette County by the Federal Emergency Management Agency (FEMA) dated March 4, 1988 or the most recent revision thereof.



The identified floodplain area shall also by those areas of Fayette County which have been identified as flood hazard areas by the County by use of historic or other technical data and shown on the Fayette County "Local Flood Hazards Map". These areas shall be designated as appropriate with the level of technical data described below and shall be managed accordingly.

B. Subdistricts

The Floodplain District shall be comprised of three (3) subdistricts as follows:

1. Floodway (F1): shall be those areas identified as such in the Flood Insurance Study and as shown on the floodway map or FIRM. The term shall also include floodway areas identified in other studies for the approximated area discussed in Section D below.
 - a). In floodplain areas which no regulatory floodway has been designated, the regulatory floodway for small, single lot development not incorporated significant amounts of fill can, at the discretion of the county, be considered to be the channel of the stream and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the top of the bank nearest the site to the upland limit of the 100 year floodplain boundary.
2. Floodway Fringe area(F2): shall be those areas for which specific one hundred (100) year flood elevations have been provided in the Flood Insurance Study (FIS) but which lie beyond the floodway area. The areas are shown on the FIRM.
3. The AE Area without Floodway (F3): shall be those areas identified as an AE Zone on the Flood Insurance Rate Map (FIRM) included in the Flood Insurance Study(FIS) prepared by FEMA for which one hundred (100) year flood elevations have been provided but no Floodway has been delineated.
4. Approximate Floodplain (F4): shall be those areas identified as an A Zone on the Flood Insurance Rate Map (FIRM) included in the Flood Insurance Study (FIS) prepared by FEMA and for which no one hundred (100) year flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State or other acceptable source shall be used when available. Where other acceptable information is not available the Floodplain Administrator shall require the applicant to determine the elevation with hydrologic and hydraulic engineering or other techniques. When hydrologic and hydraulic analyses are required, they shall only be undertaken by a registered professional engineer who shall certify that the methods used correctly reflect currently accepted technical concepts. The resultant study shall include a cover letter, signed by the responsible professional, providing a statement of findings, in basic terms. In addition, studies, analyses, computation, etc., used to determine base flood elevations and floodways shall be submitted in sufficient detail to allow a thorough technical review by Fayette County

C. Revisions

1. The delineation of the identified floodplain area may be revised by Fayette County where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, a River Basin Commission or other qualified agency or individual document that necessitate for such changes.



However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

2. Fayette County may identify and regulate new flood hazard or ponding areas. These areas may be delineated using locally derived technical information such as flood of record, historic high water marks and/or topographic data.

D. Elevations Prevail

1. If the lowest natural grade adjacent to a proposed building site within an identified flood hazard area is at or above the Base Flood Elevation specified in the Flood Insurance Study (FIS), the structure shall not be required to conform to the flood prevention design and construction standards or flood-related development codes in Section V. Topographic data certified by a registered professional engineer or surveyor shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator. The applicant is advised to apply for a Letter of Map Amendment (LOMA) from FEMA to have the Special Flood Hazard Area designation removed from the parcel of structure.
2. If the lowest natural grade to a proposed building site below the Base Flood Elevation specified in the Flood Insurance Study, the site shall be considered to be within the floodplain area and the proposed structure shall be required to conform to all appropriate provisions of this ordinance.

E. Boundary Dispute

Should a dispute concerning any district boundary arise, an initial determination shall be made by the building permit officer. Any party aggrieved by this decision may appeal to the Fayette County Building Code of Appeals. The burden of proof shall be on the appellant/applicant.

IV. Utilization of the Floodplain District

A. Floodway (F1)

1. No encroachments, including fill, new construction, substantial improvements, substantial damage, or other development shall be permitted which would result in any increase in the base flood elevation during the occurrence of the base flood discharge. When a developer proposed of offset the effects of development in the Floodway by construction of stream improvements, he or she shall submit a engineering study prepared by a registered professional engineer that fully evaluates the effects of such construction. the report shall use the base flood as herein defined as the basis of analysis. All adjacent communities and the State coordinating office shall be notified by the developer by certified mail of all such intended activities prior to any alternation or relocation of a watercourse and shall submit copies of such notification to the Federal Insurance Administrator. In addition, the developer shall assure the Fayette County Commission, in writing, that the flood carrying capacity within the altered or relocated portion of the watercourse in question will be maintained. The County may require the developer to submit a maintenance plan for this purpose.

- B. 1.) Because floodways present increased risk to human life and property due to their relative faster and deeper flowing waters the floodway shall be preserved to the greatest extent possible.



2. New development shall not be permitted in the floodway where reasonable alternatives exist elsewhere. In addition to the requirements below the applicant shall demonstrate that there are no reasonable alternatives other than the floodway encroachment before a permit is issued.
3. When the floodway is the only reasonable alternative the applicant shall demonstrate that the floodway encroachment is minimum necessary to accomplish the project.
4. All permitted uses, activities, and development shall be undertaken in strict compliance with the flood proofing and related provisions contained herein, and in all other applicable codes, ordinance and regulations.

C. Floodway Fringe (F2) and Approximated Floodplain (F4)

Any development and/or use of land shall be permitted provided that all such uses, activities and/or development shall be undertaken in strict compliance with the flood-proofing and related provisions contained herein and in all other applicable codes, ordinance and regulations. For any manufactured home park or subdivision, the owner or operator of the Manufactured Home Park or subdivision shall file with the disaster preparedness authorities of Fayette County, and the Fayette County Commission, and evacuation plan which indicates alternate vehicular access routes.

D. In the Approximated Floodplain (F4)

The Floodplain Manager shall review, or shall cause to be reviewed, all proposed development not covered by sub-section B below to ascertain the amount being invested and the specific flood risk at the building site and assign a "minimal, moderate or significant" risk level.

- a). Development determined to represent a minimal risk and costing less than \$10,000 shall be required to provide "Point on Boundary" elevation data and historic flood heights. The Floodplain Manager shall attempt to determine a height that will be reasonably safe from flooding using this elevation data. The Floodplain Manager shall enter the flood height in Section "G" of the Elevation Certificate. Any new or substantially improved structures permitted using this method (other than appurtenant structures) shall be required to have the lowest floor elevated at least three (3) feet above the highest adjacent grade even if the "point on boundary" or historic flood height data would indicate a lower flood elevation. If this method is not adequate to allow the Floodplain Manager to confidently determine the flood height or if the applicant is not satisfied with the height determined the applicant shall be required to utilize one of the alternate methods set forth below.
- b). Development determined to represent a low to moderate risk and/or costing less than \$30,000 shall provide a Quick-2 engineering program or obtain free LOMA data from FEMA. This semi-detailed method will be used by the Floodplain Manager to determine a "Community Flood Elevation". The Floodplain Manager shall enter the "Community Flood Elevation" in Section "G" of the Elevation Certificate.
- c). Development determined to represent a high risk and/or costing more than \$30,000 shall develop a Base Flood Elevation using a detailed method such as HEC-ras. This data shall be prepared and certified by a registered professional engineer, who shall certify that the methods used correctly reflect currently accepted technical concepts. The resultant study shall include a cover letter, signed by the responsible pro-



professional, providing a statement of findings in basic terms and a completed Elevation Certificate. In addition, studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain.

- E. All subdivision proposals and other proposed new documents which are proposed to take place either fully or partially within the Approximated Floodplain area(F4) and which are greater then ten (10) lots or two(2) acres, whichever is the lesser, shall include base flood elevation data.
 - 1. This data may be available from an authoritative source, such as the U.S. Army Corps of Engineers, U.S. Geological Survey, Nautral Resource Conservation Service or state and local wáter resource department.
 - 2. If the required data is not available from other sources the applicant shall develop the technical data using detailed methodologies comparable to those contained in a Flood Insurance Study. This data shall be prepared and cerified by a registered professional engineer, who shall certify that the methods used correctly reflect currently accepted technical concepts.
- F. AE Area without floodway (F3) Within any AE area without floodway, no new construction or development shall be allowed unless it is demostrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one (1) foot at any point. This requirement can be satisfied by utilization of the floodway area where determined.

Section 4.4 Alteration of Relocation of a Stream

- A. Whenever a developer intends to alter or relocate a stream within the Floodplain Area the developer shall notify in writing, by certified mail, the Fayette County Floodplain Administrator, The State Coordinating Office, and any adjacent communities of all such intended activities prior to the alteration or relocation of the stream. Copies of all required notifications must be submitted to the Federal Insnrance Administration. In addition prior is issuing the local permit the Floodplain Administrator shall require copies of all necessary permits from those governmental agencies from which Federal or State Law requires approval. Contact information for State and Federal permitting authorities as well as addressess for required notification of appropriate County, State & Federal government agencies are contained in the Fayette County Stream Alteration adminstrative procedures.
- B. The developer shall also assure Fayette County in writing that the carrying capacity within the altered or relocated portion of the stream will be maintained. The Floodplain Administrator may require the applicant to demonstrate that the altered or relocated portion of stream will provide equal or greater conveyance than the original stream segment. If hydrologic and hydraulic analyses are required, they shall only be undertaken by professional engineers, who shall certify that the methods used correctly reflect currently accepted technical concepts. The resultant study shall include a cover letter, signed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the floodplain adminstrator.



- C. Alteration of a stream includes placement of culverts, bridges or other stream crossing. The floodplain administrator may require the use of certain "best practice" techniques in the construction of bridges, culverts or stream crossings to prevent damage, loss of stream crossings and localized flooding caused by blockage. These techniques may include, but are not limited to, wing walls, trash grates or requiring openings to be of sufficient size to pass debris and/or anticipated future increases in flood heights.
- D. All new and replacement bridges, culverts and other stream crossings shall adhere to the relevant anchoring requirements contained in this ordinance.
- E. The developer is required to provide the community a legal agreement detailing all scheduled inspections and maintenance to be performed on altered or relocated watercourses including culverts, bridges, and other stream crossings. It shall be the responsibility of the applicant to transfer this agreement to the new owner when the land associated with the watercourse alteration is transferred. A copy of all new agreements provided to the floodplain administrator. Failure to transfer the agreement and provide a signed copy to the Floodplain Administrator shall subject the violator to the penalties set forth in Section 8.3 of this ordinance.
- F. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the Flood Insurance Study and/or Flood Insurance Rate Maps, when notified by the Floodplain Administrator, and must pay any fees or other costs assessed by FEMA for this purpose.

V. Criteria for Building and/Site Plan Approval

A. General

Building permits are required in order to determine whether all new construction or substantial improvements are:

- 1. Located in the identified Floodplain or Floodway.
- 2. Designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure.
- 3. Constructed with material and utility equipment resistant to flood damage as outlined in FEMA Technical Bulletin 2-93 (FIA-TB-2) or the most recent revision thereof.
- 4. Constructed by methods and practices that minimize flood damage.
- 5. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

B. Basic Format

The basic format of the building permit shall include the following:

- 1. Name and address of applicant.
- 2. Name and address of owner of land on which proposed construction is to occur.
- 3. Name, address and valid West Virginia license number of contractor(s), or affidavit stating that work is being performed by individuals exempt from contractor licensing as set



forth in Title 28, section 3.9 (b) of the West Virginia Code of state regulations or the most recent revision thereof.

4. Site location including tax map and parcel number.
5. The contract require by West Virginia Code of State Regulations, Title 28 Series 4, and all addendums to the contract(s) shall be presented to the floodplain administrator for review within five (5) business days of contract signing. the community does not require and will not keep copies of the contracts or addendums. Failure to present contract or addendums for review may void the permit. If a licensed contractor is not involved or the work is of an aggregate value of less than ten (10) thousand dollars, including materials and labor a brief written description of proposed work and the estimated cost will suffice.
6. A standard site plan showing the exact size and location of the proposed development, adjacent roads and watercourses with directions of flow as well as any existing buildings or structure.

C. Elevation and Floodproofing Information

Depending on the type of structure involved, the following information shall also be included in the building permit for work within the Floodplain District:

1. Structure is to be elevated two (2) feet above the Base Flood Elevation.
2. A plan showing the size or the proposed structure and its relation to the lot where it is to be constructed.
3. A determination of elevations of the existing ground, proposed finished ground and lowest floor, certified by a registered professional engineer, surveyor or architect.
4. Plans showing the method of elevating the proposed structure including details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, etc. When requires by the floodplain administrator, these plans shall be prepared by a registered professional engineer or architect
5. Plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, etc. from flooding to two (2) feet above Base Flood Elevation at the building site.
6. During the course of construction, as soon as the basic elements of the lowest floor are in place and before further vertical constructure the applicant shall submit an Elevation Certificate listing the "as built" height of the lowest floor. This Elevation Certificate shall be completed by a Registered Professional Engineer, Surveyor or Architect.
7. A Nonconversion Agreement shall be signed by the applicant whenever the community determines that the area below the first floor could be converted to a nonconforming use (generally areas below base flood elevation with ceilings higher than 5 feet). This agreement shall state.
 - a). The area below Base Flood Elevation shall not be converted for use other than for parking, building access or for allowable storage as detailed in this ordinance.
 - b). The applicant agrees to notify prospective buyers of the existence of the non-conversion agreement. It shall be the responsibility of the applicant to tranfer the agreement at closing to the new owner via notarized signature, a copy of all new



agreements shall be provided to the Floodplain Administrator. Failure to transfer the agreement and provide a signed copy to the Floodplain Administrator shall subject the violator to the penalties set forth in Section 8.3 of this ordinance.

For structure to be flood proofed to two (2) feet above the Base Flood Elevation (non-residential structures only):

1. Plans showing details of all flood proofing measures, prepared by a registered professional engineer or architect, showing the size of the proposed structure and its relation to the lot where it is to be constructed.
2. A determination of elevations of existing ground, proposed finished ground, lowest floor and flood proofing limits; certificated by a registered professional engineer, surveyor, or architect.
3. A flood proofing certificate, FEMA 81-65, as revised by FEMA, shall be prepared by the registered professional engineer or architect who prepared the plans in (1) above, stating the structure in question, together with attendant utility and sanitary facilities is designed so that:
 - a). Below the Base Flood Elevation the structure is water tight with walls substantially impermeable to the passage of water.
 - b). The structure will withstand the hydrostatic, hydrodynamic, buoyant, impact, and other forces resulting from the flood depths, velocities, pressures, and other factors associated with the Base Flood.

For the structures constructed of flood resistant materials - used solely for parking of vehicles or storage, (Appurtenant Structures only):

1. Plans showing details of all flood proofing measures and showing the size of the proposed structure and its relation to the lot where it is to be constructed.
2. A completed site plan showing elevation of existing ground, proposed finished ground and lowest floor.
3. A certificate must be prepared by the floodplain Administrator, that confirms that the structure in question, together with attendant utilities is designed so that:
 - a). Flood resistant materials are used from two (2) feet above the base flood elevation down and that all utilities are located at least two (2) feet above base flood elevation.
 - b). Hydrostatic flood forces on exterior walls are equalized by allowing for automatic entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - ii) The bottom of all openings shall be no higher than one foot above grade.
 - iii) Openings may be equipped with screens, louvers, valves or other coverings or devices that they permit the automatic entry and exit of floodwaters.



- c). In addition, the applicant shall sign a Non-conversion Agreement and notify prospective buyers of the existence of the agreement. It shall be the responsibility of the applicant to transfer the Non-conversion Agreement to any new owner at closing via notarized signature. A signed copy of the transferred Non-conversion Agreement shall be provided to the floodplain administrator. Failure to transfer the agreement and provide a signed copy to the Floodplain Administrator shall subject the violator to the penalties set forth in Section 8.3 of this ordinance. A Non-conversion Agreement shall be signed by the applicant whenever the community determines that the area below the first floor could be converted to a non-conforming use (generally areas below base flood elevation with ceilings higher than 5 feet). This agreement shall state:

i) The area below Base Flood Elevation shall not be converted for use other than for parking, building access or for allowable storage as detailed in this ordinance.

ii) The applicant agrees to notify prospective buyers of the existence of the non-conversion agreement. It shall be the responsibility of the applicant to transfer the agreement at closing to the new owner via notarized signature a copy of all new agreements shall be provided to the Floodplain Administrator. Failure to transfer the agreement and provide a signed copy to the Floodplain Administrator shall subject the violator to the penalties set forth in Section 8.3 of this ordinance.

D. Site Plan Criteria

The owner or developer of any proposed subdivision, manufactured home park/subdivision or other development shall submit a site plan to the permit officer which includes the following information:

1. Name of engineer, surveyor, or other qualified person responsible for providing the information required in this section.
2. A map showing the location of the proposed subdivision and/or development with respects to the municipality's flood-prone areas, proposed lots and sites, fills, flood or erosion protective facilities and areas subject to special deed restriction. In addition, it is required that all subdivision proposals and other proposed new developments greater than ten (10) lots or two (2) acres, whichever is lesser, shall include base flood elevation data.
3. Where the subdivision and/or development lies partially or completely in the flood-plain areas, the plan map shall include detailed information giving the location and elevation of proposed roads, public utilities and building sites. All such maps shall also show contours at intervals of two (2) or five (5) feet depending upon the slope of the land and identify accurately the boundaries of the flood-prone areas.
4. Obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source including data developed pursuant to item (2) above.
5. All lots shown on the plat must have 3,000 square feet of buildable area outside the identified flood hazard area and be served by streets within the proposed subdivision having surfaces not lower than one (1) foot below the elevation of the line defining the



floodplain limits. All new structures must be sited on the portion of the subdivided lot that is located outside of the identified flood hazard area.

VI. Specific Requirements

In order to prevent excessive damage to buildings and structures, and related utilities and facilities, the following restrictions apply to all development, subdivision proposals, manufactured home parks, new construction and to construction of substantial improvements, substantial damage, to existing structures occurring in the Floodplain District.

A. Basements and Lowest Floors

1. Residential Structures - All new construction, relocation, substantial improvements, including repair of substantial damage, of residential structures must have the lowest floor, including basement, ductwork and utilities, elevated to two feet above the Base Flood Elevation.
2. Non-residential Structures - All new construction, relocation, substantial improvements, including repair of substantial damage, of nonresidential structures must have the lowest floor, including basement, ductwork and utilities, elevated to two feet above the Base Flood Elevation; or, together with attendant utility and sanitary facilities, be designed so that the structure is water tight with walls substantial impermeable to the passage of water from the lowest structural element to two feet above the Base Flood Elevation.
3. Opening - For all new construction, relocation, substantial improvements, and repair of substantial damage, those fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a Registered Professional Engineer or meet or exceed the following minimum criteria:
 - a). A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b). The bottom of all openings shall be no higher than one foot above grade.
 - c). Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

B. Manufactured home Placement

1. The unique characteristics of Manufactured Housing installed in the flood hazard areas pose and elevated risk of bodily harm and substantial damage to property. Thus- all manufactured homes to be sited within the identified flood hazard areas of Fayette County shall be installed by a contractor possessing a valid West Virginia Home installer's license. The installer shall use an installation design engineered to withstand flood hazards specific to each site.
 - a). The lowest floor, ductwork and utilities including HVAC/heatpump shall be elevated two feet above the Base Flood Elevation.



- b). Elevation shall be on reinforced piers on a permanent foundation or other foundation elements of at least equivalent strength engineered for use in a flood hazard area. Installation designs incorporating dry stacked block piers shall not be used in flood hazard areas.
 - c). All manufactured homes shall be securely anchored to an adequately anchored foundation system in compliance with the requirements of 42 West Virginia Code of State Regulation, Series 19, Sections 10.1, 10.2, 10b as authorized West Virginia Code 21-9-4. The anchoring shall be adequate to resist flotation, collapse, or lateral movement. Methods of anchoring may include but are not limited to the over-the-top and frame ties, attached to permanent foundation elements. Ground anchors may not be adequate to satisfy flood specific anchoring requirements. This requirements is in addition to applicable State and local anchoring requirements for resisting wind forces.
 - d). Permanently attached rigid skirts and perimeter wall skirts of brick or block must have openings; this type of skirting can be collapsed by floodwaters and compromise supporting piers. The openings must be designed to automatically equalize hydrostatic flood forces by allowing for entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a Registered Professional Engineer or meet or exceed the following minimum criteria:
 - i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - ii) The bottom of all openings shall be no higher than one foot above grade.
 - iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - e). Any additions to a manufactured home shall be similarly anchored and vented.
2. The licensed WV Manufactured Home Installer placing the unit shall perform a site inspection and certify in writing that the manufactured home has been installed to the standards set forth in this ordinance.

C. Appurtenant Structures

- 1. All apartment structures shall be located out of the floodplain area or elevated to two feet above the Base Flood Elevation unless they conform to the following flood damage reduction provisions.
 - a). Structures shall be no more than six (6) hundred square feet in size and valued at less than \$10,000.00.
 - b). Floors shall be located at or above grade on at least one side.
 - c). Structures shall be located, oriented and constructed to minimize flood damage.
 - d). Structures shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting the effects of buoyancy.



- e). Flood resistant materials as detailed in FEMA Technical Bulletin 2-93 (FIA-TB-2) shall be used in construction of the structure from two feet above Base Flood Elevation down.
- f). Machinery, electric devices or appliances, and all utilities shall be located at least two (2) feet above Base Flood Elevation.

D. Recreational Vehicle Placement

Recreational vehicles to be placed within any floodplain area shall either:

- a). Be on site for fewer than 180 consecutive days, or.
- b). Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect utilities and security devices, and has no permanently attached additions, or.
- c). Be installed in accordance with the Manufactured Home Placement requirements and all other flood reduction requirements contained in this ordinance.

E. Fill

Fayette County officially recognizes the beneficial functions the floodplain serves in storage and transporation of water durig floodds. Placement of fill in floodplain has undesirable and detrimental effects on velocity, erosion and sedimentation rates causing increased flooding. Placement of fill in other areas of the flood plain is restricted to functional purposes such as elevating a structure. Placement dispose of spoil from excavation, elevation of yards, parking-lots, or fields will not generally be considered a functional purpose. No fill shall be permitted in the identified flood hazard area unless compensatory storage is provided immediately adjacent to the site. No fill shall be permitted in the floodway. All fill in the floodplain area shall meet or exceed the following standards:

- 1. Fill shall extend beyond a structure for a sufficient distance to provide acceptable access. For residential structures, fill shall extend laterally fifteen (15) feet beyond the building line from all points before the start of sloping required in following subection. For non-residential structures, fill shall be placed to provide access acceptable for intended use. At-grade accesses, with fill extending laterally fifteen (15) feet beyond the building line, shall be provided to a minimum of twenty-five(25) percent of the perimeter of a non-residential structure.
- 2. Fill shall consist of soil or rock materials only. Sanitary land fills shall not be permitted.
- 3. Fill material shall be compacted to provide the necessary stability and resistance to erosion, scouring, or settling.
- 4. Fill slopes exposed to flood waters with expected velocities during the occurrence of the base flood of five (5) feet per second or less must be protected from erosion by covering them with grass, vines, weeds, or similar vegetative undergrowth.
- 5. Fill shall only be used to extent to which it does not adversely affect adjacent properties.
- 6. The applicant must submit any maps, computations or other materials required by FEMA to revise the Flood Insurance Study (FIS) and/or Flood Insurance Rate Maps



(FIRMS) when notified by the Floodplain Administrator, and must pay any fees or other cost assessed by FEMA for this purpose.

F. Placement of Buildings, Structures, and Manufactured Homes.

1. All buildings and structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of flood water.
 - a). Whenever possible, structures shall be constructed with the longitudinal axis parallel to the flood flow and
 - b). So far as practicable, structures shall be placed approximately on the same flood flow lines as those adjoining structures.

G. Anchoring

All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, and lateral movement, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourse.

All air ducts, large pipes, and storage tanks located at or below the Base Flood Elevation shall firmly anchored to resist flotation.

H. Flood Protection Setback

1. A Flood Protection Setback equal to twice the width of the watercourse channel measuring from the top of the bank to the top of the opposite bank or fifty (50) feet, whichever is less, shall be maintained from the top of the banks of all watercourses. to reduce erosion, natural vegetation shall be maintained in this area. Where natural vegetation does not exist along the watercourse and conditions for replanting are suitable, high priority shall be given to planting vegetation in the setback area to stabilize banks and enhance aquatic resources.
2. Necessary public works and temporary construction may be exempted from this subsection.
3. The Floodplain Administrator may consider an appeal to the Flood Protection Setback requirement if the applicant demonstrates that it is possible to allow any development without encroachment into the Flood Protection Setback area. The appeal conditions shall be the minimum necessary and shall be made only after due consideration is given to varying other sitting standards, such as side, front and back lot line setbacks.

I. Storage

No materials that are buoyant, flammable, explosive or in times of flooding could be injurious to human, animal or plant life, shall be stored below the Base Flood Elevation.

J. Utility and Facility Requirements.

For all proposed subdivision, manufactured home parks or subdivisions or other development the permit officer shall required:

1. All new or replacement water systems, whether public or private, shall be floodproofed to minimize or eliminate infiltration of floodwaters into the system.



2. All new or replacement sanitary disposal systems, whether public or private, shall be floodproofed to the base flood elevation.
3. All other new or replacement public and/or private utilities and facilities shall be elevated or floodproofed to minimize or eliminate flood damage.
4. Onsite waste disposal systems shall be floodproofed to avoid impairment to them or contamination from them during flooding.

K. Drainage

Adequate drainage shall be provided to reduce exposure to flood hazard.

L. Backflow Preventers:

Back flow prevention valves should be used for all enclosed structures with sewage or drainage facilities located in the floodplain.

VII. Administration

Designation of Floodplain Administrator

The Building Code Official is hereby appointed as Floodplain Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

A. Development Permits and Site Plan Approvals Required.

It shall be unlawful for any person, partnership, business, or other corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, substantial damage, the placement or relocation of any structure (including manufactured homes) within Fayette County, unless the permit application and standard site plan has been completed, and a permit has been obtained from the Building Code Official. In addition, where land is either partially or fully in the regulatory floodplain is to be subdivided, utilized for a manufactured-home park or subdivision or otherwise developed, a site plan must be submitted to, and approved by, the Floodplain Administrator prior to any development.

B. Approval of Permits and Plans

The Floodplain Administrator shall review, or shall cause to be reviewed; all permit applications and plans in order to determine whether proposed building sites are reasonably safe from flooding.

All permits and plans shall be approved only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

The Floodplain Administrator shall require copies of all necessary permits from those governmental agencies from which approval is required by Federal or State law.

A record of all information supplied to the Floodplain Administrator shall be kept on file by the Fayette County Building Safety Department.

C. Application Procedures.



Application for a building permit and site plan approvals shall be made, in writing, to the Building Safety Department and shall include all information stipulated under Article V of this ordinance.

D. Changes

After the issuance of a building permit or site plan approval by the Floodplain Administrator, no changes of any kind shall be made to the application, permit, or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator.

E. Placards

In addition to the permit, the Building Code Official shall issue a placard which shall be displayed on the premises during the time construction is in process. This placard shall show the number of the building permit, the date of its issuance and be signed by the Building Code Official.

F. Start of Construction

Work on the proposed construction shall begin within 180 days after the date of issuance of the permit or the permit shall expire unless a time extension is granted in writing by the Floodplain Administrator. All work on the proposed development must be completed within 18 months of permit issuance, at which time the permit shall expire, unless a time extension is granted in writing by the Floodplain Administrator.

G. Inspection and Revocation

During the construction period, the Building Code Official or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable laws and ordinances. In the event the Building Code Official discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement and/or misrepresentation by any applicant, the Building Code Official shall issue a Stop Work Order. Notice revoke the permit and report such facts to the Fayette County Commission on whatever action it considers necessary.

H. Certificate of Compliance

In areas of flood hazard it shall be unlawful to occupy, or to permit the use or occupancy, of any building or premises, or both, or part thereof hereafter created, erected, changes converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Floodplain Administrator stating that the building or land conforms to the requirements of this local laws.

In areas of flood hazard it shall be unlawful to inspect and approve a permanent utility connection to any building or premises, or both, or part thereof hereafter created, erected, installed or rebuilt until inspector is in possession of a copy of the certificate of compliance issued by the Floodplain Administrator stating that the particular development being inspected conforms to the requirements of this local law. Inspection and approval of utilities in violation of this section shall subject the violator to the penalties described in Section 8.3 of this local law.



In areas of flood hazard it shall be unlawful to install a permanent utility connection of any building or premises, or both, or part thereof hereafter created, erected or rebuilt until a certificate of occupancy has been issued by the Floodplain Administrator stating that the development conforms to the requirements of this local law.

A certificate of compliance shall be issued by the Floodplain Administrator upon satisfactory completion of all development in areas of special flood hazard.

Issuance of the certificate shall be based upon the inspections conducted as prescribed in this ordinance or local administrative procedures, and any finished construction elevation certificate, hydraulic data, flood proofing certificate, or encroachment analyses which may have been required as a condition or permit approval.

I. Fees

Fees to be charged as shown in Section 1000 of the Fayette County UDC. In addition, the applicant shall be responsible for reimbursing Fayette County for additional costs necessary for review, inspection, and approval of this project. This may include reimbursement for contracted services.

When any work for which a permit is required by this ordinance is started or proceeded with prior to obtaining a permit the fees above specified shall be doubled. Payment of the double fee shall not relieve any person from complying fully with the requirements of this ordinance in the execution of the work or from other penalties prescribed herein.

VIII. Appeals and Penalties

A. Appeals

Whenever any person is aggrieved by a decision of the Floodplain Administrator with respect to the provisions of this ordinance, it is the right of the person to appeal to the Fayette County Commission. Such appeal must be filed, in writing, within thirty days after the determination by the Floodplain Administrator. Upon receipt of such appeal, the Fayette County Commission shall set a time and place not less than ten (10) nor more than thirty (30) days for the purpose of hearing the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties at which time they may appear and be heard. The determination by the Fayette County Commission shall be final in all cases.

B. Appeals Review Criteria

All appeals contesting only to the permit fee, the cumulative substantial damage requirements, the flood protection setback requirements, or the freeboard requirements may be handled at the discretion of the Fayette County Commission.

All decisions on appeals to all other provisions of this ordinance contained in Article X.III.a not covered in (1) above, shall adhere to the following criteria:

1. An affirmative decision shall not be issued by the Fayette County Commission within the designated floodway if any increase in flood levels during the base flood discharge would result. No variance shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the one hundred-year flood.



2. A decision may be issued by the Fayette County Commission for the construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the Base Flood Elevation in conformance with the procedures of paragraphs three, four, five, and six of this section.
3. Affirmative decisions shall only be issued by the Fayette County Commission upon (1) a showing of good and sufficient cause, (2) a determination that failure to grant the appeal would result in exceptional hardship to the applicant, and (3) a determination that the granting of an appeal will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
4. Affirmative decisions shall only be issued upon determination that it is the minimum necessary, considering the flood hazard.
5. The Fayette County Commission shall notify the applicant in writing over the signature of a community official that (1) the issuance of a decision to allow construction of a structure below the base flood elevation will result in increased premium rates for flood insurance, (2) such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with a record of all decisions as required in paragraph six of this section.
6. The Fayette County Commission shall (1) maintain a record of all decisions including justification for their issuance, and (2) report such decisions issued in its annual or biannual report submitted to the Federal Insurance Administrator.
7. An affirmative decision shall not be granted for any construction, development, use or activity within any floodway area that would cause any increase in the Base Flood Elevation.

C. Penalties

Any person who fails to comply with any or all of the requirements or provisions of Article X.II.a of this ordinance or direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of not less than twenty-five dollars nor more than three hundred dollars, plus costs of prosecution. In default of such payment such person shall be imprisoned in county jail for a period not to exceed ten days. Each day during which any violation of this ordinance continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this ordinance. The imposition of a fine or penalty for any violation of, or non-compliance with, this ordinance shall not excuse the violation or shall be required to correct or remedy such violations or non-compliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated, in non-compliance with this ordinance may be declared by the Fayette County Commission to be a public nuisance and abatable as such.

IX. Government Actions

- A. The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts



and enforces an ordinance which meets the requirements for participation in National Flood Insurance Program.

- B. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any are containing identified flood hazards.
- C. All plats or maps of annexation shall show the floodplain boundaries, Base Flood Elelvation and location of the floodway where determined.
- D. In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must nofity the Federal Insurance Administration in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce flood plain management regulations for a particular area. In order that all Flood Insurance Rate Maps accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished flood plain management regulatory authority must be included with the notification.
- E. NDFIP participating communities must notify the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has teh authority to adopt and enforce flood plain managment regulations for a particular area. A copy of a map of the community suitable for reproduction clearly delineating the new corporate limits or new area for which the community regulatory must be included with the notification.

Section 9.2 - Permits for Government Entities.

- A. Unless specifically exempted by law, all public utilities and Municipal, County, State and Federal entities are required by law to comply with this ordinance and obtain all necessary permits. Any entity claiming to be exempt from the requirements of this ordinance must provide a written statement setting forth the rationable for exemption. In addition the entity claiming exemption shall provide copies of all relevant documentation demonstrating the exemption.

X. Severability and Municipal Liability

A. Severability

If any section, subsection, paragraph, sentence, clause or phrase of this Article X.III.a shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance which shall remain in full force and effect, and for this purpose the provisions of this ordinance Article X.III.a are hereby declared to be severable.

B. Municipal Liability

The granting of a permit or approval of a subdivision or development plan in an identified flood-prone area, shall not constitute a representation guarantee, or warranty of any kind by the Fayette County Commission or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the Fayette County Commission, its officials or employees. The Fayette County Commission urges all applicants proposing



development in or near a flood hazard area to locate all development as far away from and as high above all flooding sources as possible.



REFERENCES

Section 9 - Article 9000

9004 Tower Ordinance

1. Section II Applicability - Pg. 9-19.

Added Subsection H - Amateur radio antennas. Approved by Fayette County Commission
July 28, 2003.

9007 Floodplain District

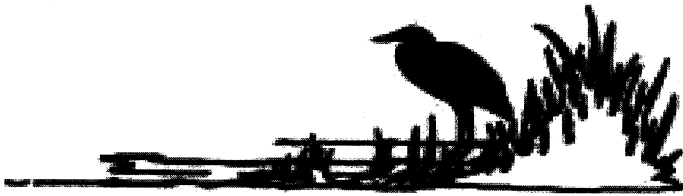
Updated (Enacted and Ordained). - Pg - 9-45

Approved by the Fayette County Commission November 30, 2007



Fayette County Unified Development Code

Fayette County, West Virginia



Appendix A

Route 19, 60, 16 Overlay Checklist



Appendix A

U.S. Route 19, U.S. Route 60 and Route 16 Corridor District Checklist

1. ____ Introduce cluster development that requires new buildings to be sited in groups, with varying setbacks and well-landscaped areas between the structures and the roadway. (section V.A.3.a)
2. ____ Implement nodal development by designating business zones only at major intersections rather than being lined up along the entire length of the Corridor. (section V.A.3.b)
3. ____ Divide the roadway into several distinct sections where each section would have an appropriate level of intensity of permitted land use adjacent to the property. (section V.A.3.c)
4. ____ Develop high points (hills and knolls) as public open spaces. (section V.A.3.d.i)
5. ____ Use existing landmark structures as focal points on or in open spaces. (section V.A.3.d.ii)
6. ____ Protect streams, wetlands, and natural features as part of the open space system. (section V.A.3.d.iii)
7. ____ Locate open spaces strategically to take advantage of knolls and other topographic elements. (section V.A.3.e.i)
8. ____ Vary the character of open spaces so that different parts of the neighborhood are identifiable. (section V.A.3.e.ii)
9. ____ Organize buildings around open spaces to reinforce the qualities of the space. (section V.A.3.e.iii)
10. ____ Determine the street layout concurrently as open spaces. (section V.A.3.f.i)
11. ____ Link a number of open spaces as part of a sequence. (section V.A.3.f.ii)
12. ____ Connect major open spaces visibly to each other and to important buildings. Use landscaping to reinforce these connections. (section V.A.3.g.i.)
13. ____ Make open space settings for monuments and landmarks that terminate on lines of sight and mark important points. Highlight important intersections, changes in topography, vistas, and gateways. (section V.A.3.g.ii)
14. ____ Terminate the vistas of important streets within a neighborhood with a visual landmark. (section V.A.3.g.iii)
15. ____ Ensure that a minimum of one side of each open space is visible and accessible from the street. (section V.A.3.h.i)
16. ____ Continue the landscape treatment of the adjacent streets to define the edge of the open space. (section V.A.3.i.i)



17. ____ Use variations in planting material and paving to accent circulation zones and areas for social activities and recreation. (section V.A.3.j.i)
18. ____ Ensure a variety of public spaces to accommodate a variety of uses and conditions found within a community. Ensure this variety includes one of the following:
 - Residential square;
 - Parks and recreational area;
 - Neighborhood gateway and buffer;
 - Commercial center; or
 - Conservation area. (section V.A.3.k.i)
19. ____ Plan to accomplish a desirable transition with the Corridor and provide for adequate planting, safe pedestrian movement, and parking areas. (section V.B.3.a)
20. ____ Encourage site planning, in which setbacks and yards are in excess of zoning restrictions, to provide an interesting relationship between buildings. (section V.B.3.b.)
21. ____ Treat parking areas with decorative elements, building wall extensions, plantings, berms, or other innovative means to screen parking areas from view from public ways. (section V.B.3.c)
22. ____ Without restricting the permissible limits of the applicable zoning district, ensure the height and scale of each building is compatible with its site and existing (or anticipated) adjoining buildings without restricting the permissible limits of the applicable zoning district. (section V.B.3.d)
23. ____ Ensure that all newly installed utility services, and service revisions necessitated by exterior alterations, are underground. (section V.B.3.e)
24. ____ Emulate local street patterns such as interconnecting streets that influence the overall arrangement of buildings and outdoor spaces within the Corridor. (section V.C.3.a.i)
25. ____ Develop streets to fit the contours of the land, avoiding high terraces and harsh straight lines. Avoid extensive grading that results in steep side slopes. (section V.C.3.a.ii)
26. ____ Continue the alignment of existing streets when extending these streets through the proposed development. (section V.C.3.a.iii)
27. ____ Align intersections at right angles and avoid offset intersections. (section V.C.3.a.iv)
28. ____ Avoid dead-end streets. (section V.C.3.a.v)
29. ____ Arrange buildings, parking areas, and other site improvements to approximate the development of massing of adjacent neighborhoods. (section V.C.3.b.i)
30. ____ Organize buildings to define usable outdoor spaces that contribute to the Corridor. (section V.C.3.b.ii)
31. ____ Group buildings around existing tree groves, rock outcrops, and other natural features. (section V.C.3.b.iii)



- 32. ____ Arrange buildings to take advantage of significant views. (section V.C.3.b.iv)
- 33. ____ Terrace building masses and large parking areas with the existing slope. (section V.C.3.c.i)
- 34. ____ Provide smooth grade transitions between newly graded areas, undisturbed terrain, and adjacent properties. (section V.C.3.c.ii)
- 35. ____ Avoid placement of earth embankments or cut slopes along adjacent properties that may create drainage problems, restrict light, or block views. (section V.C.3.c.iii)
- 36. ____ Incorporate distinctive topographic features into the site design. (section V.C.3.c.iv)
- 37. ____ Respect prevailing grading techniques and building relationships to topography. (section V.C.3.c.v)
- 38. ____ Maintain similar building-to-street grade relationships. (section V.C.3.c.vi)
- 39. ____ Avoid construction of extensive slope areas that are visible from the corridors. (section V.C.3.c.vii)
- 40. ____ Provide visual relief by varying the slope ratios along embankments visible from the corridors and connecting public streets. (section V.C.3.c.viii)
- 41. ____ Conduct all uses, operations, and activities so as to comply with the performance standards governing glare prescribed in this section. (section V.D.3.a)
- 42. ____ Measure illumination levels with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination. (section V.D.3.b)
- 43. ____ Ensure that uses subject to Group I and Group II standards do not produce glare so as to cause illumination in residential districts in excess of 0.5 foot candles. Control flickering or bright sources of illumination so that they are not a nuisance in residential districts. (section V.D.3.c)
- 44. ____ Limit the use of light sources and illuminated surfaces that are located in or are within 500 feet of and visible within any residential district so as to comply with the light intensities indicated in Table I. (section V.D.3.d)
- 45. ____ Preserve areas where natural or existing topographical patterns contribute to beauty and utility of a development, and permit modification to topography where it contributes to good appearance. (section V.E.3.a)
- 46. ____ Ensure grades of walks, parking spaces, terraces, and other paved areas provide an inviting and stable appearance for walking, and if seating is provided, for sitting. (section V.E.3.b)
- 47. ____ Provide landscape treatment to enhance architectural features, strengthen vistas and important axes, and provide shade. Reserve spectacular effects for special locations only. (section V.E.3.c)



48. ____ Achieve unity of design by repetition of certain plant varieties and other materials as well as by correlation with adjacent developments. (section V.E.3.d)
49. ____ Select plant material for interest in its structure, texture, and color, and for its ultimate growth. (section V.E.3.e)
50. ____ Protect locations where plants are susceptible to injury by pedestrian or motor traffic through tree guards or other devices. (section V.E.3.f)
51. ____ Enhance traffic with landscaped spaces containing trees or tree groupings. (section V.E.3.g)
52. ____ Follow existing street tree patterns, spacing, and relationship to curbs, and sidewalks where possible. (section V.E.3.g.i)
53. ____ Reinforce and maintain the continuity of the street canopy by using trees with design characteristics and growth habits that are similar to the existing street trees. (section V.E.3.g.ii)
54. ____ Preserve healthy street trees where possible. (section V.E.3.g.iii)
55. ____ Replace existing street trees that are removed during construction with an equivalent species so that landscape functions and patterns of the original trees is restored. (section V.E.3.g.iv)
56. ____ Encourage the placement of trees in parkways or paved areas where building sites limit parking. (section V.E.3.h)
57. ____ Screen service yards, blank building walls, and other unsightly places by use of walls, fencing, planting, or combinations of these measures. (section V.E.3.i)
58. ____ Use materials such as fences, walls, and pavings of wood, brick, stone, gravel, and cobbles in areas where general planting will not prosper. (section V.E.3.j)
59. ____ Use exterior lighting to enhance the building design and the adjoining landscape. Ensure lighting standards and building fixtures that are of a design and size compatible with the building and adjacent areas. (section V.E.3.k)
60. ____ Parking areas should be enhanced with landscaped spaces containing trees or tree groupings. (section V.E.3.l)
61. ____ Ensure parking lots are at the sides or rear of buildings and buildings address the street (not parking lots). (section V.E.3.l.i)
62. ____ Ensure parking for shopping centers is attractive and easily accessible. (section V.E.3.l.ii)
63. ____ Integrate trees into parking areas. (section V.E.3.l.iii)
64. ____ Screen parking lots from streets, public spaces, and private yards. (section V.E.3.l.iv)
65. ____ Evaluate the appearance of a project based on the quality of its design and relationship to surroundings. (section V.F.3.a)



66. ____ Ensure buildings have good bulk, massing, and scale and are harmonious with existing neighboring development. (section V.F.3.b)
67. ____ Select materials that have good architectural character for harmony of the building with adjoining buildings. (section V.F.3.b.i)
68. ____ Select materials for suitability to the type of buildings and the design in which they are used. (section V.F.3.b.ii)
69. ____ Ensure materials are of durable quality. (section V.F.3.b.iii)
70. ____ Ensure that structural materials are compatible within themselves and harmonious with their surroundings in any design in which the structural frame is exposed to view. (section V.F.3.b.iv)
71. ____ Relate the height of new buildings to the predominant building height of the neighborhood. (section V.F.3.b.v)
72. ____ Set back from the property line that portion of the building mass exceeding the predominant height of surrounding buildings. (section V.F.3.b.vi)
73. ____ Make gradual transitions in building width and height, avoiding abrupt and excessive differences in scale. (section V.F.3.b.vii)
74. ____ Make desirable visual linkages between surrounding buildings and proposed buildings by repeating or incorporating similar ridge lines, eaves, and window and door openings. (section V.F.3.b.viii)
75. ____ Repeat predominate width dimension of building facades facing the street. (section V.F.3.b.ix)
76. ____ Offset building walls and rooflines to approximate widths and heights of surrounding buildings. (section V.F.3.b.x)
77. ____ Incorporate similar roof forms and slopes to reduce the scale of new buildings and relate them to nearby residential structures. (section V.F.3.b.xi)
78. ____ Ensure building components, such as windows, doors, eaves, and parapets have good proportions and relationships to one another. (section V.F.3.c)
79. ____ Ensure colors are harmonious and use only compatible accents. (section V.F.3.d)
80. ____ Screen mechanical equipment or other utility hardware on roof, ground, or buildings from public view with materials harmonious with building design. (section V.F.3.e)
81. ____ Ensure exterior lighting is part of the architectural concept and all fixtures, standards, and all exposed accessories are harmonious with building design. (section V.F.3.f)
82. ____ Screen refuse and waste removal areas, service yards, storage yards, and exterior work areas from view from public ways, using materials as stated in criteria for equipment screening. (section V.F.3.g)
83. ____ Avoid monotony of design in single or multiple building projects and vary detail, form, and siting to provide visual interest. (section V.F.3.h)



84. ____ Ensure every sign has good scale and proportion in its design and in its visual relationship to buildings and surroundings. (section V.G.3.a)
85. ____ Design every sign as an integral architectural element of the building and site to which it principally relates. (section V.G.3.b)
86. ____ Ensure the colors, materials, and lighting of every sign are restrained and harmonious with the building and site to which it principally relates. (section V.G.3.c)
87. ____ Minimize the number of graphic elements on a sign needed to convey the sign's major message. (section V.G.3.d)
88. ____ Ensure that each sign is compatible with signs on adjoining premises and they do not compete for attention. (section V.G.3.e)
89. ____ Ensure all identification signs of a prototype design and corporation logos conform to the criteria for all other signs. (section V.G.3.f)
90. ____ Design attractive exterior ground-mounted signs and discourage pole-mounted signs. (section V.G.3.g)
91. ____ Incorporate ground signs into the landscape design. (section V.G.3.h)
92. ____ Control glare from lighting of building-mounted and ground-mounted signs and prevent light from spilling over onto adjacent sites. (section V.G.3.i)
93. ____ Design signs that are not obtrusive, calling attention to themselves beyond their purpose of identifying place or direction. (section V.G.3.j)
94. ____ Prevent off-premises signs within a 200-foot zone on either side of the corridors. Restrict on-premises signs to one small monument-style sign integrated into the landscaping plan. (section V.G.3.k)
95. ____ Permit only one freestanding commercial sign on each parcel of the corridors. (section V.G.3.l)
96. ____ Discourage more than one vehicular access point, except in the case of larger, multi-tenant retail centers. (section V.H.3.a)
97. ____ Provide service for buildings in the rear. (section V.H.3.b)
98. ____ Permit service trucks access from the main street corridor, provided such trucks have direct access to the rear of the building. (section V.H.3.c)
99. ____ Accentuate entranceways, whether to a parking area or interior roadway, with street trees as long as site lines for traffic are maintained. Border all entryways with landscaping. (section V.H.3.d)
100. ____ Consolidate vehicular entrances/exits to a site at a sufficient distance away from the intersections. (section V.H.3.e)
101. ____ Introduce a planted median strip of at least six feet in width between incoming and outgoing traffic, if two or more lanes are provided in one direction of a two-way entrance. (section V.H.3.f)



- 102.____ Space aisles intersecting with entrance drives at a minimum of twenty feet from the property line to allow for smooth turning movements. (section V.H.3.g)
- 103.____ Ensure that any activity, operation, or device that causes or tends to cause the release of air contamination into the atmosphere complies with the rules and regulations of the State. (section V.I.3)
- 104.____ Minimize tree and vegetation removal for all scenic routes and significant views. Clear selectively to open up obscured views or create filtered views of compatible development. (section VI.C.1.a.i)
- 105.____ Minimize grading to preserve the quality of the existing landforms for all scenic routes and significant views. (section VI.C.1.a.ii)
- 106.____ Minimize the number of access roads and driveways intersecting the scenic road for all scenic routes and significant views. (section VI.C.1.a.iii)
- 107.____ Use the narrowest road pavement section possible while ensuring adequate public safety. Use shoulders and curbs appropriate to the character of the road for all scenic routes and significant views. (section VI.C.1.a.iv)
- 108.____ Design and locate utilities, drainage structures, bridges, lighting, signs, fences, walls, and street furniture to harmonize with the surroundings and to create the least visual impact for all scenic routes and significant views. (section VI.C.1.a.v)
- 109.____ Design new structures to complement the site and surrounding community through the repetition of scale, proportion and mass, materials and/or details of the existing buildings on the site or in the community for all scenic routes and significant views. (section VI.C.1.a.vi)
- 110.____ Use indigenous species or ones commonly found in the area when landscaping. Ensure planting designs reinforce the character of the site, its ecological significance, and its environmental function for all scenic routes and significant views. (section VI.C.1.a.vii)
- 111.____ Complement existing vegetation with flowering or evergreen trees and shrubs and wildflowers for seasonal interest for all scenic routes and significant views. (section VI.C.1.a.viii)
- 112.____ Use plant materials to frame particularly attractive views for all scenic routes and significant views. (section VI.C.1.a.ix)
- 113.____ Create an interesting sequence of visual experiences with selective clearing and planting for all scenic routes and significant views. (section VI.C.1.a.x)
- 114.____ Locate parking, service, and storage areas at the side or rear of the building(s) and screen them from the road to reduce their visual impact for all scenic routes and significant views. (section VI.C.1.a.xi)
- 115.____ Encourage pedestrian or bike paths along scenic corridors. (section VI.C.1.a.xii)
- 116.____ Maintain a buffer area between the road and the new development and ensure the buffer is wide enough to maintain the road's visual character, with a minimum



- width of at least thirty feet from the right-of-way, for enclosed views. (section VI.C.1.b.i)
- 117.____ Supplement a wooded buffer with evergreen trees and shrubs planted on the interior side to screen or partially screen new development for enclosed views. (section VI.C.1.b.ii)
- 118.____ For enclosed views, design new development compatible with the existing development in respect to building setbacks, height, scale, proportion, materials, and design; site materials and design; paving design (vehicular and pedestrian); and landscaping, including street trees where the scenic road is bordered by residential or historic buildings. (section VI.C.1.b.iii)
- 119.____ For expansive views, site new buildings behind natural screens or beyond primary views. Cluster development at the edges of fields and hedgerow or adjacent to existing buildings. (section VI.C.1.c.i)
- 120.____ For expansive views, site development in relation to the natural contours. Avoid placing structures on the tops of prominent ridges. (section VI.C.1.c.ii)
- 121.____ Use berms and vegetated buffers to screen distracting development from the scenic road for expansive views. (section VI.C.1.c.iii)
- 122.____ Preserve the foreground meadow, pasture, or cropland and nestle development into the background for expansive views. Maintain the foreground through a homeowner's association for use as an open space or a community garden, or rent it to a neighboring farmer to continue an agricultural use. (section VI.C.1.c.iv)
- 123.____ Site new buildings in small groups to resemble the existing development where a cluster of farm buildings comprise part of an expansive view. Maintain large open areas between the clusters to preserve the open character of the view. (section VI.C.1.c.v)
- 124.____ Site new buildings beyond the angle of view for focused views. (section VI.C.1.d.i)
- 125.____ Retain vegetation to frame the focal point for focused views. (section VI.C.1.d.ii)
- 126.____ Design new buildings to enhance the focal point for focused views. (section VI.C.1.d.iii)
- 127.____ Screen incompatible new development from the primary view for focused views. (section VI.C.1.d.iv)