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CODIFIED ORDINANCES OF BRIDGEPORT

PART THIRTEEN - PLANNING AND ZONING CODE

EDITOR'S NOTE: The Planning and Zoning Code of the City of Bridgeport was readopted by Ordinance 3-97, passed August 25, 1997. Subsequent amendments to Ordinance 3-97 will be indicated by legislative histories placed at the end of the new or amended sections.

CHAPTER ONE - ZONING ADMINISTRATION

- Art. 1303. General Provisions and Definitions.
- Art. 1305. Enforcement: Permits and Plans.
- Art. 1307. Board of Zoning Appeals.
- Art. 1309. Amendments.

ARTICLE 1303

General Provisions and Definitions

1303.01	Title.	1303.04	Definitions.
1303.02	Purpose.	1303.05	Uses
1303.03	Scope.	1303.06	Application

CROSS REFERENCES

Statutory definitions - see W. Va. Code 8-24-3
 Zoning authority generally - see W. Va. Code 8-24-39
 Conflict of laws - see W. Va. Code 8-24-70
 General definitions - see ADM. 101.02

1303.01 TITLE.

These regulations shall be known as the Bridgeport Zoning Code, and shall be referred to herein as "this code."

1303.02 PURPOSE.

The purpose of this ordinance is to safeguard the health, property and public welfare by controlling the design, location, use or occupancy of all buildings and structures through the regulated and orderly development of land and land uses within this jurisdiction. This ordinance supports the City's comprehensive plan as the basis for zoning.

1303.03 SCOPE

The provisions of this code shall apply to the construction, addition, alteration, moving, repair and use of any building, structure, parcel of land or sign within a jurisdiction, except work located primarily in a public way, public utility towers and poles, and public utilities unless specifically mentioned in this code.

Where, in any specific case, different sections of this code specify different requirements, the more restrictive shall govern. Where there is conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. In fulfilling these purposes, this ordinance is intended to benefit the public as a whole and not any specific person or class of persons. Although through the implementation, administration and enforcement of this code, benefits and detriments will be enjoyed or suffered by specific individuals, such is merely a byproduct of the overall benefit to the whole community. Therefore, unintentional breaches of the obligations of administration and enforcement imposed on the jurisdiction hereby shall not be enforceable in tort. If any portion of this code is held invalid for any reason, the remaining herein shall not be affected.

1303.04 DEFINITIONS.

For the purpose of this code, certain terms, phrases, words and their derivatives shall be construed as specified in this chapter. Words used in the singular include the plural and the plural the singular.

Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1986, shall be considered as providing ordinarily accepted meanings.

- (1) "Accessory building" is an incidental subordinate building customarily incidental to and located on the same lot occupied by the main use or building, such as a detached garage.
- (2) "Accessory living quarters" is an accessory building used solely as the temporary dwelling of guests of the occupants of the premises; such dwelling used as a separate dwelling unit.
- (3) "Accessory use" is a use conducted on the same lot as the primary use of the structure to which it is related; a use which is clearly incidental to, and customarily found in connection with, such primary use.
- (4) "Acreage, Gross" is the overall total area of real property.
- (5) "Acreage, Net" is the remaining area after all deductions are made; with deductions including streets, easements for access, street dedications and similar area.
- (6) "Agriculture" is the tilling of the soil, raising of crops, animals, horticulture, gardening, beekeeping and aquaculture.
- (7) "Alley" is any public way or thoroughfare more than 10 feet, but less than 16 feet (4877mm), in width which has been dedicated to the public for public use.

- (8) "Alteration" is a change, addition or modification in construction, occupancy or use.
- (9) "Amusement center" is an establishment offering five or more amusement devices, including, but not limited to, coin-operated electronic games, shooting gallery, table games and similar recreational diversions within an enclosed building.
- (10) "Antenna" is any exterior structure designed for the sending and/or receiving of electromagnetic waves for telephonic, radio, television, or personal wireless services.
- (11) "Apartment house" is a residential building designed or used for three or more dwelling units.
- (12) "Automotive repair, major" is an establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar large mechanical equipment, including paint, body and fender and major engine and engine part overhaul, which is conducted within a completely enclosed building.
- (13) "Automotive repair, minor" is an establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups and transmission work, which is conducted within a completely enclosed building.
- (14) "Automotive self-service station" is that portion of property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. Such an establishment shall be permitted to offer for sale at retail other convenience items as a clearly secondary activity and shall be permitted to also include a free-standing automatic car wash.
- (15) "Automotive service station" is that portion of property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. Accessory activities shall be permitted to include automotive repair and maintenance, car wash service and food sales.
- (16) "Awning" is a shelter supported entirely from the exterior wall of a building.
- (17) "Basement" is any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.
- (18) "Bed and Breakfast facility" is a limited commercial activity, conducted within a structure, which includes dining and bathroom facilities with sleeping rooms for short-term guest lodging.
- (19) "Billboard" means a signboard, situated on private premises, used for advertising purposes other than the name and occupation of the user of the premises or the nature of the business conducted thereon or the products primarily sold or manufactured thereon.
- (20) "Board" means the Board of Zoning Appeals established under this Ordinance.
- (21) "Boarding house" is a dwelling containing a single dwelling unit and not more than 10 guest rooms or suites of rooms, where lodging is provided with or without meals, for compensation for more than one week.
- (22) "Building" means structure having a roof supported by columns or walls, for the shelter, support enclosure or protection of persons, animals chattels or property. When separated by party walls, without openings through such walls, each portion of such a building shall be considered a separate structure.

- A. Principal: The main structure devoted to the principal use of the particular site.
 - B. Temporary: A structure without permanent foundation erected or devoted to the development of, or in connection with, the principal site use for a limited period of time.
- (23) “Building Code” is the International Building Code promulgated by the International Code Council, as adopted by the jurisdiction.
 - (24) “Building line” is the perimeter of that portion of a building or structure nearest a property line, but excluding open steps, terraces, cornices and other ornamental features projecting from the walls of the building or structure.
 - (25) “Business or Financial Services” is an establishment intended for the conduct or service or administration by a commercial enterprise, or offices for the conduct of professional, business, or financial service. All activity shall be confined to the interior of the structure and shall not permit any noises, dust or activity which may be offensive to the public.
 - (26) “Camp, public” means an area or tract of land used or designed to accommodate two or more automobile house trailers, or two or more camping parties, including cabins, tents or other camping outfits.
 - (27) “Canopy” is a roofed structure constructed of fabric or other material supported by the building or by support extending to the ground directly under the canopy placed so as to extend outward from the building providing a protective shield for doors, windows and other openings.
 - (28) “Carport” is a roofed structure open on at least two sides and used for the storage of private or pleasure-type vehicles.
 - (29) “Certificate of occupancy” means a statement signed by a duly appointed agent of the City setting forth either that a building complies with the Zoning Ordinance or that a building or parcel of land may lawfully be employed for specific uses or both.
 - (30) “Colocation” is the use of an existing tower or an existing wireless communications facility, for multiple purposes or uses.
 - (31) “Commercial, heavy” is an establishment or business which generally uses open sales yards, outside equipment storage, or outside activities that generate noise or other impacts considered incompatible with less-intense uses. Typical businesses in this definition are lumber yards, construction specialty services, heavy equipment suppliers or building contractors.
 - (32) “Commercial, light” is an establishment or business which generally has retail or wholesale sales, office uses or services that do not generate noise or other impacts considered incompatible with less-intense uses. Typical businesses in this definition are retail stores, offices, catering services, restaurants or banks.
 - (33) “Commercial center, community” is a completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A community commercial center shall provide for the sale of general merchandise, and may include a variety store, discount store or supermarket.
 - (34) “Commercial center, convenience” is a completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A convenience commercial center shall provide a small cluster of convenience shops or services.

- (35) “Commercial center, neighborhood” is a completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A neighborhood commercial center shall provide for the sales of convenience goods and services, with a supermarket as the principal tenant.
- (36) “Commercial center, regional” is a completely planned and designed commercial development providing for the sale of general merchandise and/or convenience goods and services. A regional center shall provide for the sale of general merchandise, apparel, furniture, home furnishings and other retail sales and services, in full depth and variety.
- (37) “Commercial retail sales and services” are establishments which engage in the sale of general retail goods and accessory services. Business within this definition include those which conduct sales and storage entirely within an enclosed structure (with the exception of occasional outdoor “sidewalk” promotions); businesses specializing in sale of either general merchandise or convenience goods.
- (38) “Commission, planning” means the Planning Commission of the City.
- (39) “Comprehensive plan” is the declaration of purposes, policies and programs for the development of the jurisdiction.
- (40) “Conditional use” is a use which would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions.
- (41) “Condominium” is a single dwelling unit in a multi-unit dwelling or structure, which is separately owned and which may be combined with an undivided interest in the common areas and facilities of the property.
- (42) “Congregate residence” is any building or portion thereof which contains facilities for living, sleeping and sanitation as required by this code, and may include facilities for eating and cooking, for occupancy by other than a family. A congregate residence shall be permitted to be a shelter, convent monastery, dormitory, fraternity or sorority house, but does not include jails, hospitals, nursing homes, hotels or lodging houses.
- (43) “Convalescent or nursing home” is a facility which is publicly or privately operated and intended for long-term patient care due to human illness or infirmity, including the elderly and developmentally disabled, normally employing the services of skilled and licensed practitioners, excluding hospitals.
- (44) “Court” is a space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of a building.
- (45) “Dance hall, discotheque” is an establishment intended primarily for dancing and entertainment within an enclosed building, using either live or electronically produced music, either open to the public or operated as a private club open to members only.
- (46) “Day care, family” is the keeping for part-time care and/or instruction, whether or not for compensation, of six or less children at any one time within a dwelling, not including members of the family residing on the premises.
- (47) “Day care, group” is an establishment for the care and/or instruction, whether or not for compensation, of seven or more persons at any one time. Child nurseries, preschools and adult care facilities are included in this definition.

- (48) “Density” is the number of dwelling units which are allowed on an area of land, which area of land shall be permitted to include dedicated streets contained within the development.
- (49) “District” means a section of the City for which uniform regulations governing the use, height, area, size and intensity of use of buildings and land, and size of yards and open spaces are herein established.
- (50) “Driveway” is a private access road, the use of which is limited to persons residing, employed, or otherwise using or visiting the parcel in which it is located.
- (51) “Dwelling- (one-family)” is any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by this code, for not more than one family, or a congregate residence for six or less persons.
- (52) “Dwelling, duplex - (two-family)” is a building designed or arranged to be occupied by two families living independently, the structure having only two dwelling units.
- (53) “Dwelling, multiple-unit” is a building or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances and/or other spaces. Individual dwelling units may be owned as condominiums, or offered for rent.
- (54) “Dwelling, planned group” is two or more detached buildings used as dwelling units located on a lot that is in single ownership having yards, courts or facilities in common.
- (55) “Dwelling, single-family” is a detached dwelling unit with kitchen and sleeping facilities, designed for occupancy by one family.
- (56) “Easement” is that portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above said lot or lots.
- (57) “Face of building, primary” is the wall of a building fronting on a street or right-of-way, excluding any appurtenances such as projecting fins, columns, pilasters, canopies, marquees, showcases or decorations.
- (58) “Family” is an individual or two or more persons related by blood, marriage or adoption, or a group not to exceed six unrelated persons living together as a single housekeeping unit.
- (59) “Farm animals” are animals other than household pets that shall be permitted to, where permitted, be kept and maintained for commercial production and sale and/or family food production, education or recreation. Farm animals are identified by these categories: large animals, e.g., horses and cattle; medium animals, e.g., sheep, goats; or small animals, e.g., rabbits, chinchilla, chickens, turkey, pheasants, geese, ducks and pigeons.
- (60) “Floor area, gross” is the sum of the horizontal areas of floors of a building measured from the exterior face of exterior walls or, if appropriate, from the center line of dividing walls; this includes courts and decks or porches when covered by a roof.

- (61) “Floor area, net” is the gross floor area exclusive of vents, shafts, courts, elevation, stairways, exterior walls and similar facilities.
- (62) “Floor area ratio” is the numerical value obtained by dividing the gross floor area of a building by the area of the lot on which the building is constructed.
- (63) “Frontage” is the width of a lot or parcel abutting a public right-of-way measured at the front property line.
- (64) “Front yard” is established by the address of the primary structure.
- (65) “Garage, private” is a building or a portion of a building not more than 1,000 square feet (93m²) in area, in which only private or pleasure-type motor vehicles used by the tenants of the building or buildings on the premises are stored or kept.
- (66) “Garage, public” means a building wherein automobiles are stored for a fee. A public garage may contain a room or rooms for displaying cars for sale, but may not fuel, lubricate or service within the confines of the building.
- (67) “General plan” is the declaration of purposes, policies and programs for the development of the jurisdiction.
- (68) “Grade (adjacent ground elevation)” is the lowest point of elevation of the existing surface of the ground, within the area between the building and a line 5 feet (1524 mm) from building.
- (69) “Graffiti” is unauthorized marking on a structure.
- (70) “Gross leasable area (GLA)” is the total floor area of a commercial building designed for tenant occupancy and exclusive use, including basements, mezzanines and upper floors, expressed in square feet (m²) as measured from the center line of joint partitions and from outside wall faces.
- (71) “Group care facility-(homes)” is a facility, required to be licensed by the state, which provides training, care, supervision, treatment and/or rehabilitation to the aged, disabled, those convicted of crimes or those suffering the effects of drugs or alcohol; not including day-care centers, family day-care homes, foster homes, schools, hospitals, jails or prisons.
- (72) “Guest room” is any room or rooms used or intended to be used by a guest for sleeping purposes. Every 100 square feet (9.3m²) of superficial floor area in a dormitory shall be considered to be a guest room.
- (73) “Habitable space (room)” is space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas, are not considered habitable space.
- (74) “Height of building” means the vertical distance measured from the lowest elevation around the perimeter of the structure vertically to the highest point flat roofs, to the deck line of mansard roofs, the mean height level between eaves and ridges for gable, hip or gambrel roofs.
- (75) “Home occupation” is the partial use of a dwelling unit for commercial or nonresidential uses by a resident thereof which is subordinate and incidental to the use of the dwelling for residential purposes.
- (76) “Hospital” is an institution designed for the diagnosis, treatment and care of human illness or infirmity and providing health services, primarily for inpatients, and including as related facilities, laboratories, outpatient departments, training facilities and staff offices.
- (77) “Hotel or motel” means a building or group of buildings in which lodging is provided and offered to the public for compensation and which is open to transient guests in contradistinction to a boarding or lodging house.

- (78) “Industrial or research park” is a tract of land developed according to a master site plan for the use of a family of industries and their related commercial uses, and that is of sufficient size and physical improvement to protect surrounding areas and the general community and to assure a harmonious integration into the neighborhood.
- (79) “Jurisdiction” as used in the code, is any political subdivision which adopts this code for administration regulations within its sphere of authority.
- (80) “Kennel” is any lot or premises on which four or more dogs or cats over four months of age are kept, for compensation or not.
- (81) “Kitchen” is any room or portion of a room within a building designed and intended to be used for the cooking or preparation of food.
- (82) “Landscaping” is the finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs and flowers. This treatment shall be permitted to also include the uses of logs, rocks, fountains, water features and contouring of the earth.
- (83) “Legislative body” is the political entity of the adopting jurisdiction.
- (84) “Livestock” includes, but is not limited to, horses, bovine animals, sheep, goats, swine, reindeer, donkeys, mules and any other hoofed animals.
- (85) “Loading berth” means an off-street area, located on the same parcel as the principal use which provides parking for the receipt or distribution by vehicles of material or merchandise, such area measuring a minimum of twelve feet wide, sixty feet long with a fourteen-foot height clearance.
- (86) “Lot” is a single parcel of land.
- (87) “Lot, corner” is a lot abutting on two intersecting or intercepting streets, where the interior angle of intersection or interception does not exceed 135 degrees.
- (88) “Lot, flag” is a lot so shaped and designed that the main building site area is set back from the street on which it fronts and includes an access strip connecting the main building site with the frontage street.
- (89) “Lot, interior” is a lot other than a corner lot.
- (90) “Lot, irregular” is a lot whose opposing property lines are generally not parallel, such as a pie-shaped lot on a cul-de-sac, or where the side property lines are not parallel to each other.
- (91) “Lot line” is defined as follows:
- A. “Front lot line” means the line separating the lot from the street right of way upon which it fronts.
 - B. “Rear lot line” means the line of a lot which is opposite and farthest from the front lot line.
 - C. “Side lot line” means any lot line which meets the end of a front lot line, normally of an angle equal to or greater than thirty degrees.
- (92) “Manufactured home (mobile home)” means a structure manufactured or fabricated after June 15, 1976, in an off-site manufacturing facility, in compliance with the requirements of Title IV of the 1974 Housing and Community Development Act (24 U.S.C.A. 5402 et seq.) and the regulations issued pursuant thereto (24 CFR 3280.1 et seq.) which are in effect on the date of installation on the lot for installation or assembly at the building site transportable in one or more sections each of which, in the traveling mode is eight body feet or more in width and forty body feet or more in length, and has attached the manufacturer’s certification label required by 24 CFR 3208.8, which is built on a permanent chassis and designed to be used for living quarters with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.

- A. “Type I Manufactured Home” means a manufactured home as defined herein which has a double section or larger residential designed home placed onto a permanent enclosed masonry foundation; has siding, trim, finish doors, windows and roofing materials which are of a type generally acceptable for site-built housing; roofing materials shall be installed onto a surface appropriately pitched for the materials used; has a minimum on-site assembled home width of twenty-three feet, as measured across the narrowest portion; has a minimum overhang of six inches per side; has all transportation equipment removed, and has not been inhabited prior to the home’s placement on the site.
- B. “Type II Manufactured Home” means a manufactured home constructed as described for Type I manufactured homes except that it is transported to the construction site in one section.
- C. “Type III Manufactured Home” means a manufactured home, transported to the construction site in one section, the finish and appearance of which does not comply with those standards described for Type I manufactured homes.
- (93) “Manufactured home, special care” is a home used as a temporary dwelling for a family member who is in need of special, frequent and routine care by reason of advanced age or ill health.
- (94) “Manufacturing, heavy” is all other types of manufacturing not included in the definitions of light manufacturing and medium manufacturing.
- (95) “Manufacturing, light” is the manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment, including research activities, conducted entirely within an enclosed structure, with no outside storage, serviced by a modest volume of trucks or vans and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants.
- (96) “Manufacturing, medium” is the manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment within an enclosed structure or an open yard, that is capable of being screened from neighboring properties, serviced by a modest volume of trucks or other vehicles.
- (97) “Mixed occupancy” means occupancy of a building or land for more than one use.
- (98) “Mobile Home Park” is a tract of land developed and operated as a unit with individual sites and facilities to accommodate two or more mobile homes.
- (99) “Model home” is a dwelling temporarily used as a sales office for a residential development under construction; said home being used for on-site sales and not for general real estate business.
- (100) “Modular home” is a factory-built home, other than a manufactured home, which meets all of the following requirements:
1. Is designed only for erection or installation on a site-built permanent foundation;
 2. Is not designed to be moved once so erected or installed;
 3. Is designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a state or local modular building code recognized as generally equivalent to building codes for site-built housing;
 4. To the manufacturer’s knowledge, is not intended to be used other than a site-built permanent foundation.

- (101) “Mortuary, Funeral Home” is an establishment in which the dead are prepared for burial or cremation. The facility shall be permitted to include a chapel for the conduct of funeral services and spaces for funeral services and informal gatherings and/or display of funeral equipment.
- (102) “Motel, Hotel” is any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.
- (103) “Natural waterways” are those areas, varying in width along streams, creeks, springs, gullies or washes, which are natural drainage channels as determined and identified by the jurisdiction.
- (104) “Neighborhood convenience stores” are establishments which engage in the sale of retail items, grocery items, and other sales and services which are beneficial to the local residents of the neighborhood.
- (105) “Nonconforming structure” is a building or structure or portion thereof lawfully existing at the time this code became effective, which was designed, erected or structurally altered for a use that does not conform to the zoning regulations of the zone in which it is located.
- (106) “Nonconforming lot” is a lot whose width, area or other dimension did not conform to the regulations when this code became effective.
- (107) “Nonconforming sign” is a sign or sign structure or portion thereof lawfully existing at the time this code became effective, which does not conform.
- (108) “Nonconforming use” (See “use, nonconforming.”)
- (109) “Open space” is land area that is not occupied by buildings, structures, parking areas, streets, alleys or required yards. Open space shall be permitted to be devoted to landscaping, preservation of natural features, patios, and recreational areas and facilities.
- (110) “Park” is a public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.
- (111) “Parks and Ride Facilities” are parking lots or structures located along public transit routes designed to encourage transfer from private automobile to mass transit or to encourage car pooling for purposes of commuting, or for access to recreation areas.
- (112) “Parking garage, commercial” is a building, other than a private garage, used for the parking of automobiles.
- (113) “Parking lot” is an open area, other than a street, used for the parking of automobiles.
- (114) “Parking space” means a surfaced area of not less than 180 square feet with a minimum width of 9 feet (9'x20') for the parking of a motor vehicle.
- (115) “Person” is a natural person, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.
- (116) “Pools, Swimming, Hot Tubs and Spas”
Above-ground/on-ground pool: See definition of private swimming pool

Barrier: A fence, a wall, a building wall, the wall of an above-ground swimming pool or a combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.

Hot tub: See definition of private swimming pool.

In-ground pool: See definition of private swimming pool.

Power safety cover: A pool cover which is placed over the water area, and is opened and closed with a motorized mechanism activated by a control switch.

Private swimming pool: Any structure that contains water over 24 inches (610mm) in depth and which is used, or intended to be used, for swimming or recreational bathing in connection with a residential occupancy and which is available only to family and guests. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

Private swimming pool, indoor: Any private swimming pool that is totally contained within a private structure and surrounded on all four sides by walls of said structure.

Private swimming pool, outdoor: Any private swimming pool that is not an indoor pool.

Public swimming pool: Any swimming pool other than a private swimming pool.

Spa: See definition of private swimming pool.

- (116) “Planned unit development (PUD)” is a residential or commercial development guided by a total design plan in which one or more of the zoning or subdivision regulations, other than use regulations, shall be permitted to be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with general guidelines.
- (117) “Plot plan” is a plat of a lot, drawn to scale, showing the actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and other such information.
- (118) “Public improvement” is any drainage ditch, storm sewer or drainage facility, sanitary sewer, water main, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement or other facility for which the local government may ultimately assume the responsibility for maintenance and operation or for which the local government responsibility is established.
- (119) “Public services” are uses operated by a unit of government to serve public needs, such as police (with or without jail), fire service, ambulance, judicial court or government offices, but not including public utility stations or maintenance facilities.
- (120) “Public utility station” is a structure or facility used by a public or quasi-public utility agency to store, distribute, generate electricity, gas, telecommunications, and related equipment, or to pump or chemically treat water. This does not include storage or treatment of sewage, solid waste or hazardous waste.

- (121) "Public way" is any street, alley or similar parcel of land essentially unobstructed from the ground to the sky which is deeded, dedicated or otherwise permanently appropriated to the public for public use.
- (122) "Quasi-Public" is essentially a public use, although under private ownership or control.
- (123) "Quorum" is a majority of the authorized members of a board or commission.
- (124) "Recreational vehicle" is a vehicular unit, other than a mobile home, whose gross floor area is less than 320 square feet (29.7m²), which is designed as a temporary dwelling for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, a travel trailer, camping trailer, truck camper, motor home, fifth-wheel trailer or van.
- (125) "Recreation, Indoor" is an establishment providing completely enclosed recreation activities. Accessory uses shall be permitted to include the preparation and serving of food and/or the sale of equipment related to the enclosed uses. Included in this definition shall be bowling, roller skating or ice skating, billiards, pool, motion picture theaters, and related amusements.
- (126) "Recreation, outdoor" is an area free of buildings except for restrooms, dressing rooms, equipment storage, maintenance buildings, open-air pavilions, and similar structures, used primarily for recreational activities such as amphitheaters, etc.
- (127) "Recycling facility" is any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including, but not limited to, scrap metals, paper, rags, tires and bottles and other such materials.
- (128) "Rehabilitation center (Halfway House)" is an establishment whose primary purpose is the rehabilitation of persons. Such services include drug and alcohol rehabilitation, assistance to emotionally and mentally disturbed persons, halfway houses for prison parolees and juveniles.
- (129) "Religious, Cultural and Fraternal Activity" is a use or building owned or maintained by organized religious organizations or nonprofit associations for social, civic or philanthropic purposes, or the purpose for which persons regularly assemble for worship.
- (130) "Renovation" is interior or exterior remodeling of a structure other than ordinary repair.
- (131) "Restaurant" is an establishment which sells prepared food for consumption. Restaurants shall be classified as follows:
- Restaurant, general:** Is an establishment which sells food for consumption on or off the premises.
- Restaurant, take-out:** Is an establishment which sells food only for consumption off the premises.
- Restaurant, fast food:** Is an establishment which sells food already prepared for consumption, packaged in paper, styrofoam or similar materials, and may include drive-in or drive-up facilities for ordering.

- (132) “Rooming house” means a dwelling or part thereof where lodging is provided, for compensation, to non-family members other than transient.
- (133) “Salvage yard (Junk yard)” is any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including, but not limited to, materials such as scrap metals, paper, rags, tires and bottles.
- (134) “School, Commercial” is a school establishment to provide for the teaching of industrial, clerical, managerial or artistic skills. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum (e.g., beauty school, modeling school).
- (135) “Service station” means a building where automobiles are serviced or repaired.
- (136) “Setback” is the minimum required distance between the property line and the building line.
- (137) “Sign” is an advertising message, announcement, declaration, demonstration, display, illustration, insignia, surface or space erected or maintained in view of the observer thereof for identification, advertisement or promotion of the interests of any person, entity, product or service, including the sign structure, supports, lighting system and any attachments, ornaments or other features used to draw the attention of observers.
- (138) “Signboard” means any structure or part thereof on which lettered or pictorial matter is displayed for advertising or notice purposes.
- (139) “Site Plan” is a plan which outlines the use and development of any tract of land.
- (140) “Special uses” means the uses specified herein. Under the provisions set forth herein, subject to review and authorization by the Board of Zoning Appeals, pursuant to Article 1307.
- (141) “Story” is that portion of building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet (1829mm) above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet (3658mm) above grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story.
- (142) “Story, half” means a story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three and one-half feet above the finished floor of such story.
- (143) “Street, private” is a right-of-way or easement in private ownership, not dedicated or maintained as a public street, which affords the principal means of access to two or more sites.
- (144) “Structure” is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
- (145) “Structural alterations” means any change in or addition to the supporting members of a building such as bearing walls, columns, beams or girders.
- (146) “Subdivision” is the division of a tract, lot or parcel of land into two or more lots, plats, sites or other divisions of land.

- (147) "Theater" is a building used primarily for the presentation of live stage productions, performances or motion pictures.
- (148) "Tourist home" means a boarding house or rooming house for transients.
- (149) "Tower" is any structure, such as a lattice tower, guy tower, or monopole that supports devices to transmit or receive analog or digital signals, including but not limited to microwave, cellular, telephone, personal wireless services or similar forms of electronic communication.
- (150) "Trailer or mobile home" means any vehicle or structure constructed in such a manner as to permit occupancy thereof as sleeping and eating quarters or for the conduct of any business, trade or use for storage or conveyance of tools, equipment or machinery, and so designed that it is or may be mounted on wheels and used as a conveyance on roads or streets, customarily propelled or drawn by motor power other than its own. "Trailer or mobile home" also includes Type II and Type III manufactured homes as defined herein.
- (151) "Use" is the activity occurring on a lot or parcel for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied, including all accessory uses.
- (152) "Use, change of" is the change within the classified use of a structure or premise.
- (153) "Use, Nonconforming" is a use which lawfully occupied a building or land at the time this code became effective, which has been lawfully continued and which does not now conform with the use regulations.
- (154) "Use, Principal" is a use which fulfills a primary function of a household, establishment, institution or other entity.
- (155) "Use, Temporary" is a use that is authorized by this code to be conducted for a fixed period of time. Temporary uses are characterized by such activities as the sale of agricultural products, contractors' offices and equipment sheds, fireworks, carnivals, flea markets and garage sales.
- (156) "Variance" is a deviation from the height, bulk, setback, parking, or other dimensional requirements established by this code.
- (157) "Warehouse, Wholesale or Storage" is a building or premises in which goods, merchandise or equipment is stored for eventual distribution.
- (158) "Wholesale business" means business sales activity which includes:
- A. Sales for the purpose of resale;
 - B. Sales of supplies or machinery which are consumed or used by the purchaser in the conduct of a business which is subject to tax on its sales or income.
- In either case, the wholesale function shall be distinguished from warehousing by over-the-counter sales.
- (159) "Wireless communications facility" is any towers, poles, antennas or other accessory structures intended for use in connection with transmission or receipt of radio or television signals, or any other spectrum-based transmission/reception. These include, but are not limited to, radio broadcast facilities, television stations, wireless devices such as pagers, cellular telephones, and personal communications services or otherwise as defined by the Federal Communications Act of 1996, as amended from time to time.
- (160) "Wrecking Yard" is any place where damaged, inoperable or obsolete machinery such as cars, trucks, and trailers, or parts thereof, are stored, bought, sold, accumulated, exchanged, disassembled or handled.

- (161) "Yard" is an open, unoccupied space on a lot, other than a court, which is unobstructed from the ground upward by buildings or structures except as otherwise provided in this code.
- (162) "Yard, front" is a yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto.
- (163) "Yard, back" is a yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line or ordinary high water line and a line parallel thereto.
- (164) "Yard, side" is an open, unoccupied space on the same lot with the building and between the building line and the side lot line, or to the ordinary high water line.
- (165) "Zero Lot Line Development" is single-family dwellings arranged on individual lots as either detached structures with one or more side walls on a side property line.
- (166) "Zoning Inspector" means the person designated as such, under this Ordinance. The term may also mean the Building Inspector or other duly authorized agent of the City.
- (167) "Zoning Ordinance" or "this Ordinance" as used in Chapters One and Three of the Part Thirteen - Planning and Zoning Code means the Zoning Ordinance of October 18, 1955, as amended.
(Ord. 6-00. Passed 8-14-00.)

1303.05 USES.

In each district, land and structures may be used only for purposes specified in the zoning district.

1303.06 APPLICATION.

- (a) No land shall be used or occupied and no building shall be erected, altered, used or occupied, except in conformity with the regulations herein established for the district in which such land, building or structure is located.
- (b) In case of mixed occupancy, the regulations for each use shall apply to the portion of the building so used.

ARTICLE 1305
Enforcement; Permits and Plans

1305.01	Powers and duties of the zoning code official (Zoning Inspector).	1305.04	Certificate of occupancy.
1305.02	Administrative review and permits.	1305.05	Legal actions.
1305.03	Development plan.	1305.99	Penalty.

CROSS REFERENCES

Enforcement - see W. Va. Code 8-24-66
Injunction - see W. Va. Code 8-24-67
Penalty - see W. Va. Code 8-24-68

1305.01 POWERS AND DUTIES OF THE ZONING CODE OFFICIAL (ZONING

(a) General. This section establishes the duties and responsibilities for the zoning code official and other officials and agencies, with respect to the administration of this code. The zoning code official and/or designee shall be referred to hereafter as “the code official.”

(b) Deputies. The official may appoint such number of technical officers and other employees as shall be authorized from time to time. The code official shall be permitted to deputize such employees as may be necessary to carry out the functions of this code.

(c) Reviews and Approvals. The code official shall be authorized to undertake review, make recommendations and grant approvals as set forth in this code.

(d) Comprehensive Plan. The code official shall assist the planning commission in the development and implementation of the comprehensive plan.

1305.02 ADMINISTRATIVE REVIEWS AND PERMITS.

(a) Review of building permits. All applications for building permits and amendments thereto shall be submitted to the code official for review and approved prior to permit issuance. Each application shall include a set of building plans and all data necessary to show that the requirements of this code are met.

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(b) Site plan reviews. The code official shall receive all applications for site plan review and review for completeness and prepare submittals for review by the appropriate body.

(c) Variances. The code official shall receive all applications for variances or other plans as shall be permitted or approved as required by this code, review for completeness and prepare submittal for review by the appropriate body.

(d) Interpretations. The interpretation and application of appeal of an interpretation by the code official shall be submitted to the Board of Zoning Appeals, who, unless otherwise provided, is authorized to interpret the code, and such interpretation shall be considered final.

Uses are permitted within the various zones as described in this code and as otherwise provided herein.

It is recognized that all possible uses and variations of uses which might arise can not reasonably be listed or categorized. Mixed uses/sites or any use not specifically mentioned or about which there is any question shall be administratively classified by comparison with other uses identified in the zones described in this code. If the proposed use resembles identified uses in terms of intensity and character, and is consistent with the purpose of this code and the individual zones classification it shall be considered as a permitted/nonpermitted use within a general zone classification, subject to the regulations for the use it most nearly resembles. If a use does not resemble other identified allowable uses within a zone, it may be permitted as determined by the Planning Commission in public hearing as an amendment to this code pursuant to Section 1309.01.

(e) Liability. The code official, or designee, charged with the enforcement of this code, acting in good faith and without malice in the discharge of the duties described in this code, shall not be personally liable for any damage that may occur to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the code official or employee because such act or omission performed by the code official or employee in the enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the enforcement of this code or enforced by the enforcement agency shall be defended by the jurisdiction until final termination of such proceedings, and any judgement resulting therefrom shall be assumed by the jurisdiction.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or parcel of land for any damages to person or property caused by defects, nor shall the enforcement agency or its jurisdiction be held as assuming any such liability by reason of the reviews or permits issued under this code.

(f) Cooperation of Other Officials and Officers. The code official may request, and shall receive so far as is required in the discharge of the duties described in this code, the assistance and cooperation of other officials of the jurisdiction.

1305.03 DEVELOPMENT PLAN.

(a) The owner or owners of any tract of land who desire to develop such tract of land by constructing three or more contiguous residential units or developing such land for commercial or industrial purposes shall submit a plan for the use and development of the land. All requirements shall be met as governed by this section as well as Section 1341.02. All development plans shall provide for access which is adequate for the determined use and designed to City standards. (Ord. 12-95. Passed 10-23-95.)

(b) Upon receipt of the plan, the Commission shall set a date, time and place for a hearing, notify the applicant in writing, and at least fifteen days prior to the date set for hearing, publish, as a Class I legal advertisement, a notice giving the date, time and place of the hearing on the plan. (6-24-80)

(c) After the hearing, the Commission shall approve or disapprove the plan, shall state the reasons for approval or disapproval of the plan, and state the specific evidence and facts showing that the proposed plan has made provisions for, and is consistent with, the following essential and required elements:

- (1) The appropriate use of property adjacent to the area included in the plan will be fully safeguarded;
- (2) The plan is consistent with the intent of this Zoning Ordinance to promote public health, safety and general welfare;
- (3) Adequate sanitary, water, storm sewer and other utility facilities are provided;
- (4) All street rights of way are coordinated with existing and planned streets and will be no less than forty feet in width and the cartway will be no less than twenty feet in width. No street shall deaden except in a cul-de-sac with no less than a forty-foot turning radius exclusive of any on-street parking area.
- (5) If the plan is for a residential development tract, the buildings shall be used primarily for single-family or multi-family dwellings, apartments or group houses, and the usual accessory uses such as garages, storage space and community activities, and the minimum undeveloped area of that tract shall be fifty percent (50%) of the total tract area, at least part of which must be deemed by the Commission suitable for recreational use. Streets dedicated to public use are not to be included in the total area or the undeveloped area. Buildings, driveways, walkways, off-street parking areas, access roads and non-dedicated streets shall be included in total area but not in undeveloped area.
- (6) All plans shall show proposed location of sidewalks and street lighting if sidewalks and or street lighting are deemed necessary by the Planning Commission.
(Ord. 2-2-80; Ord. 5-89. Passed 5-23-89.)

1305.04 CERTIFICATE OF OCCUPANCY.

Before using any building or premises or part thereof hereafter created, erected, changed, converted or enlarged in use or structure or occupancy of vacant land or for a change in the use of land, a certificate of occupancy shall be applied for and duly approved by the City's duly appointed agent. The certificate will be issued only if such building or premises, or part thereof, and the proposed use thereof conform with the building permit and provisions of this Zoning Ordinance and will be issued only after completion of construction.

1305.05 LEGAL ACTIONS.

In case any building or structure is erected, constructed, reconstructed, altered or converted, or any building, structure or premises is used in violation of the provisions of this Zoning Ordinance, the City may institute an action to enjoin, or take any other action or proceeding to prevent such erection, construction, reconstruction, alteration, conversion or use, including action for damages where appropriate.

1305.99 PENALTY.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with any provision of this Zoning Ordinance for which no other penalty is provided shall be fined not more than five hundred dollars (\$500.00) for each offense. Each day that a violation continues shall constitute a separate offense. All offenses shall be presented and tried in Bridgeport Municipal Court.
(Ord. 6-00. Passed 8-14-00.)

ARTICLE 1307
Board of Zoning Appeals

1307.01	Creation; membership; term.	1307.04	Rules and regulations; records.
1307.02	Officers; quorum; compensation of secretary and employees.	1307.05	Powers; duties.
1307.03	Offices; expenses.	1307.06	Appeal.

CROSS REFERENCES

Open governmental proceedings - See W. Va. Code Art. 6-9A
Establishment; composition - see W. Va. Code 8-24-51 et seq.
Appeals - see W. Va. 8-24-56 et seq.
Injunctions - see W. Va. Code 8-24-67
Special use determinations - see P. & Z. 1315.07

1307.01 CREATION; MEMBERSHIP; TERM.

A Board of Zoning Appeals shall be appointed in accordance with the provisions of West Virginia Code Article 8-24. Such Board shall consist of five members to be appointed by the governing body.

- (a) The members of the Board shall be individuals who are residents of the City and at least three-fifths of such members must have been residents of the City for at least ten years preceding the time of their appointment. No member of the Board shall be a member of any appointive office in the Municipal or County government. Members reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.
- (b) The members serving upon the Board the effective date of this ordinance shall continue to serve until completion of their terms. Thereafter, as their terms expire, each new appointment shall be for a term of three years.

If a vacancy occurs, by resignation or otherwise, among the members of the Board, the governing body shall appoint a member for the unexpired term.

1307.02 OFFICERS; QUORUM; COMPENSATION OF SECRETARY AND EMPLOYEE

(a) At its first meeting of each year, the Board of Zoning Appeals shall elect a chairman and vice chairman from its membership. The vice chairman shall have the power and authority to act as chairman during the absence or disability of the chairman.

(b) A majority of the members of the Board shall constitute a quorum. No action of the Board shall be official, however, unless authorized by a majority of all the members of the Board.

(c) The Board may appoint and fix the compensation of a secretary and such employees as are necessary for the discharge of its duties, all in conformity to and in compliance with the salaries and compensation theretofore fixed by the governing body.

1307.03 OFFICES; EXPENSES.

The governing body shall provide the Board with suitable offices for the holding of meetings and the preservation of plans, maps, documents and accounts, and shall provide by appropriation a sum sufficient to defray the reasonable expenses of the Board.

1307.04 RULES AND REGULATIONS; RECORDS.

(a) The Board of Zoning Appeals shall adopt such rules and regulations concerning the filing of appeals, applications for variances and exceptions, the giving of notice and the conduct of hearings as shall be necessary to carry out its duties under the terms of this article.

(b) The Board shall keep minutes of its proceedings, keep records of all official actions and shall record the vote on all action taken. All minutes and records shall be filed in the office of the Board and shall be public records.

1307.05 POWERS; DUTIES.

The Board of Zoning Appeals shall:

- (a) Hear and determine appeals from and review any order, requirement, decision or determination made by an administrative office or board charged with the enforcement of the Zoning Ordinance of the City or any rule or regulation adopted pursuant thereto;
- (b) Permit and authorize exceptions to the district rules and regulations only in the classes of cases or in particular situations, as specified in this Ordinance;
- (c) Hear and decide all special permitted use requests listed in the various zoning districts; and
- (d) Authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of this Ordinance shall be observed and substantial justice done as follows:
 - (1) Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment by reason of exceptional situation or condition of such piece of property, or of the use or development of property immediately adjoining the piece of property in question, the literal enforcement of the provisions of this Ordinance would result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of such property, unnecessary to carry out the spirit and purpose of this Ordinance, the Board shall have the power to authorize, upon appeal, a variance from such strict applications, so as to relieve such difficulties or hardships, and so that the spirit and purpose of this Ordinance shall be observed and substantial justice done. In authorizing a variance the Board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in the interest of the

- (2) No such variance in the provisions or requirements of this Ordinance shall be authorized by the Board unless the Board finds that all of the following conditions exist:
- A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question or generally to other properties or class of uses in the same zoning district.
 - B. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity affected by such variance.
 - C. That the authorizing of such variance will not:
 - 1. Alter the land use characteristics of the district;
 - 2. Impair the adequate supply of light and air to adjacent property;
 - 3. Increase the hazard from fire, flood and other dangers of such property;
 - 4. Diminish the marketable value of adjacent land and buildings;
 - 5. Increase the congestion in the public streets;
 - 6. Otherwise impair the public health, safety and general welfare.
- (3) No grant or variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property for which the variance is sought is not of so typical or recurrent a nature as to make reasonably practicable the formulation of a general regulation, under an amendment of this Ordinance, for such conditions or situations.
- (e) 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 board from whom or which the appeal is taken.
 - (f) Hear all appeals concerning the intent of the official Zone Map as to the location of zoning boundaries as stated in Section 1313.04(b).
 - (g) Hear all special use requests listed in Section 1315.07
 - (h) Use Variance - The Board shall not grant a variance to allow the establishment of a use in a zoning district when such use is prohibited by the provisions of this code.
 - (i) Hear all requests for home occupation as regulated in Article 1319.
 - (j) Decisions - The board shall be permitted to decide in any manner it sees fit, however it shall not have the authority to alter or change this code or zoning map or allow as a use that which would be inconsistent with the requirements of this code. (Ord. 6-00. Passed 8-14-00.)

1307.06 APPEAL.

- (a) From Decision of Official.
 - 1. An appeal taken from any order, requirement, decision or determination made by an administrative official charged with the enforcement of this Zoning Ordinance or rule and regulation adopted pursuant thereto shall be filed with the Board of Zoning Appeals.
 - 2. The appeal shall specify the grounds thereof and shall be filed within such time and in such form as may be prescribed by the Board by general rule

and regulation.

3. The administrative official from whom the appeal is taken shall, upon request of the Board, transmit to it all documents, plans and papers constituting the record of the action from which an appeal was taken.

(b) Hearing.

- (1) The Board of Zoning Appeals shall fix a reasonable time for the hearing of an appeal. Public notice of the hearing shall be given by publishing a notice of the date, time and place of the hearing as a Class I legal advertisement in compliance with West Virginia Code Article 59-3, in a newspaper of general circulation in the City at least thirty days prior to such hearing and due notice shall be given additionally to the interested parties. All adjoining property owners shall be notified by certified mail of such hearing.
- (2) The Board may require the party taking the appeal to assume the cost of public notice and due notice to interested parties.
- (3) At the hearing, any party may appear in person, by agent or by an attorney at law admitted to practice in the State.

(c) Staying of Work on Premises When Appeal Taken. When an appeal has been taken and filed with the Board, all proceedings and work on the premises in question shall be stayed unless the official from whom the appeal was taken shall certify to the Board that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. If such certificate be filed, proceedings or work on the premises shall not be stayed except by a restraining order granted by the Circuit Court.

ARTICLE 1309
Amendments

1309.01 Rules and Regulations.

CROSS REFERENCES

Procedure - see W. Va. Code 8-24-45 et seq.

Existing uses safeguarded - see W. Va. Code 8-24-50

1309.01 RULES AND REGULATION.

(a) Supplemental and Amending Ordinances. The governing body may, from time to time, amend, supplement or change the rules and regulations and districts fixed by this Zoning Ordinance.

(b) Changes of Zoning Rules and Regulations; Petition. Petitions, duly signed, may be presented to the City requesting an amendment, supplement or change of the rules and regulations of the Zoning Ordinance by :

- (1) The Planning Commission; or
- (2) The owners of fifty percent (50%) or more of the real property area to which the petition relates.

(c) Amendments to Comprehensive Plan; Notice and Hearing.

- (1) Amendments, supplements or changes of the rules and regulations of this Ordinance shall be considered as amendments to the comprehensive plan. Any proposed ordinance for the amendment, supplement, change or repeal of this Ordinance not originating upon petition of the Planning Commission shall be referred to the Commission for consideration and report before any final action is taken by the governing body.
- (2) Prior to submission to the governing body of a Commission petition or a report on a proposed ordinance referred to it for an amendment, supplement, change or repeal of this Ordinance, the Commission shall give notice upon a proposed amendment, supplement, change or repeal of this Ordinance at least fifteen or more days prior to the date set for such hearing as legal advertisement in a newspaper of general circulation in the City and shall hold a public hearing upon the proposed amendment, supplement, change or appeal.

CHAPTER THREE - Zoning Districts and Regulations

- Art. 1313. Zoning Districts and Map.
- Art. 1315. Use Regulations.
- Art. 1317. Supplemental Regulations and Modifications.
- Art. 1319. Home Occupations.
- Art. 1321. Planned Unit Development District.
- Art. 1323. Nonconforming Uses.

APPENDICES - Zoning Charts.

ARTICLE 1313
Zoning Districts and Maps

- | | | | |
|---------|----------------|---------|----------------------|
| 1313.01 | Districts. | 1313.03 | Zoning Map defined. |
| 1313.02 | Annexed areas. | 1313.04 | District boundaries. |

CROSS REFERENCES

Zoning districts generally - see W. Va. Code 8-24-40
 Planned use development district - see P. Z. Art. 1321

1313.01 DISTRICTS.

The City is hereby divided into six Use Districts, which shall be known as :

- A-1 Agricultural District.
- R-1 Residence District
- R-2 Residence District
- R-3 Residence District
- BPO-1 Business and Professional Office District
- B-1 Business District
- B-2 Business District
- I-1 Industry District
- I-2 Industry District (Aerospace)

(Ord. 6-00. Passed 8-14-00.)

1313.02 ANNEXED AREAS.

Property which may be hereafter annexed to the City shall immediately be classified consistent with its existing use by City Council at its next regular scheduled meeting after annexation is approved by the governing body of Harrison County and be subject to all conditions and regulations applicable to property in such districts.

(Ord. 6-00. Passed 8-14-00.)

1313.03 ZONING MAP DEFINED.

The map herein referred to, which is identified by the title of the “Zone Map of Bridgeport, West Virginia,” and which is hereby declared to be part of this Ordinance, shall be known as the Zone Map.

1313.04 DISTRICT BOUNDARIES.

The location and boundaries of districts are and shall be as shown on the Zone Map; provided that, where the designation on the Map indicates a district boundary approximately on a street or alley line or on a lot line, the centerline of such street approximately on a street or alley line or on a lot line, the centerline of such street or alley, or such lot line, shall be construed to be the boundary.

Where uncertainty exists as to the exact boundaries of any district as shown on the Map the following rules shall apply:

- (a) In unsubdivided areas, or where a district boundary subdivides a lot, the exact location of the boundary line shall be determined by use of the scale of the Map.
- (b) In the case of further uncertainty, the Board of Zoning Appeals shall interpret the intent of the Map as to the location of the boundary in question.

ARTICLE 1315
Use Regulations

1315.005	A-1 Agricultural District.	1315.05	B-2 Business District.
1315.01	R-1 Residence District.	1315.06	I-1 Industry District.
1315.02	R-2 Residence District.	1315.065	I-2 Industry District (Aerospace).
1315.03	R-3 Residence District.	1315.07	Special uses.
1315.035	BPO-1 Professional Office District.	1315.08	Zoning Schedule. (Repealed)
1315.04	B-1 Business District.		

CROSS REFERENCES

Permitted use for group residential facility - see
W. Va. Code 8-24-50 (b)

Exceptions - see P. & Z. 1317.01

Accessory structures and use - see P. & Z. 1317.03

Signs - see P. & Z. Art. 1325

Off-street parking and loading - see P. & Z. Chart 5

1315.005 A-1 AGRICULTURAL DISTRICT.

(a) Definition. "Agriculture" means the use of land for farming, dairying, grazing of livestock, horticulture, animal and poultry husbandry and the accessory uses required for packing, treating or storing the produce, provided further that agricultural activity shall not include stockyards, commercial slaughter house, commercial feed lots or other clearly commercial enterprises.

(b) Principal Permitted Uses.

- (1) Agricultural activity.
- (2) Single-family dwellings limited to farmsteads and tenant/farmworker housing.
Maximum density shall be three units per fifty acres.
- (3) Country clubs and associated golf courses, but not including golf driving ranges, par three courses or miniature golf course.
- (4) Parks and forest preserves.

- (c) Permitted Accessory Uses.
 - (1) Accessory buildings or uses incidental to principal uses.
 - (2) Temporary buildings and uses for construction and mineral extraction purposes only and not for dwelling purposes nor for a period that exceeds the completion of the construction or extraction activity.
- (d) Permitted Special Uses.
 - (1) Mineral extraction including gas, coal, oil, rock and gravel.
 - (2) Public utility stations including electric substations; gas regulator stations; metering, distribution or collecting equipment and structures.
 - (3) Communication towers such as microwaves, radar, radio, telecommunication, or television transmission or receiving towers; and other similar facilities. Location and installation as provided in Chart 7.
- (e) Minimum Lot area, Frontage and Yard Requirements. As provided in Chart 1.
- (f) Off-Street Parking Spaces. As provided in Chart 5.
(Ord. 6-00. Passed 8-14-00.)

1315.01 R-1 RESIDENCE DISTRICT.

In an R-1 Residence District, land may be used and buildings erected, altered or used only for the following:

- (a) Principal Permitted Uses.
 - (1) One-family dwellings having a minimum of twenty-three feet in width across its narrowest point.
 - (2) Public and nonprofit schools.
 - (3) Churches and similar places of worship, parish houses and convents.
 - (4) Public parks and playgrounds, not including an amusement park operated for profit.
- (b) Permitted Accessory Uses.
 - (1) A private garage, located behind the principal structure, if a separate building; or in a suitable room within or attached to the dwelling and may include a driveway necessary to provide ingress and egress provided that on a through lot, it may be so located as to be not closer than thirty feet to either street.
 - (2) Any form of agriculture or horticulture except the keeping of livestock, general farming, dairying, animal and poultry husbandry, and keeping of bees.
- (c) Permitted Special Uses.
 - (1) Public utility installations.
 - (2) Cemetery.
 - (3) Governmental services such as police, fire stations, libraries, community buildings either owned by the City or area churches.
- (d) Lot Area, Frontage and Yard Requirements. As provided in Chart 1.
- (e) Off-Street Parking Spaces. As provided in Chart 5.
(Ord. 6-00. Passed 8-14-00.)

1315.02 R-2 RESIDENCE DISTRICT.

- (a) Principal Permitted Uses.
 - (1) Any R-1 District principal permitted use.
 - (2) Two-family dwellings.
- (b) Permitted Accessory Uses. Any R-1 District permitted accessory use.
- (c) Permitted Special Uses.
 - (1) Any R-1 District permitted special use.
 - (2) Type I manufactured homes.
- (d) Lot Area, Frontage and Yard Requirements. As provided in Chart 2.
- (e) Off-Street Parking Spaces.
As provided in Chart 5.

(Ord. 6-00. Passed 8-14-00.)

1315.03 R-3 RESIDENCE DISTRICT.

- (a) Principal Permitted Uses.
 - (1) Any R-2 District principal permitted use.
 - (2) Dwelling - multiple unit.
 - (3) Condominium.
 - (4) Type I manufactured homes.
 - (5) Dwelling; planned group - in accordance with Section 1305.03
 - (6) Zero lot line development.
- (b) Permitted Accessory Uses. Any R-2 District permitted accessory use.
- (c) Permitted Special Uses.
 - (1) Any R-2 District permitted special use.
 - (2) Boarding house, rooming houses, bed and breakfast facilities; but not hotels, motels or tourist cabins.
 - (3) Conversion to increase the number of dwelling units.
- (d) Lot Area, Frontage and Yard Requirements.
As provided in Chart 3.
- (e) Off-Street Parking Spaces.
As provided in Chart 5.

(Ord. 6-00. Passed 8-14-00.)

1315.035 BPO-1 PROFESSIONAL OFFICE DISTRICT.

- (a) Principal Permitted Uses.
 - (1) Business or financial services.
 - (2) Any R-3 District principal permitted use.

- (b) Permitted Accessory Uses.
 - (1) Any associated use consistent with permitted or permitted special uses.
- (c) Permitted Special Uses.
 - (1) Any R-3 District principal permitted use.
 - (2) Neighborhood convenience stores (excluding wholesale sales and sales of fuel).
 - (3) Day care family.
 - (4) Day care group.
- (d) Lot Area, Frontage and Yard Requirements.
 - (1) Dwellings, as provided in Chart 3 including:
 - A. One-Family.
 - B. Two-Family.
 - C. Multiple Unit.
 - D. Type I Manufactured.
 - E. Condominium.
 - F. Planned Group.
 - G. Zero Lot Line Development.
 - (2) Business or financial service as provided in Chart 6.
- (e) Off-Street Parking.
 - (1) Dwellings - as provided in Chart 5.
 - (2) Business or financial service - As provided in Chart 5.
- (f) Signs. - As provided in Article 1325.
(Ord. 6-00. Passed 8-14-00.)

1315.04 B-1 BUSINESS DISTRICT.

- (a) Principal Permitted Uses.
 - (1) Amusement center.
 - (2) Automotive repair - minor.
 - (3) Automotive service station.
 - (4) Commercial, light.
 - (5) Commercial center, convenience.
 - (6) Commercial center, neighborhoods.
 - (7) Commercial retail sales and services.
 - (8) Congregate residence.
 - (9) Convalescent or nursing home.
 - (10) Automotive, self-service.
 - (11) Garage - public.
 - (12) Parking lot.
 - (13) Recreation - indoor.
 - (14) Restaurant - general, take out, fast food.
 - (15) Funeral home, mortuary.
 - (16) Theater.
 - (17) Private club without ABC license, lodge, membership association and corporations.
 - (18) Wholesale business with a total floor area not exceeding 20,000 square feet.
 - (19) Any BPO-1 District principal permitted use.

- (20) Any BPO-1 District permitted special use.

- (b) Permitted Accessory Uses.
Any associated use consistent with permitted or permitted special use.
- (c) Permitted Special Uses.
- (d) Minimum Lot Area, Frontage and Yard Requirements.
(1) Dwellings, as provided in Chart 3 including:
A. One-Family.
B. Two-Family.
C. Multiple Unit.
D. Type I Manufactured.
E. Condominium.
F. Planned Group.
G. Zero Lot Line Development.
(2) All other uses (as provided in Chart 4).

(e) Off-Street Parking Spaces. As provided in Chart 5; provided, however, parking spaces required by Chart 5 may be located within 300 feet of the lot or parcel upon which the business is conducted with written approval of other property owners and only if there are excess parking spaces. A space can not be utilized to satisfy the requirements for two or more establishments. (Ord. 6-00. Passed 8-14-00.)

1315.05 B-2 BUSINESS DISTRICT.

- (a) Principal Permitted Uses.
(1) Any B-1 District principal permitted use excluding any residential primary use.
(2) Taverns, A.B.C. licensed private club or night club, only in conformity with requirements of laws or ordinances governing such use.
(3) Automotive repair, major.
(4) Automotive, service station.
(5) Commercial, heavy.
(6) Dance hall, discotheque.
(7) Hospital.
(8) Hotel, motel.
(9) Kennel appurtenant to veterinary office.
(10) Manufacturing, light.
(11) Parking garage, commercial.
(12) Recreation, outdoor.
(13) Schools, commercial.
(14) Commercial center, community; regional.
(15) Stadiums, arenas.
- (b) Permitted Accessory Uses.
(1) Any associated use consistent with permitted or permitted special use.
(2) Residential uses as long as total square footage at street level is less than fifty percent (50%) of primary use street level square footage.
- (c) Permitted Special Uses.
Multiple self storage units.

- (d) Minimum Lot Area, Frontage and Yard Requirements. As provided in Chart 4.
- (e) Off-Street Parking. As provided in Chart 5.
(Ord. 6-00. Passed 8-14-00.)

1315.06 I-1 INDUSTRY DISTRICT.

- (a) Principal Permitted Uses.
- (1) Manufacturing, Medium.
 - (2) Recycling facility.
 - (3) Warehouse.
 - (4) Terminal facilities.
 - (5) Industrial or research park.
- (b) Permitted Accessory Uses.
- (1) Any associated use consistent with permitted or permitted special use.
 - (2) Residence of a watchman, custodian or caretaker employed on the premises.
- (c) Permitted Special Uses. The following special uses are permitted subject to review by the Board:
- (1) Salvage yard (junk yard) - wrecking yard. Provided that such operation is conducted not less than 200 feet from any residence district boundary and provided that all operations are conducted behind a solid wall or fence not less than eight feet high and maintained in good repair and offering both visual and sound screening.
 - (2) Any business activity which includes the sale, storage and/or use of hazardous or bio-hazardous materials as a major aspect of its operation. Hazardous materials are any materials included on the most current National Fire Protection Association Table 325M entitled Fire Hazard Properties of Flammable Liquids, Gases, and Volatile Solids.
 - (3) Auto dismantling yards.
 - (4) Manufacturing, heavy.
 - (5) Retail and residential uses in industrial zone I-1. Such uses shall be permitted only where the applicant can prove to the Board that such use is necessary to serve industry in the vicinity.
 - (6) Communication towers. Such as microwaves, radar, radio, telecommunication, or television transmission or receiving towers; and other similar facilities. Location and installation as provided in Chart 7.
- (d) Minimum Lot Area, Frontage and Yard Requirements. As provided in Chart 4.
- (e) Off-Street Parking Spaces. As provided in Chart 5.
(Ord. 6-00. Passed 8-14-00.)

1315.065 I-2 INDUSTRY DISTRICT.

- (a) Principal Permitted Uses.
Any use related to the aerospace and/or avionics industry.

- (b) Permitted Accessory Uses.
- (1) Any associated use consistent with permitted or permitted special use.
 - (2) Residence of a watchman, custodian or caretaker employed on the premises.
- (c) Permitted Special Uses. The following special uses are permitted subject to review by the Board:
- (1) Retail and residential uses in industrial zone I-2. Such uses shall be permitted only where the applicant can prove to the Board that such use is necessary to serve industry in the vicinity.
 - (2) Communication towers. Such as microwaves, radar, radio, telecommunication, or television transmission or receiving towers, and other similar facilities. Location and installation as provided in Chart 7.
- (d) Minimum Lot Area, Frontage and Yard Requirements. As provided in Chart 4.
- (e) Off-Street Parking Spaces. As provided in Chart 5.
(Ord. 6-00. Passed 8-14-00.)

1315.07 SPECIAL USES.

Uses listed as special uses shall require individual consideration in each case because of their unique characteristics. Such special uses may be permitted only upon review and authorization by the Board of Zoning Appeals, subject to certain conditions and safeguards.

(a) General Principles and Standards for Special Uses.

- (1) The use shall be one specifically enumerated as a special use in the district within which such particular site is located.
- (2) The use will be of such location, size and character that, generally, it will be in harmony with the appropriate and orderly development of the district in which the use is situated and will not be detrimental to the orderly development of adjacent properties, nor inconsistent with the officially adopted comprehensive plan.
- (3) Specified uses for which special permits may be issued shall be deemed to be permitted uses, subject to the meeting of the special conditions contained in this section.
- (4) For each special use, the Board shall make specific findings with regard to the following matters, such findings to be supported by evidence produced at a public hearing in a manner provided by law:
 - A. For each such special use, the Board shall determine whether or not such use will be prejudicial to the character of the area.
 - B. For each such special use, the Board shall determine whether or not there is appropriate provision for access facilities adequate for the estimated traffic for public streets and sidewalks so as to insure public safety and to avoid traffic congestion.
 - C. For each such special use, the Board shall determine whether or not there are fully adequate parking areas and off-street loading spaces, in conformity with parking requirements of this and other related ordinances.

- D. For each special use, the Board shall determine whether or not there are adequate sanitary and utility facilities.
 - E. For specified special uses, the Board shall require suitable planting or screening in accordance with the requirements of this Ordinance.
- (b) Specific Regulations Governing Special Uses. Each special use shall be considered an individual case, and as such conform to the standards of this Ordinance. (Ord. 6-00. Passed 8-14-00.)

1315.08 ZONING SCHEDULE.

(EDITOR'S NOTE: Former Section 1315.08 was repealed by Ordinance 14-95, passed October 23, 1995.)

ARTICLE 1317
Supplemental Regulations and Modifications

1317.01	Exceptions.	1317.05	Landscaping regulations.
1317.02	Special lots; building location.	1317.06	Grading and excavation regulations.
1317.03	Accessory structures and use.		
1317.04	Signs.		

CROSS REFERENCES

Junk and abandoned vehicle - see TRAF. Art. 367
 Unsafe structures - see BLDG. & HOUS. Art. 1709
 Nonconforming uses - see P. & Z. Art. 1323

1317.01 EXCEPTIONS.

The minimum lot, yard and height requirements herein set forth shall prevail in all cases, except as follows:

- (a) Existing Nonconforming Lots. A single-family dwelling may be constructed as a permitted use in any R District on a nonconforming lot if the following conditions are satisfied.
- (1) At the time of the amendment (October 2, 1979) of this Zoning Ordinance such lot is in existence as a separate entity.
 - (2) At the time of the amendment (October 2, 1979) of this Zoning Ordinance the owner of such lot does not own an adjoining lot.
 - (3) The plan for the lot and for the proposed single-family dwelling shall be in at least seventy percent (70%) compliance with each of the following requirements for single-family dwellings as specified in the district in which the lot is located: lot area, lot width, rear yard, side yard and maximum building coverage.
- (b) Height Limitations. Height limitations need not apply to church spires, cupola and domes, monuments, water towers, chimneys, smokestacks, silos, flag poles, radio and television towers, masts and aerials and parapet walls extending not more than four feet above the limiting height of the building.

- (c) Front Yard Exception. If the twenty-five feet front setback can not be obtained, or if such setback would put the proposed structure out of character with other properties, then the following modification is accepted. Where forty percent (40%) of the lots of a block, on the same side of the street as the proposed structure, is occupied by buildings, the average setback of such buildings determines the dimension of the front yard in the block, but the maximum front yard need not exceed thirty-five feet from the lot line and the minimum shall not be less than ten feet.
(Ord. 6-00. Passed 8-14-00.)

1317.02 SPECIAL LOTS; BUILDING LOCATION.

- (a) Through Lots. On lots extending from one street to another a front yard is required on each street.
- (b) Side Yard of a Corner Lot. The side yard of a corner lot which abuts a street shall be no less than the required front yard for that street.
- (c) Corner Lots. No obstruction to vision such as buildings, fences, trees, plants or signs exceeding two feet in height shall be erected or maintained on any lot within the triangle formed by the street intersection, created by the right-of-way line of each street extended to a point and a line drawn between two points each located twenty-five feet from the street intersection. (See Figure 1)

1317.03 ACCESSORY STRUCTURES AND USE. (Accessory buildings shall occupy the same lot as the main use or building.)

- (a) Accessory Garages. Accessory garages in residential areas, unless a part of the principal building, shall conform with all front, side and rear yard requirements for the principal building and shall not consume more than fifty percent (50%) of the first floor area of the principal building.
- (b) Lot Utilization for Driveway and Parking. Except when necessary to meet off-street parking requirements, as noted in Chart 5 for residential uses, not more than twenty percent (20%) of the area of the front yard nor more than fifty percent (50%) of the area of the rear yard shall be utilized for driveways or parking in a residential district.
- (c) Private Outdoor swimming Pools, Hot Tubs, and Spas. A private outdoor swimming pool is permitted as an accessory use to a residential structure provided that: such swimming pool is for the private use of the residents of the dwelling unit or for their guests; the swimming pool is protected by a four foot high fence with an entryway that locks; and such swimming pool is not located closer than ten feet to any property line.
- (d) Regulations for Ground Satellite Stations Used Solely for the Occupants of the Property.
 - (1) Within the residential districts the following provisions shall apply to satellite ground stations or other antennas designed to transmit or receive radio or television signals to or from earth satellites:
 - A. Such ground stations or antennas shall be for the personal use of residents and their guests only.
 - B. Such ground stations or antennas shall contain no graphic message or advertising.
 - C. Ground-mounted stations or antennas shall be considered accessory structures and shall comply with the following conditions and requirements:
 - 1. Such stations or antennas not mounted on the roof of a primary or accessory structure shall be located to the rear of the principal building or structure and shall not exceed an above ground height of twelve feet nor exceed twelve feet in diameter.
 - 2. Such stations or antennas shall not be located closer than ten feet to a rear or side lot line, twenty-five feet from a front lot line or one foot from any easement.
 - 3. Such stations or antennas shall be mounted in a concrete base in line with grade and only supports of rust-resistant metal shall be utilized.
 - 4. Wiring between such station and any other structure shall be placed underground.
 - 5. Such stations or antennas shall be designed to withstand a wind force of up to seventy miles per hour without the use of supporting guy wires.
 - D. Roof-mounted stations or antennas shall be considered accessory structures and shall comply with the following conditions and requirements:
 - 1. Such stations or antennas shall be mounted directly on the roof of a primary or accessory structure and shall not be mounted on appurtenances such as chimneys, towers or

spires.

2. Such stations or antennas mounted on the roof of a primary or accessory structure shall not exceed a height of greater than three feet above the roof on which it is mounted. The height shall be measured vertically from the point at which such station or antenna is mounted on the roof.
 3. The diameter of any dish antenna mounted upon the roof of a primary or accessory structure shall not exceed three feet.
 4. Such stations or antennas shall be designed to withstand a wind force of up to seventy miles per hour without the use of supporting guy wires.
- (2) Within nonresidential districts, the following provisions shall apply to satellite ground stations or other antennas designed to transmit or receive radio or television signals to or from earth satellites.
- A. Such ground stations or antennas shall contain no graphic message or advertising.
 - B. Ground-mounted stations or antennas shall be considered accessory structures and shall comply with the following conditions and requirements:
 1. Such stations or antennas not mounted on the roof of a primary or accessory structure shall be located to the rear of the principal building or structure and shall not exceed an aboveground height of twelve feet nor exceed twelve feet in diameter.
 2. Such stations or antennas shall not be located within ten feet of any lot line and not closer than fifty feet from a lot line of a residential district.
 3. Such stations or antennas shall be mounted in a concrete base in line with grade and only supports of rust-resistant metal shall be utilized.
 4. Wiring between such station and any other structure shall be placed underground.
 5. Such stations or antennas shall be designed to withstand a wind force of up to seventy miles per hour without the use of supporting guy wires.
 - C. Roof-mounted stations or antennas shall be considered accessory structures and shall comply with the following conditions and requirements:
 1. Such stations or antennas shall be mounted directly on the roof of a primary or accessory structure and shall not be mounted on appurtenances such as chimneys, towers or spires.

(e) Utility buildings and storage sheds not exceeding 12 feet by 16 feet in size shall be required to maintain a setback of 6 feet from the side and 6 feet from the rear property lines. Any structure larger than 12 feet by 16 feet shall be deemed an accessory detached garage and shall be governed by subsection (a) hereof. All utility buildings and storage sheds shall be located in the rear or side yard. No such building shall be in the front yard. These setbacks are applicable to all residential zones or any zone that has residential setback stipulations.

(f) Fences shall be allowed by permit, however, no fence exceeding 48 inches in height shall project past the front of the structure it is surrounding. Fences are not applicable to any setback requirements.

(g) Gazebo, which by definition shall mean a roof-covered small open structure, usually round, octagonal or of similar shape, set apart from the primary structure for the purpose of gathering or resting within its shelter, shall be allowed by permit. All gazebo structures shall maintain a setback of ten feet from any lot line in all residential districts, or any zone that has residential setback stipulations.

(h) Dumpsters. In all zoning districts where the property owner utilizes a dumpster for its trash and refuse collection container, all dumpsters shall be located to the rear of the primary structure and not visible from any public right of way. Where it is impossible due to access to place a dumpster to the rear of a primary structure or where any dumpster located to the rear of the primary structure is still visible from any public right of way, said dumpster shall be fenced and surrounded to completely conceal its view.
(Ord. 6-00. Passed 8-14-00.)

1317.04 SIGNS.

(EDITOR'S NOTE: Former Section 1317.04 was repealed by Ordinance 3-89, passed May 23, 1989. See new Article 1325 for current legislation pertaining to signs)

1317.05 LANDSCAPING & GRADING REGULATIONS.

(a) Landscaping Requirements.

General. Landscaping is required for all properties where new buildings and additions over 500 square feet (46.5m²) as defined in this section are constructed. Said landscaping shall be completed within one year from the date of occupancy of the building.
(Ord. 6-00. Passed 8-14-00.)

1317.06 GRADING AND EXCAVATION REGULATIONS.

(a) General. This section is intended to provide the community with fair and equitable grading practices and shall not supersede the requirements of any other ordinance or code.

(b) Grading Responsibilities.

- (1) Protection of utilities. Public utilities or services shall be protected from damage due to grading or excavation operations.
- (2) Protection of adjacent property. Adjacent properties shall be protected from damage due to grading operations. No person shall excavate on land sufficiently close to the property line to endanger any adjoining public street, sidewalk, alley or other public or private property, without supporting and protecting such property from any damage that might result.
- (3) Inspection notice. The code official shall be notified at least 24 hours prior to the start of work.

- (4) Temporary erosion control. Precautionary measures necessary to protect adjacent watercourses and public or private property from damage by water erosion, flooding or deposition of mud or debris originating from the site shall be put in effect. Precautionary measures shall include provisions of properly designed sediment control facilities so that downstream properties are not affected by upstream erosion.
 - (5) Traffic control and protection of streets. Flaggers, signs, barricades, and other safety devices to ensure adequate safety when working in or near public streets shall be provided.
 - (6) Hazard from existing grading. Whenever any existing excavation, embankment or fill has become a hazard to life or limb, or endangers structures, or adversely affects the safety, use or stability of a pu
 - (7) Tracking of dirt onto public streets. Adequate cleaning of equipment to prevent the tracking of dirt and debris onto public streets shall be provided.
 - (8) Maintenance of waterway and irrigation canals. Precautionary measures to protect and maintain the flow of waterways and irrigation canals shall be taken.
 - (9) Revegetation. The loss of trees, ground cover, and topsoil shall be minimized on any grading project. In addition to mechanical methods of erosion control, graded areas shall be protected to the extent practical from damage by erosion by planting grass or ground cover plants and/or trees. Such plantings shall provide for rapid, short-term coverage of the slopes as well as long-term permanent coverage.
- (c) Design standards. The grading design standards required herein shall be those found in nationally recognized standards.
(Ord. 6-00. Passed 8-14-00.)

ARTICLE 1319
Home Occupations

1319.01 Home Occupations.

1319.02 Conditions.

1319.01 HOME OCCUPATIONS.

Home occupations shall be permitted in all zones, provided the home occupation is clearly and obviously subordinate to the main use or dwelling unit for residential purposes. Home occupations shall be conducted wholly within the primary structure on the premises.

1319.02 CONDITIONS.

(a) The home occupation shall not exceed 15 percent of the floor area of the primary structure.

(b) Under no circumstances shall there be permitted more than one employee or independent contractor who would report to said residence for instruction to pick up company property such as vehicles, equipment, instructions, etc.

(c) Inventory and supplies shall not occupy more than fifty percent (50%) of the area permitted to be used as a home occupation.

(d) There shall be no exterior display or storage of goods on said premises.

(e) Sales and services to patrons shall be arranged by appointment and scheduled so that not more than one patron vehicle is on the premises at the same time.

(f) Two additional parking spaces shall be provided on the premises. Said parking shall comply with the parking requirements listed in Chart 5 and Article 1317.

(g) All home occupations shall require Board of Zoning Appeals approval as regulated in Article 1307 and shall meet all requirements of special uses as set forth in Section 1315.07.

(h) There shall be no signs permitted on said premises.
(Ord. 6-00. Passed 8-14-00.)

ARTICLE 1321
Planned Unit Development District

1321.01	General description.	1321.05	Planning Commission action. (Repealed)
1321.02	Conditions.	1321.06	Establishment.
1321.03	Planning Commission determination. (Repealed)	1321.07	Procedures to create planned unit development.
1321.04	Required contribution.	1321.99	Penalty.

CROSS REFERENCES

Small development plan - see P. & Z. 1305.03
Platting standards - see P. & Z. 1339.11

1321.01 GENERAL.

Planned unit developments shall be allowed by planning commission approval in any zoning district. No such planned unit development permit shall be granted unless such development will meet the use limitations of the zoning district in which it is located and meet the density and other limitations of such districts, except as such requirements may be lawfully modified as provided by this code. Compliance with the regulations of this code in no way excuses the developer from the applicable requirements of a subdivision ordinance, except as modifications thereof are specifically authorized in the approval of the application for the planned unit development.

These regulations are to encourage and provide means for effecting desirable and quality development by permitting greater flexibility and design freedom than that permitted under the basic district regulations, and to accomplish a well balanced, aesthetically satisfying city and economically desirable development of building sites within a PUD-Planned Unit Development. These regulations are established to permit latitude in the development of the building site if such development is found to be in accordance with the purpose, spirit and intent of this ordinance and is found not to be hazardous, harmful, offensive or otherwise adverse to the environment, property values or the character of the neighborhood or the health, safety and welfare of the community. It is intended to permit and encourage diversification, variation and imagination in the relationship of uses, structures, open spaces and heights of structures for developments conceived and implemented as comprehensive and cohesive unified projects. It is further intended to encourage more rational and economic development with relationship to public services, and to encourage and facilitate preservation of open lands.

1321.02 CONDITIONS.

(a) No planned unit development shall have an area less than 5 acres.

(b) Uses. A planned unit development which will contain uses not permitted in the zoning district in which it is to be located will require a change of zoning district and shall be accompanied by an application for a zoning amendment, except that any residential use shall be considered a permitted use in a planned unit development which allows residential uses and shall be governed by density, design and other requirements of the planned unit development permit.

Where a site is situated in more than one use district, the permitted uses applicable to such property in one district may be extended into the adjacent use district.

(c) Ownership. The development shall be in single or corporate ownership at the time of application, or the subject of an application filed jointly by all owners of the property.

(d) Design. The Planning Commission shall require such arrangements of structures and open spaces within the site development plan as necessary to assure that adjacent properties will not be adversely affected.

(e) Density. Density of land use shall in no case be more than 15 percent higher than allowed in the zoning district.

(f) Arrangement. Where feasible, the least height and density of buildings and uses shall be arranged around the boundaries of the development.

(g) Specific regulations. Lot area, width, yard, height, density and coverage regulations shall be determined by approval of the site development plan. All front yard and rear yard setbacks must be consistent for the zone located. Flexibility may be granted in side yard setbacks.

(h) Open Spaces. Preservation, maintenance and ownership of required open spaces within the development shall be accomplished by either:

- (1) Dedication of the land as a public park or parkway system, or
- (2) Creating a permanent, open space easement on and over the said private open spaces to guarantee that the open space remains perpetually in recreational use, with ownership and maintenance being the responsibility of an owners' association established with articles of association and bylaws which are satisfactory to the legislative body.

(i) Landscaping. Landscaping, fencing and screening related to the uses within the site and as a means of integrating the proposed development into its surroundings shall be planned and presented to the Planning Commission for approval, together with other required plans for the development.

(j) Desirability. The proposed use of the particular location shall be shown as necessary or desirable, to provide a service or facility which will contribute to the general well being of the surrounding area.
(Ord. 6-00. Passed 8-14-00.)

1321.03 PLANNING COMMISSION DETERMINATION

(EDITOR'S NOTE: Former Section 1321.03 was repealed by Ordinance 6-00, passed August 14, 2000.)

1321.04 REQUIRED CONTRIBUTIONS

The City Council, as part of the approval of a planned unit development, shall be permitted to require an applicant to make reasonable contributions including, but not limited, to any combination of the following:

- (a) Dedication of land for public park purposes.
 - (b) Dedication of land for public school purposes.
 - (c) Dedication of land for public road right-of-way purposes.
 - (d) Construction of or addition to roads serving the proposed project when such construction or addition is reasonably related to the traffic to be generated.
 - (e) Installation of required traffic safety devices.
 - (f) Preservation of areas containing significant natural, environmental, historic, archeological, or similar resources.
- (Ord. 6-00. Passed 8-14-00.)

1321.05 PLANNING COMMISSION ACTION

(EDITOR'S NOTE: Former Section 1321.05 was repealed by Ordinance 6-00, passed August 14, 2000.)

1321.06 ESTABLISHMENT

A planned unit development district shall be created by the governing body as an amendment to an existing zoning map by superimposing the district over the existing zoning district, the amendment to be processed as provided for in Article 1309. (5-24-83)

1321.07 PROCEDURES TO CREATE PLANNED UNIT DEVELOPMENT.

- (a) A planned unit development plan, including a site map shown to scale with all supporting text shall be submitted to the Zoning Code Official.
- (b) The City shall then schedule a meeting with the applicant, City Engineer and Zoning Code Official to discuss and review the planned unit development request.
- (c) The project shall be presented to the Planning Commission for review and discussion at its next regular scheduled meeting.
- (d) The Planning Commission shall then set a public hearing in accordance with Section 1309.01(c).
- (e) After said public hearing, the Commission shall submit a report and recommendation on the project to Council for formal action.

(f) Council shall take final action. If approval is granted, Council shall have two readings of an ordinance creating the planned unit development as an amendment to the official Zoning Map of the City. If Council denies the project, it shall submit reasons in writing stating why and offering potential modifications. The applicant may then take the project back to the Planning Commission with the modifications and start the process again.

(g) With Council approval, the project moves to the construction phase. All infrastructure shall have construction drawings submitted to the City Engineer for review in conformance with Section 1341.02. All infrastructure shall be inspected and approved by the City Engineer or his duly authorized agent in accordance with Section 1341.02. Once infrastructure is complete and approved, or bonded and approved by the City Engineer, the Code Official shall be notified in writing that compliance has been achieved.

(h) The Code Official shall then have the planned unit development duly recorded by the county jurisdiction.

(i) Once all applicable plats are recorded, requests for building permits can be made in accordance with the State Building Code.
(Ord. 6-00. Passed 8-14-00.)

1321.99 PENALTY

Violations of approved plans and this article shall constitute a violation of the Zoning Ordinance. The provisions of Sections 1305.05 and 1305.99 shall apply.

ARTICLE 1323
Nonconforming Structures and Uses

1323.01 General. 1323.03 Enlargements and modifications.
1323.02 Discontinuance.

CROSS REFERENCES

Validation of existing ordinances - see W.Va. Code 8-24-49
Existing uses safeguarded - see W.Va. Code 8-24-50
Existing nonconforming lots - see P. & Z. 1317.01
Unsafe Structures - see BLDG. & HOUS. Art. 1709

1323.01 GENERAL

Except as otherwise required by law, a structure or use legally established prior to the adoption date of this code may be maintained unchanged. In other than criminal proceedings, the owner, occupant or user shall have the burden to show that the structure, lot or use was lawfully established.

1323.02 DISCONTINUANCE

(a) Vacancy. Any lot or structure, or portion thereof, occupied by a nonconforming use, which becomes vacant or ceases the use by the present owner or occupant for a period of six months shall not thereafter be occupied, except by a use which conforms to this code.

(b) Damage. If any nonconforming structure or use is, by any cause, damaged to the extent of 50 percent of its value as determined by the building official, it shall not thereafter be reconstructed as such.

1323.03 ENLARGEMENTS AND MODIFICATIONS

(a) Maintenance and Repair. Maintenance, repairs and structural alterations shall be permitted to be made to nonconforming structures or to a building housing a nonconforming use with valid permits.

(b) Changes of Nonconforming Use. A change of use of a nonconforming use of a structure or parcel of land shall not be made except to that of a conforming use. Where such change is made, the use shall not thereafter be changed back to a nonconforming use.

(c) Additions. Additions to structures housing nonconforming uses shall not be made. (Ord. 6-00. Passed 8-14-00.)

ARTICLE 1325
Signs

1325.01	Definitions.	1325.09	Street graphics prohibited.
1325.02	Size, height requirements.	1325.10	Street graphics exempt.
1325.03	Wall graphics.	1325.11	Amortization of non-conforming graphics.
1325.04	Ground graphics.	1325.12	Enforcement.
1325.05	Designation graphics.	1325.13	Permit required.
1325.06	Billboards.	1325.99	Penalty.
1325.07	Temporary signs.		
1325.08	Banners.		

CROSS REFERENCES

Unauthorized signs - see TRAF. 313.06
Posting material - see GEN. OFF. 533.08

1325.01 DEFINITION.

For the purpose of this articles, certain terms and words are herein defined. Words used in the present tense include the future; the singular includes the plural; the plural includes the singular.

- (a) "Architectural detail" means any projection, relief, cornice, column, change of building material, window or door opening on any building.
- (b) "Area, ground graphics" means the total area of the face which is used to display a street graphic, not including its supporting poles or structures. If a graphic has two faces that are parallel and supported by the same pole or structures, the area of the graphic is one-half the area of the two faces. If a graphic has two or more faces that are supported by the same poles or structures but are not parallel, the area of the graphic is the largest area of all faces visible at one time.
- (c) "Area, wall graphic" means the percentage of the signable area of a building or structure which may be used for wall graphics.
- (d) "Billboard" means a street graphic which advertises products or services not sold or distributed on the premises on which the street graphic is located.
- (e) "Designation graphic" means a ground graphic that identifies an office park, shopping plaza, industrial park, apartment development or subdivision development.
- (f) "Directional graphic" means a street graphic providing information for the convenience of the public such as the location of exits, entrances and parking lots. This list is representational and is not all inclusive.

- (g) “Facade” means the side of the building below the eaves.
- (h) “Graphic” means a street graphic as defined by this article.
- (i) “Ground graphic” means a street graphic supported by one or more uprights.
- (j) “Nonconforming graphic” means a street graphic that is not in compliance with this article on either of the following dates:
 - (1) The date of original enactment, or
 - (2) Any date on which this article is amended, if compliance existed prior to the change.
- (k) “Political sign” means a sign which indicates the name, cause or affiliation of a person seeking public or elected office or on which reference is made to an issue for which a public election or referendum is scheduled to be held.
- (l) “Portable graphic” means a street graphic that is not permanently attached to the ground or a building or designed to be permanently attached to the ground or building.
- (m) “Signable area, wall graphic” means an area which is free of architectural details on the facade of a building or part of a building in which an activity is located.
- (n) “Street graphic” means a lettered, numbered, symbolic, pictorial or illuminated visual display designed to identify, announce, direct or inform, that is visible from a public right of way. (Ord. 8-95. Passed 8-28-95.)
- (o) “Temporary sign” means a sign which offers premises for development, sale, lease, or rent, or is otherwise for a temporary purpose, such as a special event, grand opening, public election or referendum, etc. For purposes of this article, the term “political sign” is deemed to be and is included within the definition of “temporary sign”. (Ord. 01-05. Passed 2-28-05.)
- (p) “Wall graphic” means a street graphic attached to a wall of a building and in the same plane as the wall. (Ord. 8-95. Passed 8-28-95.)

1325.02 SIZE, HEIGHT REQUIREMENTS

(a) In any business or industrial zone, one ground graphic (free standing) business sign is permitted, provided that such sign shall not exceed 48 square feet in a BPO-1 Zone, 96 square feet in a B-1 Zone or 380 square feet in a B-2, I-1 or I-2 Zone. The size requirement is determined by measuring only one side of a sign. If the sign is not uniform in size, the largest side/sides and or face/faces visible at one time shall be used to determine the size of the sign. Also, two wall graphics are permitted provided that such signs do not exceed 20% of the signable area for a wall graphic.

(b) Residential. Any business activity permitted in residential districts by other ordinances shall be prohibited from having any sign advertising said business.

(c) No ground graphics or designation graphic shall be more than forty-eight feet in height from grade at which installed to highest point except on-premise signs (graphics) located in a B-2, I-1 or I-2 Zone located within 2,200 feet of the center line of I-79 measured from location of sign and so long as no such signs are located within 150 feet of a residential district. All such signs shall comply with the provisions regarding signs generally and shall comply with all state sign regulations.
(Ord. 6-00. Passed 8-14-00.)

1325.03 WALL GRAPHICS.

All wall graphics in a B-1, B-2, I-1 or I-2 Zone are permitted as long as the wall graphics do not exceed twenty percent (20%) of the signable area for a wall graphic. Signable area shall be determined to be the wall space between the roof line and eight feet above grade level. A total of two wall graphics are permitted, however, only one wall graphic is permitted per wall. In a BPO-1 Zone, only one wall mounted sign is permitted. It shall not exceed thirty-two square feet and must face the front of the property. Wall graphics must clear all walkways by at least eight feet and cannot project one-third the width of the walkway.

- (a) If a wall graphic is enclosed by a box or outline, the total area of the graphic within the box or outline is debited against the permitted signable area.
- (b) If a wall graphic consists of individual letters, the sum of the areas enclosed by an imaginary square or rectangle contiguous to and surrounding each letter is debited against the permitted signable area.

(Ord. 6-00. Passed 8-14-00.)

1325.04 GROUND GRAPHICS.

(a) Any activity may display one ground graphic per business unless the business is in a B-2, I-1 or I-2 district and located within 2, 200 feet of center line of I-79 measured from location of sign and not within 150 feet of a residential district. Under this condition a business may have one unlimited height graphic as well as one ground graphic not to exceed 48 feet in height as measured from grade to top of graphic. The combined size of both graphics may not exceed 380 square feet measured using the largest face and/or side of each graphic.

(b) Ground graphics must comply with the total area and height requirements for all ground graphic (free standing) signs of 48 square feet in a BPO-1 Zone, 96 square feet in a B-1 Zone or 380 square feet in B-2, I-1 and I-2 Zones measured as set forth in Section 1325.02.

- (1) A ground graphic may be displayed only on a frontage of seventy-five feet or more.
- (2) A ground graphic may not be closer than fifty feet to any other ground graphic. (Ord. 6-00. Passed 8-14-00.)

1325.05 DESIGNATION GRAPHICS.

(a) An industrial park, office park, or shopping center that does not display any other ground graphics and that has a frontage of at least 100 feet may display one designation graphic.

(b) A designation graphic may not exceed 475 square feet in size measured by using the largest sides and/or face or 48 feet in height.

(c) An activity within an industrial park, office park or shopping center may display two wall graphics as governed by Section 1325.03 but not a ground graphic.

(Ord. 6-00. Passed 8-14-00.)

1325.06 BILLBOARDS.

Advertising billboards. Where such billboards are permitted, no such sign shall be permitted to be within 100 feet of any structure in a residence district.

(Ord. 8-95. Passed 8-28-95.)

1325.07 TEMPORARY SIGNS.

- (a) All temporary signs shall be permitted for a maximum of thirty days prior to the event they advertise or the voting day.
- (b) All temporary signs must be removed within forty-eight hours after the conclusion of the event or a voting day. Any temporary signs still in place after said period may be confiscated by the City and the owner of the temporary sign may be subject to prosecution.
- (c) Temporary signs shall not be subject to size restrictions in any zoning district in which such temporary signs are to be located.
- (d) Temporary signs shall not be counted against the total size allotment allowed per business.
- (e) Temporary signs may include portable signs of any size, banners, flags, pennants or spinners, and balloons greater than five cubic feet.
(Ord. 01-05. Passed 2-28-05.)

1325.08 BANNERS.

Any business activity located in a B-1, B-2, I-1 or I-2 District may display banners. All banners must be attached to a permanent structure and no part of the banner or rope/string used to anchor the banner shall extend past the confines of the permanent structure. This section will allow a banner to be placed between the supporting poles or structures of a ground graphic. Banners will not be counted against total size allowed for a business activity.
(Ord. 6-00. Passed 8-14-00.)

1325.09 STREET GRAPHICS PROHIBITED.

Prohibited Signs and General Regulations. The following street graphics are prohibited:

- (a) Graphics which by color, location or design resemble or conflict with traffic control signs or signals.
- (b) Street graphics attached to light poles or standards.
- (c) Portable signs.
- (d) Off-premise signs.
- (e) Exterior spinners, or pennants used for commercial purposes whether advertising a message or not unless as permitted in Section 1325.07.
- (f) Balloons of greater than 5 cubic feet tethered to the ground or structure and used for advertising purposes unless as permitted in Section 1325.07.
- (g) Any signs advertising a business that has ceased operations must be removed within thirty days of the last operating day of business. It shall be the responsibility of the property owner to ensure compliance.
(Ord. 11-99. Passed 11-8-99.)
- (h) Spotlights, floodlights, luminous tubes or lighted signs installed in any way which will permit the direct rays of such light to penetrate into any residence.
- (i) Advertising devices of which all or any part is set in motion by movement of the atmosphere including fluttering or rotating.

- (j) Neon lighting and tubing used to outline buildings or structures or ornamental features by use of exposed neon tubing, strings of lights or otherwise.
- (k) No wall sign shall be attached to or obstruct any window, door, stairway or other opening intended for ingress and egress or for needed ventilation and light.
- (l) Any sign which is in a state of disrepair may be subject to removal by the City upon the following conditions: if such a sign shall not be receipt of written notice of the condition of the sign from the City then the City may cause removal of such sign and any expense shall be paid by the owner of the sign.
- (m) Any permitted sign painted directly on the surface of any wall shall be required to be repainted at least every three years.
- (n) Gooseneck and thin line reflectors and lighting shall be permitted on indirectly illuminated signs provided such reflectors and lights do not extend more than eight feet beyond the sign structure to which attached and such illumination is directed upon the face of the sign to reduce possibility of direct light rays shining into adjoining property or the public way.
- (o) Flashing signs.
- (p) Signs that project above the roofline on which it is mounted.
(Ord. 6-00. Passed 8-14-00.)

1325.10 STREET GRAPHICS EXEMPT.

The following street graphics are exempt from the regulations contained in this article:

- (a) One graphic advertising the sale or lease of property.
- (b) One graphic indicating the architect, engineer, project name, source of financing and contractor when displayed during the construction period and on a construction site and removed thirty days after construction is completed.
- (c) Governmental graphics and legal notices.
- (d) Directional graphics not exceeding six square feet in area.
- (e) Flags of any country, state or unit of local government.
- (f) Memorial plaques and historical signs.
- (g) Any lettering or design painted or applied directly to the surface of the structure.
(Ord. 6-00. Passed 8-14-00.)
- (h) Signs associated with churches and similar places of worship, not exceeding ninety-six square feet.
- (i) Signs associated with public and nonprofit schools, not exceeding ninety-six square feet.
(Ord. 11-99. Passed 11-8-99.)

1325.11 AMORTIZATION OF NONCONFORMING GRAPHICS.

(a) All ground, wall, designation and off premise signs in place at the time of adoption of this article shall be permitted to remain. However, when any changes or modifications are done to any sign whether it requires a permit or not, the sign must be brought to compliance before the changes or alterations shall be permitted.

(b) Portable signs, exterior banners not permitted by Section 1325.08, spinners or pennants used for commercial purposes, whether advertising a message or not, and balloons greater than 5 feet and any other prohibited signs shall be removed within 60 days of the adoption of this article.

(Ord. 6-00. Passed 8-14-00.)

1325.12 ENFORCEMENT.

(a) The Zoning Code Official or his duly authorized agent shall administer and enforce this article.

(b) The Zoning Code Official or his duly authorized agent shall make such inspections as are necessary to ensure compliance with this article and shall investigate any complaints of violations of this article.

(c) If the Zoning Code Official determines that a violation of this article has occurred, he shall serve written notice of the violation on the violator. The notice shall state the nature of the violation, the remedy required to remove the violation, the time by which the violation must be remedied and a statement advising that action may be taken to remedy the violation if it is not remedied within the time specified.

(d) If a violation specified in a written notice is not remedied by the time specified in the notice, the Zoning Code Official shall use all advisable means to remedy the violation and may request the City Attorney to bring a civil action to remedy the violation.

(Ord. 6-00. Passed 8-14-00.)

1325.13 PERMIT REQUIRED.

All signs except exempt signs and temporary signs require a permit issued by the City.
(Ord. 01-05. Passed 2-28-05.)

1325.99 PENALTY.

Whoever violates any provision of this article shall be fined not more than five hundred dollars (\$500.00).

(Ord. 8-95. Passed 8-28-95.)

APPENDICES - ZONING CHARTS**CHART 1**
SINGLE FAMILY DWELLING
A1, R1, R2, R3, B1 DISTRICTS(a) Location Permitted.

- (1) On any lot which was in single ownership or included in a plat recorded in the office of the Clerk of the County Court at the time of passage of this Zoning Ordinance.
- (2) On any lot with a minimum area of 6,000 square feet and a minimum width of sixty feet.
- (3) On any lot that has all necessary City infrastructure in place such as streets, sidewalks, water, sanitary sewer, storm sewer, etc. In the event any part of the necessary infrastructure is not completed, it is the responsibility of the applicant to install said infrastructure in accordance with City's Design and Construction Standards Code and pursuant to the City Engineer's approval. All improvements shall run the full frontage and/or length of the property.

(b) Height Permitted. A maximum of thirty-five feet or three stories measured in the manner prescribed in Section 1303.04(74).

(c) Vehicle Parking Space. Two paved parking spaces shall be provided on the lot with a minimum size of (9' x 20') per space either enclosed or open. See Chart 5. All driveways leading to and from said parking area shall also be paved.

(d) Front Yard. The required dimension of the front yard, measured at ninety degrees with the property line to the closest point of the main structure and/or any accessory building shall be minimum of twenty-five feet. Open, unenclosed ramps, porches, platforms or landings, not covered by a roof, shall be permitted to extend no more than 6 feet (1829 mm) into the required front yard provided such porch does not extend above the first level and is no more than 6 feet (1829 mm) above grade at any point. Private sidewalks and driveways are exempt from setback requirements.

(e) Exceptions.

- (1) See Section 1317.01(c).
- (2) On lots extending through from one street to another a front yard is required on each street. See Section 1317.02(a).

(f) Side Yard. The required dimension of each side, measured at ninety degrees with the property line to the closest point of the main structure, and/or any accessory building including overhang shall be a minimum of eight feet. Private sidewalks and driveways are exempt from setback requirements.

(g) Corner Lots. The side yard of a corner lot which abuts a street shall be no less than the required front yard for the street. See Section 1317.02(b).

(h) Rear Yard. The required dimension, measured at ninety degrees with the property line to the closest point of the main structure shall be no less than fifteen feet. Private sidewalks and driveways are exempt from setback requirements.

(i) Building Area. The maximum occupancy of the lot shall be fifty percent (50%). The buildings, patios, driveways, sidewalks and off-street parking shall be included in the developed or occupied area.

(j) Living Area. The minimum ground floor living area of a multi-story building shall be 600 square feet and a minimum total area of all stories of 1100 square feet. The minimum living area of a single story building shall be 960 square feet. The living area excludes utility room and garage.

(k) Vision Clearance on Corner Lots. No obstruction to vision exceeding two feet in height such as buildings, fences, trees, plants, signs, etc. shall be erected or maintained on any lot within the triangle formed by the street intersection, created by the right-of-way line of each street extended to a point and a line drawn between two points each located twenty-five feet from the street intersection. See Section 1317.02(c).
(Ord. 6-00. Passed 8-14-00.)

CHART 2
TWO FAMILY DWELLING
R2, R3, B1 DISTRICTS

- (a) Location Permitted.
- (1) On any lot which was in single ownership or included in a plat recorded in the office of the Clerk of the County Court at the time of passage of this Zoning Ordinance.
 - (2) On any lot with a minimum area of 6,000 square feet and a minimum width of sixty feet.
 - (3) On any lot that has all necessary City infrastructure in place such as streets, sidewalks, water, sanitary sewer, storm sewer, etc. In the event any part of the necessary infrastructure is not complete, it is the responsibility of the applicant to install said infrastructure in accordance with the City's Design and Construction Standards Code and pursuant to the City Engineer's approval. All improvements shall run the full frontage and/or length of the property.
- (b) Height Permitted. A maximum of thirty-five feet or three stories measured in the manner prescribed in Section 1303.04(74).
- (c) Vehicle Parking Space. Two paved parking spaces per dwelling unit shall be provided on the lot with a minimum size of (9' x 20') each, either enclosed or open. See Chart 5. All driveways leading to and from said parking areas shall be paved.
- (d) Front Yard. The required dimension of the front yard, measured at ninety degrees with the property line to the closest point of the main structure and/or any accessory building, shall be a minimum of twenty-five feet. Open, unenclosed ramps, porches, platforms or landings, not covered by a roof, shall be permitted to extend no more than 6 feet (1829 mm) into the required front yard provided such porch does not extend above the first level and is no more than 6 feet (1829 mm) above grade at any point. Private sidewalks and driveways are exempt from setback requirements.
- (e) Exceptions.
- (1) See Section 1317.01(c).
 - (2) On lots extending through from one street to another a front yard is required on each street. See Section 1317.02(a).
- (f) Side Yard. The required dimension of each side, measured at ninety degrees with the property line to the closest point of the main structure, and/or any accessory building including overhang shall be a minimum of eight feet. Private sidewalks and driveways are exempt from setback requirements.
- (g) Corner Lots. The side yard of a corner lot which abuts a street shall be no less than the required front yard for the street. See Section 1317.02(b).

(h) Rear Yard. The required dimension, measured at ninety degrees with the property line to the closest point of the main structure, shall be no less than fifteen feet. Private sidewalks and driveways are exempt from setback requirements.

(i) Building Area. The maximum occupancy of the lot shall be fifty percent (50%). The buildings, patios, driveways, sidewalks and off-street parking shall be included in the developed or occupied area.

(j) Living Area. For health and safety reasons the minimum ground floor living area of a multi-story building shall be 500 square feet per family and a minimum total area of all stories of 1000 square feet per family. The minimum living area of a single story building shall be 864 square feet per family. The living area excludes utility room and garage.

(k) Vision Clearance on Corner Lots. No obstruction to vision exceeding two feet in height such as buildings, fences, trees, plants, signs, etc. shall be erected or maintained on any lot within the triangle formed by the street intersection, created by the right-of-way line of each street extended to a point and a line drawn between two points each located twenty-five feet from the street intersection. See Section 1317.02(c).
(Ord. 6-00. Passed 8-14-00.)

CHART 3
MULTIPLE DWELLING
R3, B1 DISTRICTS

- (a) Location Permitted.
- (1) On any lot which was in single ownership or included in a plat recorded in the office of the Clerk of the County Court at the time of passage of this Zoning Ordinance.
 - (2) On any lot with a minimum area of 6,000 square feet and a minimum width of sixty feet.
 - (3) On any lot that has all necessary City infrastructure in place such as streets, sidewalks, water, sanitary sewer, storm sewer, etc. In the event any part of the necessary infrastructure is not complete, it is the responsibility of the applicant to install said infrastructure in accordance with the City's Design and Construction Standards Code and pursuant to the City Engineer's approval. All improvements shall run the full frontage and/or length of the property.
- (b) Height Permitted. A maximum of thirty-five feet or three stories measured in the manner prescribed in Section 1303.04(74).
- (c) Vehicle Parking Space. Two paved parking spaces per dwelling unit shall be provided on the lot with a minimum size of (9' x 20') each, either enclosed or open. See Chart 5. All driveways leading to and from said parking areas shall also be paved.
- (d) Front Yard. The required dimension of the front yard, measured at ninety degrees with the property line to the closest point of the main structure and/or any accessory building, shall be a minimum of twenty-five feet. Open, unenclosed ramps, porches, platforms or landings, not covered by a roof, shall be permitted to extend no more than 6 feet (1829 mm) into the required front yard provided such porch does not extend above the first level and is no more than 6 feet (1829 mm) above grade at any point. Private sidewalks and driveways are exempt from setback requirements.
- (e) Exceptions.
- (1) See Section 1317.01(c).
 - (2) On lots extending through from one street to another a front yard is required on each street. See Section 1317.02(a).
- (f) Side Yard. The required dimension of each side, measured at ninety degrees with the property line to the closest point of the main structure, and/or any accessory building including overhang shall be a minimum of eight feet. Private sidewalks and driveways are exempt from setback requirements.
- (g) Corner Lots. The side yard of a corner lot which abuts a street shall be no less

than the required front yard for the street. See Section 1317.02(b).

(h) Rear Yard. The required dimension, measured at ninety degrees with the property line to the closest point of the main structure, shall be no less than fifteen feet. Private sidewalks and driveways are exempt from setback requirements.

(i) Building Area. The maximum occupancy of the lot shall be fifty percent (50%). The buildings, patios, driveways, sidewalks and off-street parking shall be included in the developed or occupied area.

(j) Living Area. For health and safety reasons the minimum living area of the housekeeping units shall be as follows:

Efficiency apts.	400 sq. ft.
One bedroom	650 sq. ft.
Two bedroom	900 sq. ft.
Three bedroom	1,150 sq. ft.

For each additional bedroom 250 square feet shall be added to the total living area of the unit.

The living area excludes utility room and garage.

(k) Vision Clearance on Corner Lots. No obstruction to vision exceeding two feet in height such as buildings, fences, trees, plants, signs, etc. shall be erected or maintained on any lot within the triangle formed by the street intersection, created by the right-of-way line of each street extended to a point and a line drawn between two points each located twenty-five feet from the street intersection. See Section 1317.02(c).
(Ord. 6-00. Passed 8-14-00.)

CHART 4
COMMERCIAL BUILDINGS
B1, B2, I-1, I-2 DISTRICTS

(a) Location Permitted.

- (1) On any lot which was in single ownership or included in a plat recorded in the office of the Clerk of the County Court at the time of passage of this Zoning Ordinance.
- (2) On any lot with a minimum area of 6,000 square feet and a minimum width of sixty feet.
- (3) On any lot that has all necessary City infrastructure in place such as streets, sidewalks, water, sanitary sewer, storm sewer, etc. In the event any part of the necessary infrastructure is not complete, it is the responsibility of the applicant to install said infrastructure in accordance with the City's Design and Construction Standards Code and pursuant to the City Engineer's approval. All improvements shall run the full frontage and/or length of the property.

(b) Height Requirements. A maximum of thirty-five feet or three stories as measured in the manner prescribed in Section 1303.04(74) for B-1 Zones and unlimited height permissible in B-2, I-1 and I-2 zones.

(c) Vehicle Parking Space. As provided in Chart 5.

(d) Yard Requirements: Front, Side, and Rear. There is no minimum yard requirement on lots adjoining other lots in a business or industrial district or lots in a B1 District which adjoin any residential or agricultural district (A-1, R1, R2 or R3); however, on B2, I-1 and I-2 zoned lots adjoining any residential or agricultural district (A-1, R1, R2, or R3) or B2, I-1 and I-2 zoned lots which adjoin a street or street right of way which adjoins any residential or agricultural district (A1, R1, R-2 or R3), the required dimension of each yard, front, side and rear, measured at ninety degrees with the residential district boundary line to the closest point of the main structure, and/or any accessory building shall be:

- (1) A minimum of 100 feet with the first fifty feet adjacent to the residential or agricultural district being a green belt consisting of grass, shrubs and trees all neatly trimmed; or
- (2) A minimum of forty feet, with the first fifteen feet adjacent to the residential or agricultural district being a tree belt with the following minimum restrictions.
 - A. The trees to be used are hemlock, larch, white pine, Colorado Spruce, Norway Spruce or Scotch Pine;
 - B. The trees will be staggered along a five-foot wide strip in the center of the tree belt, spaced eight feet on center with a minimum height of six feet at the time of planting;
 - C. Ground cover is left to the discretion of the property owner but any vegetation will be maintained and neatly trimmed as necessary;

- D. With permission of the Planning Commission and where the terrain is level, with the residential and business or industrial districts at the same elevation, a mound of at least four feet may be constructed along the business or industrial property line and shrubs or hedges planted, trimmed and maintained; or
 - E. The property owner may submit a vegetation or green belt plan which displays differing types and varieties of trees, shrubs and hedges that will provide the required screen.
- (3) In any case where vegetation is used as a tree or green belt, the vegetation must be trimmed and maintained and must be replaced if it dies or otherwise becomes unsightly.

(e) Building Area. No maximum occupancy of a lot is established; however a buffer must be provided according to the regulations included under “Yard Requirements” of this Chart and the area of this buffer cannot be used for any building associated with the use of this lot. Driveways, sidewalks and parking areas may be located within the buffer area as long as all buffer conditions are met.

(f) Vision Clearance on Corner Lots. No obstruction to vision exceeding two feet in height such as buildings, fences, trees, plants, signs, etc. shall be erected or maintained on any lot within the triangle formed by the street intersection, created by the right-of-way line of each street extended to a point and a line drawn between two points each located twenty-five feet from the street intersection. See Section 1317.02(c) and Article 1317, Figure 1.
(Ord. 6-00. Passed 8-14-00.)

CHART 5
OFF-STREET PARKING AND LOADING REQUIREMENTS

(a) **General.** There shall be provided at the time of erection of any main building or at the time such buildings are altered, enlarged, converted or increased in capacity minimum off-street parking space with adequate provision for ingress and egress by standard-sized vehicles in accordance with the requirements of this code.

(b) **Parking Space Requirements.**

- (1) **Required Number.** The off-street parking spaces required for each use permitted by this code shall not be less than that found in the Off-Street Parking Schedule, provided that any fractional parking space be computed as a whole space.
- (2) **Combination of uses.** Where there is a combination of uses on a lot, the required number of parking spaces shall be the sum of that found for each use.
- (3) **Location of lot.** The parking spaces required by this code shall be provided on the same lot as the use or on another lot not more than 300 feet (152 m) radially from the subject lot within the same or less restrictive zoning district. Shared parking facilities are permitted, however, any single space can only be utilized for meeting the parking space requirements of one use.

(c) **Parking Stall Dimension.**

- (1) **Width.** A minimum width of 9 feet (2743 mm) shall be provided for each parking stall.

Exceptions:

- (1) Compact parking stalls shall be permitted to be 8 feet (2438 mm) wide.
- (2) Parallel parking stalls shall be permitted to be 8 feet (2438 mm) wide.

(d) **Length.** A minimum length of 18 feet (5486 mm) shall be provided for each parking stall.

Exceptions:

- (1) Compact parking stalls shall be permitted to be 18 feet (5486 mm) in length.
- (2) Parallel parking stalls shall be a minimum 22 feet (6706 mm) in length.

(e) **Design of Parking Facilities.**

Driveway width. Every parking facility shall be provided with one or more access driveways, the width of which shall be the following:

- (1) **Commercial driveways.**
Twelve feet (3658 mm) for one-way enter/exit.
Twenty-four feet (7315 mm) for two-way enter/exit.

(f) Driveway and Ramp Slopes. The maximum slope of any driveway or ramp shall not exceed 20 percent. Transition slopes in driveways and ramps shall be provided in accordance with the standards set by the code official and the jurisdiction's engineer.

(g) Stall Accessibility. Each required parking stall shall be individually and easily accessible. No automobile shall be required to back onto any public street or sidewalk to leave any parking stall.

(h) Compact-to-Standard Stall Ratio. The maximum ratio of compact stalls to standard stalls in any parking area shall not exceed 1 to 2.

(i) Striping. All parking stalls and entrances and exits to the parking facility shall be striped and identified with directional arrows and permanently applied to the pavement.

Exception: A private garage or parking area for the exclusive use of a single-family dwelling.

(j) Lighting. All lights illuminating a parking area where required by the Planning Commission shall be designed and located so as to reflect away from any street and adjacent property.

(k) Handicap Spaces. Shall be provided in accordance with Building Code requirements.

(l) Screening and landscaping. Off-street parking and loading areas for four or more vehicles shall be effectively screened by an eight-foot fence or hedge on the side or sides adjoining or abutting an R District.

(m) Parking Area Green Space. For any parking facility of twenty or more spaces, five percent (5%) of the internal space of the parking facility shall be set aside for green or landscaped area. The five percent (5%) requirement is figured on the total parking facility area only, not the entire parcel.

(n) Surfacing. All off-street parking or loading areas shall be surfaced with an asphaltic or concrete pavement. All areas should be marked so as to provide for the orderly and safe loading, parking and storage of vehicles.

(o) Drainage. Any off-street parking and loading area shall be graded and drained so as to dispose of all surface water without detriment to surrounding uses.

(p) Off-street Parking Schedule.

On-site Parking Space Requirements:

- (1) Residential Uses - 2 per dwelling unit.
- (2) Commercial Uses.
 - A. Professional office - 1 space for each 200 sq. ft. of gross floor area.
 - B. Grocery stores, drugstores and similar intensive retail establishments - 1 space for each 200 sq. ft. of gross retail floor area. The portion of a building used for warehouse or storage shall be 1 space for each 1,000 sq. ft. of gross area.
 - C. Restaurants, fast food restaurants, drinking establishments - 1 space for each 100 sq. ft. of gross floor area and a minimum of 10 spaces.
 - D. Furniture, appliance, carpet and similar low intensity retail sales - 1 space for each 750 sq. ft. of gross floor area.
 - E. General retail except as otherwise specified herein - 1 space for each 400 sq. ft. of gross floor area.
 - F. Exterior retail sales such as auto dealer shops - 1 space for each 1,000 sq. ft. of sales and display area.
 - G. Fuel service stations - 3 spaces plus 2 additional spaces for each service bay.
 - H. Auto repair - 1 space for each 200 sq. ft. of gross floor area.
 - I. Hotels/motels - 1 space for each unit.
 - J. Bowling alleys - 3 spaces for each lane.
 - K. Health clubs - 1 space for each 250 sq. ft. of gross floor area.
 - L. Theaters - 1 space for each 6 fixed seats or 1 space for each 50 sq. ft. of gross floor area if seats are not fixed.
 - M. Barber/beauty shops - 2 for each barber chair and beautician station.
 - N. Laundromats/dry cleaning facilities - 1 space for each 200 sq. ft. of gross floor area.
 - O. Banks and savings and loans - 1 space for each 250 sq. ft. of gross floor area.
- (3) Industrial Uses.
 - A. Mini-storage/outside - 3 customer spaces plus the spaces required for the office and caretaker's residence, if any.
 - B. Manufacturing, processing, fabrication and warehousing uses -
 - 1 space for each 800 sq. ft. of gross floor area within a building.
 - 1 space for each 2,000 sq. ft. of exterior active use area.
 - 1 space for each 5,000 sq. ft. of exterior storage area.
- (4) Research and Development Facilities.
 - 1 space for every employee on the largest shift plus 1 space for each company vehicle.
- (5) Institutional Uses.
 - A. Churches, lodge halls and other public assembly areas - 1 space per 4 fixed seats (18 linear inches along a bench is considered 1 fixed seat) or 1 space per 50 sq. ft. if fixed seats are not provided.

- B. Libraries, galleries and museums - 1 space for each 250 sq. ft. of gross floor area.
 - C. Day care and pre-school - 1 parking space and one loading/unloading space for each 5 children.
 - D. Elementary and jr. high school - 1 space for each classroom and 1 space for each 4 fixed seats or 50 sq. ft. of area in the auditorium or gymnasium.
 - E. High schools - 6 spaces for each classroom and 1 space for each 4 fixed seats or 50 sq. ft. of area in the auditorium or gymnasium.
 - F. Hospitals - 2 spaces for each bed.
 - G. Convalescent hospitals, nursing homes - 1 space for each 5 beds plus the number of spaces required for the office and the residence, if applicable.
- (6) Any Other Use Not Listed.
If the Zoning Code Official cannot assign a use as noted above, then 1 space per 250 sq. ft. of gross area shall apply.

For **SI**: 1 square foot = 0.0929 m².
(Ord. 6-00. Passed 8-14-00.)

(q) Residential Parking: In any residential district (R-1, R-2, R-3) off-street parking shall be permitted as an accessory use on any parcel which has a primary residential structure and in accordance with all other zoning regulations.
(Ord. 02-03. Passed 3-24-03.)

CHART 6
PROFESSIONAL OFFICE
BPO-1 DISTRICT

- (a) Location Permitted.
- (1) On any lot which was in single ownership or included in a plat recorded in the office of clerk of the county Court at the time of passage of this Zoning Ordinance.
 - (2) On any lot with a minimum area of 6,000 square feet and a minimum width of sixty feet.
 - (3) On any lot that has all necessary City infrastructure in place such as streets, sidewalks, water, sanitary sewer, storm sewer, etc. In the event any part of the necessary infrastructure is not complete, it is the responsibility of the applicant to install said infrastructure in accordance with the City's Design and Construction Standards Code and pursuant to the City Engineer's approval. All improvements shall run the full frontage and/or length of the property.
- (b) Height Permitted. A maximum of thirty-five feet or three stories measured in the manner prescribed in Section 1303.04(74).
- (c) Vehicle Parking Space - As provided in Chart 5
- (d) Setback Requirements.
- (1) Front Yard - 25 feet from property line.
 - (2) Side Yard - 8 feet from property line.
 - (3) Rear Yard - 15 feet from property line.
- All setbacks shall be measured at ninety degrees with the property line to the closest point of the main structure and/or any accessory structure and shall include any overhang. Paved parking areas and sidewalks are not restricted to these setback requirements.
- (e) Building Area. The maximum occupancy of the lot shall be seventy-five (75) percent. The buildings, patios, driveways, sidewalks and off-street parking shall be included in the developed or occupied area.
- (f) Vision Clearance on Corner Lots. No obstruction to vision exceeding two feet in height such as buildings, fences, trees, plants, signs, etc. shall be erected or maintained on any lot within the triangle formed by the street intersection, created by the right-of-way line of each street extended to a point and a line drawn between two points each located twenty-five (25) feet from the street intersection. See Section 1317.02(c).
- (g) Hours of Operation. Any new residential use in a BPO-1 District shall not be permitted to operate and or open for business until 8:00 a.m. and shall not remain open past 8:00

p.m. daily. (Ord. 6-00. Passed 8-14-00.)

CHART 7
COMMUNICATION TOWERS

(Such as microwaves, radar, radio, telecommunication, or television transmission or receiving towers; and other similar facilities.)

(a) Use. Communication towers shall always be considered a permitted special use. They may be located on lots occupied by another principal use. They shall be permitted in A-1, I-1 or I-2 Districts only with approval from the Board of Zoning Appeals.

(b) Setbacks.

- (1) The minimum setback between communication towers and all property lines shall be equal to 20 percent of the height of the tower.
- (2) Communication towers shall be set back a minimum of 50 feet from any existing or planned right of way.
- (3) Communication towers shall be set back a minimum of 100 feet from the lot line of any residential or business zoning district.
- (4) Peripheral supports and guy anchors for communication towers may be located within required setbacks, provided that they shall be located entirely within the boundaries of the property on which the tower is located and shall be located no closer than 25 feet from any lot line.

(c) Height. The principal support structure for communication towers shall be permitted to exceed the height limit of the zoning district in which it is located, provided that the setback standards of this section shall apply. No tower shall exceed 250 feet in height measured from finished grade.

(d) Security Fences and Walls. A fence or wall not less than eight feet in height from finished grade shall be constructed around each communication tower and around each guy anchor and peripheral support. The fence or wall shall comply with the following standards.

- (1) Access to the tower shall be through a locked gate in the required fence or wall.
- (2) If high voltage is necessary for the operation of the communication tower and it is present in a ground grid or in the tower, signs located every 20 feet and attached to the fence or wall shall display in large bold letters the following: "HIGH VOLTAGE - DANGER".

(e) Airport Approach Paths. Communication towers shall not encroach into or through any established public or private airport approach path as established by the Federal Aviation Administration (FAA).

(f) Removal of Obsolete Towers; Abandonment; Obsolescence; Financial Responsibility. A tower that is not used for a period of at least 6 months shall be determined to be abandoned and shall be removed. The owner of the tower shall remove any abandoned, obsolete, unused, or structurally unsound tower within 90 days. The Building Code Official may establish a shorter period of time for the removal of a tower that is structurally unsound.

(g) Electromagnetic Radiation. Communication towers shall comply with all applicable Federal Communications Commission (FCC) standards for non-ionizing electromagnetic radiation (NIER).

(h) Site Plan Permit Requirements. The applicant, owner, or developer of a proposed tower shall submit a site plan and obtain a building permit prior to construction and/or erection. The site plan shall include:

- (1) Identification, address, and telephone number of the proposed or intended user(s) of the tower, the property owner (if not the same), and the site developer;
- (2) The location of the tower and guy anchors on the parcel showing all setbacks, buffers, easements, buildings, fences, and heights of the tower and any other structures; and
- (3) The zoning and use of the property where the tower will be located, and the zoning and use of all surrounding properties within 125 feet of the site. Additionally, points of ingress and egress from streets, rights of way, etc. shall be shown.
- (4) Full plans for compliance with the State Building Code.

(i) Colocation.

- (1) Before a new tower or other communication facility variance is granted, the applicant shall attempt to co-locate his use on an existing tower and shall prove to the City in writing that all existing tower options have been explored and are not available for his use at reasonable and prevailing market lease rates. The applicant shall submit a letter signed by the owner of each existing tower attesting to these findings.
- (2) All new towers granted a variance by the Board of Zoning Appeals shall be designed for and shall permit the colocation of future facilities. Each application for a new tower shall submit a written document specifying that the applicant agrees to provide for the shared use of the facility to accommodate the equipment of at least three carriers, and that the applicant agrees to provide for shared use of the facility to a maximum structural capacity at reasonable and prevailing market lease rates.
(Ord. 6-00. Passed 8-14-00.)

CHAPTER FIVE - Subdivision Regulations

- Art. 1333. Purpose and Scope.
- Art. 1335. Administration and Enforcement.
- Art. 1337. Definitions.
- Art. 1339. Procedure for Plat Approval.
- Art. 1341. Design Standards.
- Art. 1343. Improvement and Construction Requirements. (Repealed)
- Art. 1355. Design and Construction Standards Code.

ARTICLE 1333
Purpose and Scope

- 1333.01 Purpose.
- 1333.02 Power; adoption; jurisdiction.

CROSS REFERENCES

- Comprehensive plan - see W. Va. Code 8-24-16 et seq.
- Jurisdiction and control - see W. Va. Code 8-24-35
- Construction and interpretation generally - see ADM. Art. 101

1333.01 PURPOSE.

Subdivision Regulations are hereby adopted for the purpose of:

- (a) Assuring sites are suitable for building purposes and human habitation.
- (b) Coordinating new streets and roads with existing and proposed planned roads and highways.
- (c) Coordinating and extending facilities included in the comprehensive plan.
- (d) Establishing minimum lot dimensions, including area of lots within the proposed subdivision.
- (e) Distributing population and traffic in a manner tending to create conditions favorable to health, safety, convenience and the harmonious development of the Municipality. (Ord. 6-95. Passed 7-24-95.)

1333.02 POWER; ADOPTION; JURISDICTION.

- (a) After these Subdivision Regulations have been adopted and a certified copy filed with the City, the Planning Commission shall have control over the approval of all plats involving land covered by the Regulations. Such approval shall be subject to conditions

conforming to State Health and Highway Department regulations.

(b) Under the provisions of West Virginia Code 8-24-1 et seq. which provisions are hereby made a part hereof, these following Regulations governing the subdivision of land are hereby adopted by Council on April 8, 1980.

(c) On or after April 8, 1980, these Regulations shall govern each and every subdivision of land with respect to incorporated territory within the limits of the City, as now or hereafter established; except that these Regulations shall not apply to those subdivisions, plats of which have been recorded with the Office of the Clerk of the County prior to the effective date hereof. The effect on plats filed with the Clerk of the County Commission before the adoption shall only pertain to that land area that has been platted and any adjacent or adjoining land not platted shall be subject to the new Regulations and if only a portion of a developer's land is platted and recorded prior to the adoption of these Regulations then any new plats for the balance of the developer's land shall conform to the new Regulations. These Regulations shall not apply to divisions and plats of land made by testamentary disposition, by judicial sale, trustee's sale or into cemetery lots, or partitioned by the owners thereof among themselves under a decree by a court of competent jurisdiction.
(Ord. 6-95. Passed 7-24-95.)

ARTICLE 1335
Administration and Enforcement

1335.01	Approval.	1335.05	Permit.
1335.02	Inspection.	1335.06	Amendment.
1335.03	Modifications, variances and waivers.	1335.99	Penalty.
1335.04	Variance conditions and applications.		

CROSS REFERENCES

Enforcement - see WV Code 8-24-66

Injunction - see WV Code 8-24-67

Penalty - see WV Code 8-24-68

1335.01 APPROVAL.

A final plat of a subdivision shall not be recorded by the County Clerk unless it has first been approved, dated, and stamped by the Planning Commission.

The filing and recording of a plat involving the subdivision of lands covered by the Subdivision Regulations shall be without legal effect unless approved by the Commission; provided, that failure to obtain Commission approval shall not invalidate or affect the title to any land within the area of such plat; provided, however, that if such plat shall bear the seal of the Commission it shall be presumed to have been approved thereby.
(Ord. 6-00. Passed 8-14-00.)

1335.02 INSPECTION.

The City Engineer or duly authorized agent of the City shall conduct periodic in-the-field inspections of all construction and installations required under these Subdivision Regulations during the time of construction requirements of these Regulations. He shall also conduct a final inspection of the construction and installations required and shall make and certify to the Commission a report of compliance by the subdivider before the final plat is approved. (Ord. 6-95. Passed 7-24-95.)

1335.03 MODIFICATIONS, VARIANCES AND WAIVERS.

If it is determined that strict compliance with these Subdivision Regulations would result in undue and unnecessary hardship to the subdivider due to unusual topography or conditions beyond the control of the subdivider then the Planning Commission may modify, vary or waive such requirements provided that such modification, variance or waiver will not nullify the intent or purpose of these Regulations, and provided further that such modification, variance or waiver and the reason therefor shall be entered upon the minutes of the Commission. (Ord. 6-95. Passed 7-24-95.)

1335.04 VARIANCE CONDITIONS AND APPLICATIONS.

(a) In granting modifications, variances or waivers, the Planning Commission may attach such other reasonable conditions as will, in its judgment, justify such modifications, variances and waivers and still maintain substantially the objectives of these Subdivision Regulations.

(b) Each and every modification, variance or waiver of these Regulations sought by the subdivider shall be specifically applied for in writing in letter application form setting forth the reasons that the subdivider feels he qualifies under this article. Any condition shown on the plat which would require a modification, variance or waiver, shall constitute a ground for disapproval of the plat unless such special application for modification, variance or waiver is made and granted by the Commission. (Ord. 6-95. Passed 7-24-95.)

1335.05 PERMIT.

Prior to the issuance of a building permit allowing the construction of any structures, the subdivision must have final plat approval, and be duly recorded in the office of the Clerk of Harrison County. (Ord. 6-00. Passed 8-14-00.)

1335.06 AMENDMENT.

Council may from time to time adopt amendments that will tend to increase the effectiveness of these Subdivision Regulations and expedite the approval of the subdivision plats. These Regulations and amendments thereto may be modified, changed, amended or rescinded only by action of Council by following the same procedure set forth in West Virginia Code 8-24-18 to 8-24-22 for the adoption of a comprehensive plan. (Ord. 6-95. Passed 7-24-95.)

1335.99 PENALTY.

Under the provisions of West Virginia Code 8-24-66 to 8-24-68, any individual, firm, association, syndicate, trust, co-partnership, corporation or other legal entity who subdivides any lot, tract or parcel of land; lays out, constructs, opens or dedicates any street, sanitary sewer, storm sewer, sidewalk or water main for public use or travel or for the common use of occupants of buildings abutting thereon; sells any lot or erects any building in a subdivision

without having first complied with the provisions hereof and the Subdivision Regulations adopted hereunder; shall be subject to the procedure of the City Police; and such individual or the members of such co-partnership or the officers of such corporation responsible for such violation shall be sentenced to pay a fine of not less than ten dollars (\$10.00) and not more than three hundred dollars (\$300.00) for each offense, and each day that he continues such violation after notification shall constitute a separate offense punishable by a like fine or penalty. (Ord. 6-95. Passed 7-24-95.)

ARTICLE 1337
Definitions

1337.01 Definitions.

CROSS REFERENCES

General definitions - see ADM. 101.02

Zoning definitions - see P. & Z. Art. 1303

Planned unit development - see P. & Z. Art. 1321

1337.01 DEFINITIONS.

For the purpose of these Subdivision Regulations, words used in the present tense include the future tense; the words "shall" and "will" are always mandatory; and the following words shall, for the purpose of these Regulations, have the meaning herein indicated.

- (1) "Alley" means a minor right of way providing secondary vehicular access to the side or rear of two or more properties.
- (2) "Base course" means the layer of a street immediately in contact with the natural soil.
- (3) "Bench mark" means a point of known or assumed elevation in or near the subdivision.
- (4) "Building lines" means the lines within the property defining the required minimum distances between any structures and the road or alley right of way or abutting lots.
- (5) "Cartway" means that portion of the road right of way surfaced for vehicular use.
- (6) "Code" means the Code of West Virginia, 1931, as amended.
- (7) "Commission" means the City Planning Commission.
- (8) "County" means the County of Harrison.
- (9) "Covenant" means an agreement or restriction placed on a parcel of land.
- (10) "Crosswalk" means provision for a pedestrian way through a block or across a street or road of excessive length.
- (11) "Cul-de-sac" means a residential street with only one end open to traffic and pedestrian access, permanently terminated by a vehicular turnaround.
- (12) "Dedication" means the deliberate appropriation of land by its owner for any general or public use, reserving unto himself no other rights than those compatible with the full exercise and enjoyment of the public use.

- (13) "Developer" means an individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity or agent thereof that undertakes the activities covered by these regulations, particularly the drawing up of the land development and subdivision showing the layout of the land and the public improvements involved therein. Inasmuch as the subdivision plan is merely a necessary means to the end of assuring satisfactory development, the term "developer" is intended to include the terms "subdivider", "owner" and "builder" even though the persons involved in successive stages of the project may vary.
- (14) "Easement" means the grant by a property owner of the use of land by others for a specific purpose or purposes.
- (15) "Engineer or city engineer" means a registered engineer authorized to practice civil engineering in the State and shall include any consulting engineer employed by the Commission or a representative of Council appointed by Council.
- (16) "Front lot line" means the parcel boundary at the street or road right of way.
- (17) "Improvements" means those physical changes to the land necessary to produce usable and desirable lots from raw acreage including, but not limited to, grading, paving, curbs, gutters, storm sewers and drains, improvements to existing watercourses, sidewalks, crosswalks, street signs, monuments, water supply facilities and sewage disposal facilities.
- (18) "Lot" means a parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record or survey map or by metes and bounds, for the purpose of sale or lease to, or separate use of, another.
- A. Single-family lot. A lot upon which is situated or is to be situated a single-family dwelling.
 - B. Multi-family lot. A lot upon which is situated or is to be situated a multiple-family structure such as apartments or condominiums.
- (19) "Monument" means a point of known position, established by an engineer or surveyor, and used to locate property lines, building lines, etc.
- (20) "Obligee" means a person in favor of whom some obligation is contracted.
- (21) "Plat of a subdivision" means a representation on paper of a parcel of land subdivided into lots showing all salient features.
- (22) "Person" means any individual, firm, trust, partnership, public or private association or corporation.
- (23) "Profile" means a side view of the centerline of a street, showing grades, transition curves and lengths.
- (24) "Restriction line" means an imaginary line in a subdivision (building lines and easements) that restricts building locations in any way.
- (25) "Right of way" means land reserved for use as a road, street, alley or crosswalk.

- (26) Subdivision roads and streets are as follows:
- A. Feeder. Roads which, in addition to giving access to abutting properties, intercept local roads and provide routes carrying local traffic to community facilities and to primary highways.
 - B. Local. Roads used primarily to provide access to abutting properties.
- (27) "Subdivider or applicant" means any individual, firm, association, syndicate, trust, co-partnership, corporation or any other legal entity commencing proceedings under these Regulations to effect a subdivision of land hereunder for himself or for another.
- (28) "Subdivision" means the partition or division of a lot, tract or parcel of land into two or more lots, plats, sites, parcels or other divisions of land, for the purpose, whether immediate or future, of sale, lease, transfer of ownership or of building development.
- Subdivision includes resubdivision and, when appropriate to the context, relates to the process of subdividing and to the land or territory subdivided. "Subdivision" as used herein shall not include the division of land by adjoining property owners to effect a boundary adjustment if the same does not result in additional lots and if the tract, parcel or lot divided becomes a part of the adjoining lot or lots, provided, however, that no such division shall serve to create any condition which does not otherwise comply with the terms and provisions of the ordinances of the City. Also, the term shall not include the subdivision as a result of a partition of land by an appropriate court of law, or the division of land for public purposes such as public schools, parks, roads and utility systems.
- (29) "Surveyor" means an individual licensed to practice land surveying in the State.
- (30) "Tract boundary" means the perimeter of a subdivision.
- (31) "Variance" means any departure from the provisions of these Regulations granted to the subdivider by the Commission or a court of competent jurisdiction.
- (32) "Subdivision Regulations" or "these Regulations" means the Ordinance of April 8, 1980, as amended, which is codified as Chapter Five of this Part Thirteen - Planning and Zoning Code.
(Ord. 6-00. Passed 8-14-00.)

ARTICLE 1339
Procedure for Plat Approval

<p>1339.01 General. 1339.02 Preapplication. 1339.03 Application. 1339.04 Preliminary plat. 1339.05 Final plat submission. 1339.06 Action on final plat. 1339.07 Disposition of plats.</p>	<p>1339.08 Approval of plat; failure of Commission to act. 1339.09 Platting requirements. 1339.10 Conditions of acceptance. 1339.11 Certificates; affidavits; approvals.</p>
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CROSS REFERENCES

Approval required - see W.Va. Code 8-24-28
Application - see W.Va. Code 8-24-29
Approval - see W.Va. Code 8-24-30 et seq.

1339.01 GENERAL.

To obtain approval of a proposed subdivision and plat thereof, the subdivider or applicant shall apply and submit to the Planning Commission or secretary thereof, all information as regulated by the City of Bridgeport Design and Construction Standards Manual as referenced in Section 1341.02. (Ord. 6-95. Passed 7-24-95.)

1339.02 PREAPPLICATION.

Prior to filing a preliminary plat, the applicant shall schedule a meeting with the City Engineer, City Planner and Zoning Administrator to present plans initially and discuss the conditions and restrictions the applicant will be legally bound to comply with. (Ord. 6-95. Passed 7-24-95.)

1339.03 APPLICATION.

The subdivider may then apply and submit the preliminary plat to the Planning Commission for review. Along with all City staff notes, the preliminary plat must contain all information as referenced in the City of Bridgeport Design and Construction Standards Manual referenced in Section 1341.02. The preliminary plat must be presented to the Commission or secretary thereof at least fifteen days prior to a regularly scheduled meeting of the Planning Commission, otherwise the proposed preliminary plat shall not be considered at that meeting. Such preliminary plats shall be of the total land to be ultimately developed and then may be identified as "Phases". (Ord. 6-00. Passed 8-14-00.)

1339.04 PRELIMINARY PLAT.

(a) Review. The Commission shall review the preliminary plat submitted to insure compliance with any of the requirements of these Subdivision Regulations.

(b) Approval or Rejection. The Commission shall notify the subdivider of the scheduled date, place, time and agenda of the meeting at which the proposed preliminary plat is to be reviewed. The date for such meeting shall not be more than sixty days from the date of submission of the preliminary plat for approval. The Commission shall act on the preliminary plat stating its approval, conditional approval or disapproval. If approved conditionally, and if necessary, the Planning Commission may require the subdivider to submit a revised preliminary plat. If any of the requirements are modified or waived, the reasons for such shall be specified. If the Commission should disapprove the preliminary plat, recommendations shall be made on the basis of which the proposed subdivision would be approved. Approval of a preliminary plat shall not constitute approval of a final plat, but rather shall indicate an expression of approval of the layout submitted on the preliminary plat as a basis to the preparation of the final plat. The Commission shall retain the preliminary plat.

(c) Once the preliminary plat is approved by the Commission, the construction of the infrastructure shall begin. The installation of all utilities, streets, lighting, sidewalks, and any other improvement shall be installed as regulated by the City of Bridgeport Design and Construction Standards Manual as referenced in Section 1341.02 and inspected as referenced by Section 1335.02. Once all improvements are complete and certified by the City Engineer, the applicant shall apply to the Planning Commission for final plat approval. (Ord. 6-95. Passed 7-24-95.)

1339.05 FINAL PLAT SUBMISSION.

The subdivider shall submit the final plat to the Planning Commission or secretary thereof. Upon receipt of the final plat, the Commission shall set a date, time and place for a hearing; notify the applicant of the scheduled place, date, time and agenda of the hearing, at which the subdivision and final plat thereof are to be considered; and at least thirty days prior to the date set for hearing shall publish a notice of the date, time and place of the hearing as a Class I legal advertisement in compliance with the provisions of West Virginia Code Article 59-3; and shall notify by direct mail any governmental unit having a probable interest in the proposed plat of the date, time and place of such hearing. (Ord. 6-95. Passed 7-24-95.)

1339.06 ACTION ON FINAL PLAT.

(a) Basis for Approval. In determining whether an application for approval shall be granted, the Commission shall employ the guidelines set forth in West Virginia Code 8-24-30 and the requirements of these Subdivision Regulations.

(b) Hearing; Submission of Record; Approval or Disapproval. After the public hearing, the Commission shall approve or disapprove the final plat. If the Commission approves the plat, it shall affix the Commission's seal upon the plat. If it disapproves the plat, it shall set forth its reasons and supply the applicant with a copy thereof. In either case, the applicant will be notified of the results by certified mail.

(c) Fees. The City shall establish a uniform schedule of fees proportioned to the cost of checking and verifying proposed plats and conducting field inspections of the infrastructure installation. An applicant shall pay the specified fee at the time of filing his application for preliminary plat approval. (Ord. 6-95. Passed 7-24-95.)

1339.07 DISPOSITION OF PLATS.

One copy of the approved final plat shall be retained by the Commission, and one copy shall be filed by the City according to Section 1339.11(a). A third copy shall be returned to the subdivider. (Ord. 6-95. Passed 7-24-95.)

1339.08 APPROVAL OF PLAT; FAILURE OF COMMISSION TO ACT.

In the event that the Planning Commission fails to approve or disapprove a final plat within 120 days from submission of the final plat, such plat shall be deemed to have been approved by the Commission, and a certificate to that effect shall be issued by the Commission and/or the seal of the Commission shall be affixed upon such final plat upon demand; provided however, that the applicant may waive this requirement and consent to the extension of such period. (Ord. 6-95. Passed 7-24-95.)

1339.09 PLATTING REQUIREMENTS.

Per City of Bridgeport Design and Construction Standards Manual as referenced in Section 1341.02. (Ord. 6-95. Passed 7-24-95.)

1339.10 CONDITIONS OF ACCEPTANCE.

Recording.

- (a) Within thirty days after the date of the final plat approval, the City shall submit the plat to the County for recording. The County Clerk shall record the plat and the recording fee shall be paid by the subdivider. The Clerk shall not record the subdivision plat without approval of the Planning Commission as indicated by the official seal.

Approval of the subdivision shall not become final and effective for purposes of further action until such certificate has been filed.

- (b) Every street, sidewalk, utility, lighting, park or other improvement shown on a subdivision plat shall be deemed to be private until such time as the same shall have been offered for dedication in writing and accepted by the City Council or State Department of Highways or until it shall have been condemned for public use. (Ord. 6-00. Passed 8-14-00.)

1339.11 CERTIFICATES; AFFIDAVITS; APPROVALS.

The final plat shall contain an Engineer's certificate in form satisfactory to the Commission. The final plat shall contain forms for approvals and recordings required by the Commission. (Ord. 6-00. Passed 8-14-00.)

ARTICLE 1341
Design Standards

1341.01 Application of standards.

1341.02 Design and Construction
Standards Manual.

1341.01 APPLICATION OF STANDARDS.

The following land subdivision principles, standards and requirements shall be applied by the Commission in evaluating the plans for proposed subdivisions and shall be considered minimum requirements. (Ord. 6-95. Passed 7-24-95.)

1341.02 DESIGN AND CONSTRUCTION STANDARDS MANUAL.

All subdivisions shall be designed, improved, and constructed per the City of Bridgeport Design and Construction Standards Manual. This manual is on file and made available at City Hall. (Ord. 6-95. Passed 7-24-95.)

ARTICLE 1343
Improvement and Construction Requirements

(EDITOR'S NOTE: Former Article 1343 was repealed by Ordinance 15-95, passed October 23, 1995.)

