

# **Zoning Ordinance**

**Jefferson County, West Virginia**

**Adopted October 2, 2008**

**Effective November 1, 2008**

**Stayed January 8, 2009**

**Referendum Scheduled November 7, 2009**





# Table of Contents

**ARTICLE 1 PURPOSE, INTENT, JURISDICTION AND ZONING DISTRICTS..... 1**

**Division 1.100 Jurisdiction..... 1**

    Sec. 1.101 Title ..... 1

    Sec. 1.102 Purpose and Intent ..... 1

    Sec. 1.103 Land Use Patterns and Community Character ..... 1

    Sec. 1.104 Natural and Cultural Resources ..... 2

    Sec. 1.105 Public Infrastructure ..... 2

    Sec. 1.106 Growth Management ..... 3

    Sec. 1.107 Balanced Expectations ..... 3

    Sec. 1.108 Types of Development and Applicability ..... 3

    Sec. 1.109 Exemptions and Exceptions ..... 4

**Division 1.200 Establishment of Zoning Districts ..... 4**

    Sec. 1.201 Zoning Districts Enumerated ..... 4

    Sec. 1.202 Zoning Map ..... 5

    Sec. 1.203 Interpreting the Zoning Map ..... 5

    Sec. 1.204 Land in More than One District ..... 5

    Sec. 1.205 Detached or Undesignated Land ..... 7

**Division 1.300 District Purposes ..... 7**

    Sec. 1.301 Agricultural (AG) District ..... 8

    Sec. 1.302 Countryside (CS) District ..... 8

    Sec. 1.303 Estate (ES) District ..... 8

    Sec. 1.304 Residential (RS) District ..... 9

    Sec. 1.305 Townscape (TS) District ..... 9

    Sec. 1.306 General Commercial (GC) District ..... 10

    Sec. 1.307 Business Park (BP) District ..... 11

    Sec. 1.308 Neighborhood Conservation (NC) District ..... 11

    Sec. 1.309 Village Conservation (VC) District ..... 12

**ARTICLE 2 LAND USES ..... 13**

**Division 2.100 Purpose ..... 13**

**Division 2.200 Uses by Zoning District ..... 13**

    Sec. 2.201 Permitted Uses ..... 13

    Sec. 2.202 Prohibited Uses ..... 17

**Division 2.300 General Use Standards ..... 17**

    Sec. 2.301 Residential Uses ..... 17

    Sec. 2.302 Nonresidential Use ..... 23

**Division 2.400 Limited and Conditional Use Standards ..... 26**

    Sec. 2.401 Clearing ..... 26

    Sec. 2.402 Bed and Breakfast ..... 27

    Sec. 2.403 Commercial Stables ..... 27

    Sec. 2.404 Intensive Agriculture ..... 27

    Sec. 2.405 Group Residential Home and Group Residential Facility ..... 27

    Sec. 2.406 Hamlet ..... 28



Sec. 2.407 Mobile Manufactured Home Parks and Subdivisions .....28

Sec. 2.408 Small Family Dwelling.....29

Sec. 2.409 Residential Family Child Care Facilities .....29

Sec. 2.410 Home Occupations .....30

Sec. 2.411 Home Business .....30

Sec. 2.412 Home Workspace .....32

Sec. 2.413 Home Industry .....32

Sec. 2.414 College or University .....33

Sec. 2.415 Hospital .....34

Sec. 2.416 Institutional Residential.....34

Sec. 2.417 Places of Assembly.....34

Sec. 2.418 Protective Care .....34

Sec. 2.419 Public Service Facility.....35

Sec. 2.420 Commercial Lodging .....35

Sec. 2.421 Country Inn.....35

Sec. 2.422 Commercial Retail.....36

Sec. 2.423 Commercial Child Care Center .....37

Sec. 2.424 Drive-In Facilities.....38

Sec. 2.425 Kennels and Veterinary Clinics/Hospitals .....38

Sec. 2.426 Agriculture.....39

Sec. 2.427 Light Automobile Service .....39

Sec. 2.428 Mixed Use .....39

Sec. 2.429 Restaurant/Carry-out .....40

Sec. 2.430 Services .....40

Sec. 2.431 Vehicular Sales, Rental, and Service .....40

Sec. 2.432 Adult Uses .....41

Sec. 2.433 Campgrounds and Recreational Vehicle Parks .....42

Sec. 2.434 Commercial Amusement, Outdoor.....43

Sec. 2.435 Outdoor Recreational Facility .....43

Sec. 2.436 Disposal/Landfill .....43

Sec. 2.437 Heavy Industry .....44

Sec. 2.438 Light Industry .....44

Sec. 2.439 Recycling or Storage .....45

Sec. 2.440 Utilities, Regional.....46

Sec. 2.441 Warehousing and Transportation.....46

Sec. 2.442 Airports.....46

Sec. 2.443 Commercial Wireless Telecommunication Facilities and Towers .....46

Sec. 2.444 Utilities, Community .....48

Sec. 2.445 Training Facilities and Corporate & Government Back Office Operational Facilities.....49

Sec. 2.446 Museums .....49

Sec. 2.447 Salvage Yards.....50

**Division 2.500 Temporary Use Standards .....50**

Sec. 2.501 Commercial Outdoor Sales.....51

Sec. 2.502 Concrete/Asphalt Batch Plant.....51

Sec. 2.503 Contractor's Office .....52

Sec. 2.504 Farm Stand .....52

Sec. 2.505 Garage or Yard Sale .....52

Sec. 2.506 Model Homes or Sales Offices.....52

Sec. 2.507 Public Interest and Special Events.....52

Sec. 2.508 Sidewalk Sales and Farmers' Markets .....53

Sec. 2.509 Truck Load Sales .....53

**Division 2.600 Right to Farm .....53**

Sec. 2.601 Policy and Purpose .....54



Sec. 2.602 Definitions ..... 54  
 Sec. 2.603 Limitation of Actions ..... 55  
 Sec. 2.604 Resolution of Disputes and Procedure for Complaints - Investigation and Declaration ..... 55  
 Sec. 2.605 Right to Farm Notice and Real Estate Transfer Disclosure ..... 56  
 APPENDIX A ..... 57  
 APPENDIX B ..... 58

**ARTICLE 3 DISTRICT AND BULK STANDARDS ..... 59**

**Division 3.100 Purpose ..... 59**

**Division 3.200 District Performance Standards ..... 59**

Sec. 3.201 District Standards ..... 59  
 Sec. 3.202 Bonuses ..... 61  
 Sec. 3.203 Single Lot Subdivision in Certain Circumstances ..... 61  
 Sec. 3.204 Nonresidential Use Scale Regulations ..... 62

**Division 3.300 Bulk Regulations ..... 63**

Sec. 3.301 Housing Palette for Residential Development ..... 63  
 Sec. 3.302 Single-Family Detached ..... 64  
 Sec. 3.303 Planned District Housing Types ..... 66  
 Sec. 3.304 Averaged Lots ..... 73  
 Sec. 3.305 Residential Mix Standards ..... 75  
 Sec. 3.306 Non-Residential Bulk Requirements ..... 76  
 Sec. 3.307 Lot Area Exemption ..... 76

**Division 3.400 Exception Yard and Height Standards ..... 76**

**ARTICLE 4 ENVIRONMENTAL PROTECTION ..... 79**

**Division 4.100 Purpose ..... 79**

**Division 4.200 Resource Protection Standards ..... 79**

**Division 4.300 Site Capacity Calculations ..... 80**

Sec. 4.301 Site Capacity Requirement ..... 80  
 Sec. 4.302 Residential Site Capacity Calculation ..... 81  
 Sec. 4.303 Nonresidential Site Capacity Calculation ..... 82  
 Sec. 4.304 Neighborhood Conservation Mountain District ..... 84

**Division 4.400 Open Space Regulations ..... 87**

Sec. 4.401 Uses In Open Space ..... 87  
 Sec. 4.402 Standards for Open Space Uses ..... 88  
 Sec. 4.403 Apiaries ..... 88  
 Sec. 4.404 Field Crops ..... 88  
 Sec. 4.405 Orchards ..... 89  
 Sec. 4.406 Pasture ..... 89  
 Sec. 4.407 Commercial Kennels and Stables ..... 89  
 Sec. 4.408 Nurseries ..... 89  
 Sec. 4.409 Ball Fields ..... 89  
 Sec. 4.410 Golf Courses ..... 90  
 Sec. 4.411 Nature Areas ..... 91  
 Sec. 4.412 Nature Centers ..... 91



Sec. 4.413 Picnic Areas ..... 91

Sec. 4.414 Water Dependent Uses ..... 92

Sec. 4.415 Playing Courts ..... 92

Sec. 4.416 Trails..... 92

Sec. 4.417 Public/Private Roads and Sewer/Water ..... 93

Sec. 4.418 Essential Access ..... 94

Sec. 4.419 Detention Ponds ..... 94

**Division 4.500 Additional Resource Standards ..... 94**

Sec. 4.501 Floodplains - Existing Uses ..... 94

Sec. 4.502 Floodways ..... 96

Sec. 4.503 Floodplains - New Uses..... 97

Sec. 4.504 Filling the Floodplain ..... 98

Sec. 4.505 Detention in Floodplains ..... 99

Sec. 4.506 Standards for Beneficial Uses in Floodplains ..... 100

Sec. 4.507 Additional Approvals ..... 100

Sec. 4.508 Parking in Floodplains..... 100

Sec. 4.509 Wetlands ..... 100

Sec. 4.510 Wetland Mitigation..... 100

Sec. 4.511 Riparian Buffers ..... 101

Sec. 4.512 Water Bodies ..... 101

Sec. 4.513 Mature Woodlands ..... 101

Sec. 4.514 Sinkholes ..... 102

Sec. 4.515 Sinkhole Buffer ..... 103

Sec. 4.516 Vulnerable Areas ..... 104

Sec. 4.517 Steep Slopes ..... 105

Sec. 4.518 Wellhead Protection ..... 105

Sec. 4.519 Mitigation and Site Capacity ..... 106

**Division 4.600 Stormwater Management ..... 106**

Sec. 4.601 Stormwater Management..... 106

Sec. 4.602 Stormwater Standards..... 106

Sec. 4.603 Avoidance..... 106

Sec. 4.604 Minimization ..... 106

Sec. 4.605 Mitigation ..... 107

**Division 4.700 General Environmental Standards ..... 108**

Sec. 4.701 Noise..... 108

Sec. 4.702 Vibration..... 109

Sec. 4.703 Emissions..... 110

Sec. 4.704 Toxics ..... 110

Sec. 4.705 Odorous Materials ..... 111

Sec. 4.706 Hazardous Materials ..... 111

Sec. 4.707 Dust and Debris ..... 111

Sec. 4.708 Lighting ..... 112

**ARTICLE 5 INCENTIVES ..... 113**

**Division 5.100 Purpose..... 113**

**Division 5.200 Affordable Housing..... 113**

Sec. 5.201 Affordable Units ..... 113

Sec. 5.202 Program-Assisted Housing ..... 113

Sec. 5.203 Work Force Housing ..... 114



Sec. 5.204 Small Development Fee In Lieu Alternative ..... 115

Sec. 5.205 Additional Work Force Housing Options..... 115

Sec. 5.206 Accessory Dwelling Units..... 116

Sec. 5.207 Small Family Units ..... 117

Sec. 5.208 Regulation of Work Force and Program Assisted Housing..... 118

**Division 5.300 Historic Preservation..... 119**

Sec. 5.301 Classification of Historic Sites ..... 119

Sec. 5.302 Levels of Protection ..... 120

Sec. 5.303 Demolition ..... 121

Sec. 5.304 Incentives for Open Space..... 122

Sec. 5.305 Renovation Incentives ..... 123

Sec. 5.306 Adaptive Reuse ..... 124

**Division 5.400 Rural Preservation..... 125**

Sec. 5.401 Protection of Villages..... 125

Sec. 5.402 Protection of Farmsteads ..... 126

**Division 5.500 Pollution Mitigation (Reserved)..... 127**

**ARTICLE 6 NONCONFORMITIES ..... 129**

**Division 6.100 Nonconformities ..... 129**

**Division 6.200 General Regulations ..... 129**

Sec. 6.201 Change or Conversion of Land Use or Signage ..... 129

Sec. 6.202 Abandonment or Discontinuance ..... 130

Sec. 6.203 Abandonment of Telecommunications Towers..... 130

Sec. 6.204 Alternation, Enlargement, or Extension ..... 131

**Division 6.300 Mitigation of Nonconforming Uses..... 132**

Sec. 6.301 Purpose..... 132

Sec. 6.302 Procedure ..... 132

Sec. 6.303 Adaptive Reuse ..... 132

Sec. 6.304 Criteria for Approval..... 132

Sec. 6.305 Effect..... 133

**ARTICLE 7 PARKING, LOADING, ACCESS, AND LIGHTING ..... 135**

**Division 7.100 Parking and Loading ..... 135**

Sec. 7.101 Off-Street Parking Requirements ..... 135

Sec. 7.102 Off-Street Parking Area Surfaces..... 135

Sec. 7.103 Loading Requirements ..... 136

Sec. 7.104 Parking and Loading Requirements Table ..... 136

Sec. 7.105 Off-Street Parking Standards ..... 140

Sec. 7.106 Special Study..... 141

Sec. 7.107 Mixed Uses and Shared Parking ..... 141

Sec. 7.108 On-Street Parking Credit..... 142

**Division 7.200 Parking and Loading Design..... 142**

Sec. 7.201 Parking Space Standards ..... 142

Sec. 7.202 Accessible Parking ..... 143



Sec. 7.203 Driveway Parking for Single Family Dwellings on Lots Under 10,000 Square Feet in Size and Two-Family Dwellings .....144

Sec. 7.204 Off-Street Loading.....145

Sec. 7.205 Vehicle Stacking Requirements.....145

**Division 7.300 Access and Circulation .....146**

Sec. 7.301 Access to Collectors and Arterials.....147

Sec. 7.302 Dimensional Standards of Access Points .....147

Sec. 7.303 Offset of Access Points .....150

Sec. 7.304 Common Access and Internal Cross Access.....150

**Division 7.400 Exterior Lighting Standards .....151**

Sec. 7.401 Applicability .....151

Sec. 7.402 Exterior Lighting Plan .....151

Sec. 7.403 Nonresidential Lighting Standards .....151

Sec. 7.404 Exterior Lighting for Outdoor Amusement and Recreational Use .....152

Sec. 7.405 Sign Lighting, Shielded Spotlights .....152

Sec. 7.406 Public Safety and Public Nuisance .....153

**ARTICLE 8 LANDSCAPING AND TREE PROTECTION..... 155**

**Division 8.100 Purpose.....155**

**Division 8.200 General Requirements .....155**

Sec. 8.201 General Landscaping Standards .....155

Sec. 8.202 Plant Units .....157

Sec. 8.203 Plant Size Reductions .....159

Sec. 8.204 Landscape Plans .....159

Sec. 8.205 Ownership and Maintenance of Open Space .....160

Sec. 8.206 Replacement .....160

Sec. 8.207 Planting Locations .....161

**Division 8.300 Development Landscaping .....161**

Sec. 8.301 Street Trees.....161

Sec. 8.302 Parking Lot Landscaping .....162

Sec. 8.303 Open Space Landscaping.....163

Sec. 8.304 On-Lot Landscaping .....164

Sec. 8.305 Special Residential .....164

Sec. 8.306 Clear Sight Triangle Visibility .....164

**Division 8.400 Bufferyard Requirements.....164**

Sec. 8.401 Bufferyard Standards.....165

Sec. 8.402 Street Bufferyards.....165

Sec. 8.403 Parking Bufferyards.....166

Sec. 8.404 Standard Bufferyard Landscaping .....166

Sec. 8.405 Bufferyard Alternatives or Options .....167

Sec. 8.406 Bufferyard Berms .....168

Sec. 8.407 Buffers for Cluster or Planned Developments .....169

**Division 8.500 Landscape Material Standards .....169**

Sec. 8.501 Tree Quality.....169

Sec. 8.502 Plant Species.....170

Sec. 8.503 Soil Preparation .....171



**ARTICLE 9 SIGN REGULATIONS ..... 173**

Division 9.100 Purpose ..... 173

Division 9.200 General Provisions ..... 173

Division 9.300 Permitted Signs ..... 174

    Sec. 9.301 Signs Permitted Without Zoning Permit ..... 174

    Sec. 9.302 Signs Permitted With Zoning Certificate ..... 174

    Sec. 9.303 Conditional Uses (Requiring Board of Zoning Appeals Authorization after Public Hearing) ..... 176

Division 9.400 Zoning Certificate ..... 176

**ARTICLE 10 DESIGN AND MODULATION ..... 177**

Division 10.100 Purpose ..... 177

Division 10.200 Hamlet Design ..... 177

    Sec. 10.201 Hamlet Composition ..... 177

    Sec. 10.202 Permitted Uses ..... 179

    Sec. 10.203 Location of Hamlet Development Area ..... 180

Division 10.300 Modulation of Standards ..... 181

    Sec. 10.301 Modulation Approval ..... 181

    Sec. 10.302 Street Yard Setbacks ..... 181

    Sec. 10.303 Patio and Atrium Units ..... 182

    Sec. 10.304 Windowless Walls ..... 183

    Sec. 10.305 Building Spacing ..... 183

    Sec. 10.306 Historic Sites ..... 184

**ARTICLE 11 ADMINISTRATIVE BODIES ..... 185**

Division 11.100 Purpose ..... 185

Division 11.200 Administrative Boards and Commissions ..... 185

    Sec. 11.201 County Commission ..... 185

    Sec. 11.202 Planning Commission ..... 186

    Sec. 11.203 Board of Zoning Appeals ..... 188

    Sec. 11.204 Historic Landmarks Commission ..... 190

Division 11.300 Planning and Zoning Staff ..... 190

    Sec. 11.301 General Duties ..... 190

    Sec. 11.302 Adjustment of Application Requirements and Landscaping Lists. .... 191

**ARTICLE 12 PROCEDURES AND ADMINISTRATION ..... 193**

Division 12.100 Purpose ..... 193

Division 12.200 Procedures ..... 193

Division 12.300 Provisions of General Applicability ..... 195

    Sec. 12.301 Applications ..... 195



Sec. 12.302 Sufficiency Review .....195

Sec. 12.303 Fees.....195

Sec. 12.304 Application Review .....196

Sec. 12.305 Public Hearings .....196

Sec. 12.306 Notice of Public Hearings.....196

Sec. 12.307 Continuances, Withdrawal, and Denial of Application .....197

Sec. 12.308 Public Hearing Procedure .....198

Sec. 12.309 Actions By Decision-Making Bodies .....199

Sec. 12.310 Effect of Approval .....200

**Division 12.400 Zoning Review Procedures.....201**

    Sec. 12.401 Amendments to the Zoning Map or Text .....201

    Sec. 12.402 Conditional Uses: Generally.....202

    Sec. 12.403 Variances .....204

**Division 12.500 Appeals and Interpretations.....206**

    Sec. 12.501 Beneficial Use Appeal.....206

    Sec. 12.502 Administrative Appeals .....210

    Sec. 12.503 Appeals to the Courts .....212

**Division 12.600 Other Application Reviews.....212**

    Sec. 12.601 Zoning Certificate.....212

    Sec. 12.602 Sign Permit .....213

    Sec. 12.603 Interpretations.....213

    Sec. 12.604 Unlisted Uses.....213

**ARTICLE 13 ENFORCEMENT AND LEGAL STATUS..... 215**

**Division 13.100 Purpose.....215**

**Division 13.200 Enforcement .....215**

    Sec. 13.201 Enforcement .....215

    Sec. 13.202 Penalties and Remedies .....215

    Sec. 13.203 Enforcement Procedure .....215

**Division 13.300 Legal Status .....216**

    Sec. 13.301 Severability.....216

    Sec. 13.302 Repealer.....218

    Sec. 13.303 Conflicting Provisions .....218

    Sec. 13.304 Telecommunications.....218

**ARTICLE 14 DEFINITIONS..... 219**

**Division 14.100 Word Usage and Abbreviations .....219**

    Sec. 14.101 Word Usage.....219

    Sec. 14.102 Abbreviations .....220

**Division 14.200 Use Definitions.....220**

    Sec. 14.201 Agricultural Uses.....220

    Sec. 14.202 Residential Uses .....221

    Sec. 14.203 Home Uses .....222

    Sec. 14.204 Institutional Uses .....223

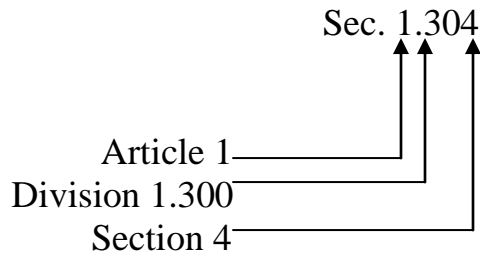
    Sec. 14.205 Commercial Uses.....224



Sec. 14.206 Recreation and Amusement Uses .....227  
 Sec. 14.207 Industrial Uses.....228  
 Sec. 14.208 Special Uses .....230  
 Sec. 14.209 Temporary Uses .....230  
**Division 14.300 Other Definitions.....232**

Note to reader: Words or terms shown in *italics* and a blue color throughout this ordinance are words or terms which are defined in Article 14 “Definitions”. They are identified to assist the reader and facilitate use and interpretation of specific provisions.

The following is an example of how to determine a section number’s location in the Zoning Ordinance:







## *Article 1 Purpose, Intent, Jurisdiction And Zoning Districts*

### **Division 1.100 Jurisdiction**

---

#### **Sec. 1.101 Title**

This Ordinance shall be known as the “Jefferson County Zoning Ordinance.” The term “Ordinance” used herein means the Jefferson County Zoning Ordinance.

#### **Sec. 1.102 Purpose and Intent**

##### **A. Purpose of Zoning Ordinance.**

1. This Ordinance is intended to protect the interests of both present and future neighborhoods and the general public from adverse impacts of incompatible land uses and to implement the *Jefferson County Comprehensive Plan*.
2. Each standard is developed as a regulatory response to an identifiable negative impact or potential nuisance or as a measure designed to implement specific *Comprehensive Plan* objectives identified in the *Jefferson County Comprehensive Plan*.

##### **B. Intent.**

1. It is the intent of the County Commission that this Ordinance respect *landowners’* rights to the beneficial use of their property. As such, the Ordinance is designed to allow greater flexibility and more development options, while providing standards for development that tend to minimize impacts on *property owners* to the greatest extent that is practicable and consistent with good and fair planning principles.
2. A sound interpretation of any standard cannot be ensured without a careful analysis of the end to which the regulation is directed. As such, it is the further intent of the County Commission that administrators and other persons shall interpret this Ordinance based on an understanding of the purposes intended, as specified in this Division and in any specific section of this Ordinance that is entitled “Purpose” or “Purpose and Intent.” The intent of the standards and supporting definitions is to protect both individual *property owners* and the general public from adverse impacts, which might otherwise be the result of a proposed land use.

#### **Sec. 1.103 Land Use Patterns and Community Character**

The following section outlines the measures this Ordinance adopts to preserve and develop the goals for land use patterns and community character as described and outlined in the *Comprehensive Plan*. Each purpose listed below strives to balance the interests of the general public with those of individual *property owners*. This Ordinance is adopted for such purposes including, but not limited to:

- A. Establishing rational land use and growth patterns and encouraging the most appropriate use of individual pieces of land in accordance with the *Comprehensive Plan*;
- B. Dividing the County into districts of distinct community character according to the use of land and buildings, the intensity of such uses (including bulk and height), and the surrounding *open space* to promote health, safety, and welfare;



- C. Regulating and restricting the location and use of buildings, structures, and land for trade, industry, residences, and other uses;
- D. Providing protection from noise, glare, odor, or vibration through buffers and other regulations;
- E. Securing adequate natural light, clean air, privacy, convenient and safe *access* to property, and a safe environment;
- F. Limiting the bulk, *scale*, and density of new structures to preserve the desired character and promote and encourage the County's growth and economic health; and
- G. Encouraging high-quality, attractive, and marketable development for the present and future population and businesses.

## Sec. 1.104 Natural and Cultural Resources

The following section outlines the measures this Ordinance adopts to promote the protection of natural and cultural resources as described and outlined in the *Comprehensive Plan*. Each purpose listed below strives to balance the interests of the general public with those of individual *property owners*. This Ordinance is adopted for such purposes including, but not limited to:

- A. Controlling the density, *open space*, land use, and vegetative cover to prevent surface water contamination;
- B. Protecting life and property by avoiding or lessening the hazards of *flooding*, stormwater accumulation, *runoff*, or destabilization of soils by district or performance standards;
- C. Avoiding or reducing soil *erosion* hazards;
- D. Preserving and protecting areas with limited development potential due to hydrology, soils, *steep slopes*, or other natural conditions as habitats for wildlife;
- E. Respecting the area's history by preserving archaeological, historical, and/or architectural resources;
- F. Minimizing the need for relief efforts associated with *flooding* which are generally undertaken at the expense of the general public;
- G. Minimizing damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges that are located in areas of special flood hazard; and
- H. Protecting farmland resources in support of the agricultural industry.

## Sec. 1.105 Public Infrastructure

Adequate public infrastructure shall be required for:

- A. Creating an environment that is reasonably safe from fire, flood, and other dangers;
- B. Ensuring adequate and safe roads and sewer and water facilities by limiting land use intensity to the capacity of the roads or sewer and water facilities.
- C. Protecting and enhancing a pattern of local, collector, and arterial streets and highways that produces a unified, safe, and efficient system for movement;
- D. Reducing the danger and congestion of traffic on roads and highways by both limiting the number of friction points, such as intersections and *driveways*, and minimizing other hazards;



- E. Establishing and regulating setback lines along streets and highways, *property lines*, and *drainage facilities* to ensure adequate and safe facilities;
- F. Promoting economy in governmental expenditures by encouraging development in locations where investment in infrastructure can be concentrated; and
- G. Promoting and encouraging basic public services including *public sewer* and water facilities that meet the needs of citizens and providing for public safety and services that ensure the health of residents and businesses.

### Sec. 1.106 Growth Management

The management of growth is accomplished by the mapping of districts and coordination with capital programming to achieve the following:

- A. Encouraging growth to be concentrated near existing towns and population centers to permit the efficient delivery of public services and promote development in serviceable form in accordance with the *Jefferson County Comprehensive Plan*;
- B. Encouraging cost effective provision of utilities by regulating or phasing growth to prevent premature development that creates land use, health, or economic problems; and

### Sec. 1.107 Balanced Expectations

The purposes in Sections 1.103 through 1.106 are based on protecting the community, its citizens, and resources. This Ordinance recognizes that different *landowners* may have different expectations and that the following additional objectives have been considered:

- A. Protecting and enhancing the value of land and buildings;
- B. Seeking to balance the regulation's impact by permitting clustering and a greater variety of uses to offset restrictions;
- C. Protecting land owners from adverse impacts of adjoining developments;
- D. Protecting and respecting existing, established, and planned land use patterns; and
- E. Abating nuisances by providing for the compatibility of adjacent uses using quantifiable performance standards.

### Sec. 1.108 Types of Development and Applicability

All the following are *development* that is subject to this Ordinance.

- A. **Use.** The use of any *building* or *structure*, shall comply with this Ordinance. Every new or expanded use and/or structure shall require a zoning certificate and a *certificate of occupancy* for the *construction*, modification, use, or occupancy of any *lot, parcel*, building, or structure as specified in this Ordinance. Building permits are generally required for construction activities
- B. **Disturbance or alteration.** *Alteration* of land for development shall conform to the standards contained in this Ordinance and shall require a *permit* prior to commencing any work.
- C. **Division or subdivision and land development.** Any division of land or land development, for sale or lease, whether by metes and bounds, *subdivision*, or land development shall comply with all regulations and standards contained in this Ordinance.



## Sec. 1.109 Exemptions and Exceptions

Unless otherwise provided in this Ordinance, the following land uses and land use applications shall be exempt from the application of this Article and shall be processed and reviewed under all applicable former Ordinance provisions:

- A. **Existing land use applications.** Any complete land use application submitted to the Planning Department on or before the effective date of this Ordinance shall be processed in accordance with the regulations in effect on the date of submittal.
- B. **Land disturbance.** Land disturbances of less than 1,000 square feet, not involving any *building* or structure, *bufferyard*, *resource*, or *conservation area*. Land disturbance shall not include normal agricultural processes or activities.
- C. **Public Schools.** By Statute, public schools are exempt from this Code but are encouraged to voluntarily conform.
- D. **Public Utilities.** *Public utilities* and *private utility* firms regulated by the West Virginia Public Services Commission cannot be denied a location but can be made to conform to other standards such as setbacks and parking requirements.
- E. **Extraction.** Mining and *resource* extractive uses are regulated by the State of West Virginia and are exempt from any local land use regulations.
- F. **Land Owned by Government Entities.** Land owned by the Federal Government, State Government, or Municipal Government is exempt. The County government has placed its own uses under the jurisdiction this Ordinance.
- G. **Nonconformities.** *Nonconforming situations* resulting from the adoption of this Ordinance are exempt from its operation to the extent provided in Article 6, *Nonconformities*, of this Ordinance.

## Division 1.200 Establishment of Zoning Districts

---

This Article, the official *zoning map*, and all maps adopted by the County, such as those within the *Comprehensive Plan*, shall apply to all property regulated by this Ordinance, as permitted by State law. Areas of *floodplain*, *floodway*, and special flood hazard areas identified by the Federal Emergency Management Agency in the April, 1987, *Jefferson County Floodplain Management Study report on Evitts Run and Flowing Springs Run* and on their *Flood Insurance Rate Maps(FIRM)*, are adopted by reference and shall be considered part of this Ordinance.

## Sec. 1.201 Zoning Districts Enumerated

The County is hereby divided into the minimum number of zoning districts necessary to achieve compatibility of uses and character within each district, consistent with the spirit and intent of the County's Comprehensive Plan, set forth in Table 1.201, Zoning Districts. The purpose of each district is described in Division 1.300, *District Purposes*.



Table 1.201 Zoning Districts
AG – Agriculture
CS – Countryside
ES – Estate
RS – Residential
TS – Townscape
GC – General Commercial
BP – Business Park
NC – Neighborhood Conservation
VC – Village Conservation

**Sec. 1.202 Zoning Map**

*Zoning districts* established by this Article are bounded and defined as provided in this Article and as shown on Jefferson County’s Official Zoning Map, adopted as a part of this Ordinance. The Official Zoning Map, together with all notations, references, and amendments, is adopted by reference and declared as part of this Ordinance.

**Sec. 1.203 Interpreting the Zoning Map**

The following rules shall be used to determine the precise location of any zoning district boundary line shown on the Official Zoning Map.

- A. **Property Lines.** Boundary lines shown as following, or approximately following, lot lines, other *property lines*, or municipal boundaries shall be construed as following such lines.
- B. **Rights-of-way.** Boundary lines shown as following, or approximately following, *streets*, alleys, railroad tracks, or utility lines shall be construed as following the centerline of the *right-of-way*. Where streets or alleys on the ground differ from streets or alleys shown on the Official Zoning Map, the streets or alleys on the ground control.
- C. **Watercourses.** Boundaries shown as following, or approximately following, the centerline of streams or other continuously flowing *watercourses* shall be construed as following the channel centerline. In the event of a natural change in the location of such streams or other watercourses, the zoning district boundary shall be construed as moving with the channel centerline.
- D. **Parallel to Features.** Boundaries shown as separated from and parallel, or approximately parallel, to any of the features listed in items A through C above shall be construed to be parallel to such features and at such distances as are shown on the Official Zoning Map.
- E. **Un-subdivided Land.** On un-subdivided land or when a district boundary follows no identifiable feature, the location of district boundaries shall be determined by the ordinance establishing the district boundaries or by using the map *scale* appearing on the Official Zoning Map, unless the district line is indicated by dimensions on the Official *Zoning Map*, in which case the printed dimensions shall control.

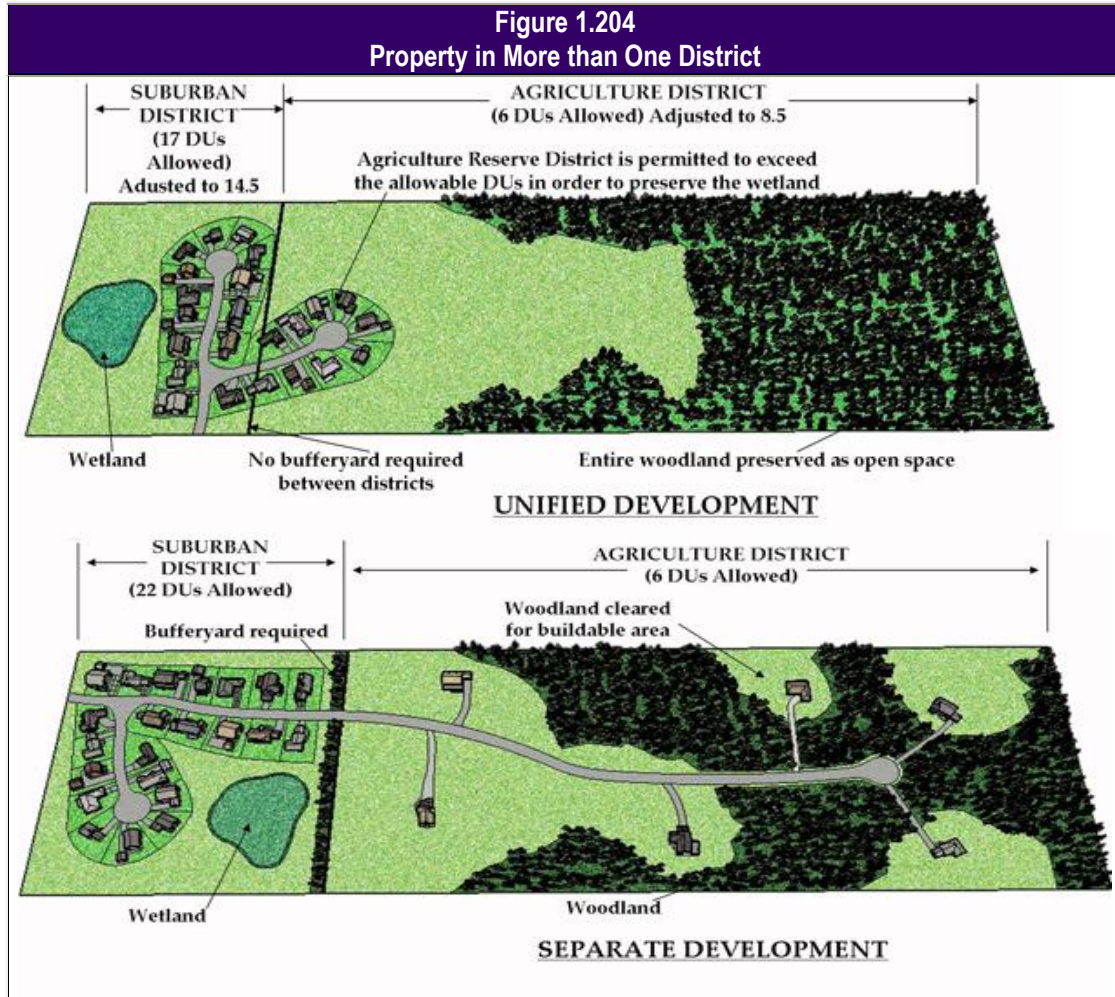
**Sec. 1.204 Land in More than One District**

Where a tract or *parcel* of land is located in more than one *zoning district*, the *development* may be designed as if each district is a separate *parcel*, or it may be designed as a single project. The following rules govern developments in two or more districts that are developed as a single project:

- A. **Concept Plan.** A concept plan shall be required as a condition of approval to alter densities.



- B. **Nonresidential Uses.** Uses allowed only in a nonresidential district may not intrude into a residential district, even if the *parcels* are being developed as a single project.
- C. **Acreage.** The acreage of all tracts may be combined and used to determine the minimum site area, as required in Article 4, *Environmental Protection*.
- D. **Intensity.** The required *open space* and maximum allowable *dwelling units* shall be the sum of that required or allowed, by separate calculations, for each district, as provided in Article 4, *Environmental Protection*.
- E. **Plan.** The proportion of *density* of the *development* between multiple districts is not required to be identical to that when the density is calculated separately. The *plan* for allocating density shall be submitted as part of the concept plan for the entire property. Consideration shall be based on the following criteria:
  - 1. The proportion of land used for *development* shall be increased only in the higher *intensity* district, except as provided in 2 below.
  - 2. The *density* shall be increased in the lower intensity district only for aesthetic or environmental reasons. The applicant wishing to do this shall submit alternative concept plans along with a written report illustrating why the applicant feels the proposed *plan* is better than one that conforms to E.1, above. The *Planning Commission* may, upon reviewing the plans and report agree that the increased *density* in the lower density district is more protective of natural resources or community character. (See Figure 1.204, *Property in More than One District*) The *Planning Commission* shall issue a report indicating why the shift in density better protects natural resources, views or neighbors than the plan in strict conformance.



F. **Bufferyards.** Where a single unified *development* straddles a district boundary, *bufferyards* are not required between the differently zoned tracts. Where a development takes place in two separate phases or alters the use or density at a zoning district boundary, then the *buffer* requirements contained in Table 8.401, *Buffer Opacity Standards*, shall be required.

**Sec. 1.205 Detached or Undesignated Land**

Any land in Jefferson County that is not shown or labeled on the Official *Zoning Map* or for which no *conversion* has been provided shall be considered zoned Agricultural (AG). Any incorporated land which may become unincorporated shall be zoned as AG until zoned otherwise by Jefferson County ordinance during or after the time of detachment.

**Division 1.300 District Purposes**

This Division sets forth the purpose of the districts so as to guide zoning decisions in a manner that achieves the purpose of the *Comprehensive Plan*. For each district, there is a general purpose statement, a description of the character to be achieved, the uses the district is intended to provide, and infrastructure needs.



## Sec. 1.301 Agricultural (AG) District

- A. **General.** This district is a use-based district intended to permit agriculture to be the primary and preferred use of land and restrict residential uses or activities that interfere with agriculture or where home *owners* would be impacted by the noise, dirt, or odors associated with agricultural uses.
- B. **Character.** This district is entirely rural in character and dominated by *farms*, *farmsteads* and large *parcels* of land. The development standards for development and other controls are established so at full development, the area will remain rural in appearance and *open space* can be used for agricultural purposes.
- C. **Uses.** Agriculture is the primary use of the land. Other uses that are accessory to the agricultural use are permitted on *farmsteads* to enhance the total value of the agricultural operation to its *owner*. Residential uses require *open space ratios* that permit agriculture to use most of the *open space* or activities that complement agriculture.
- D. **Water and Sewer.** Water supply and *sanitary sewage disposal* may be provided on an individual *lot* basis or preferably by community systems.
- E. **Hamlets.** This district's *hamlet* development option is intended to be used around existing villages to provide a greenbelt, thus enhancing the character of the existing villages as freestanding communities or to create new *hamlets* which protect large percentages of a properties pre-development farmland and *open space*.

## Sec. 1.302 Countryside (CS) District

- A. **General.** This district is a use-based district intended to permit agriculture to be the primary use of land over the short term with incentives for development that protects land for continued agricultural use. Low-intensity residential development is also permitted at lower intensities in an estate type manner. This district is intended to retain a rural character upon full development.
- B. **Character.** The character of this district is distinct from the Agricultural district as fewer *farms* are present. The district is dominated by large *lot* very low-*density* development interspersed with small farms or farmettes. Although agriculture is the preferred use in this district, it is a district where residential uses may be allowed to supplant agriculture. The *open space* required for various forms of development are intended to allow agriculture or natural environments to occupy a majority of the land area.
- C. **Uses.** At full development, this is a residential development in which some agriculture is permitted. *Farmsteads* are given the ability to have supplemental uses that permit agriculture to be profitable over the long term. Other uses are supportive of residential.
- D. **Water and Sewer.** Water supply and *sanitary sewage disposal* may be provided on an individual *lot* basis or preferably by community systems.
- E. **Villages.** This district's *hamlet* option is intended to be used around existing villages to provide a greenbelt, thus enhancing the character of the existing villages as freestanding communities.

## Sec. 1.303 Estate (ES) District

- A. **General.** This district is a low-density residential district. It is intended to permit single-family residential uses on large lots or *development* clustering with high *open space* and low *impervious surface ratios* for increased intensities.



- B. **Character.** This district is rural residential in nature, which is ensured by a combination of low *density* or development clustering with high levels of *open space* for higher intensities. A high ratio of open space and low *impervious surface ratio* characterizes the built environment. *Landscaping* and design are intended to enhance the character of the development and to preserve views of the landscape.
- C. **Uses.** This district is intended to create low-*density*, residential neighborhoods.
- D. **Water and Sewer.** Water supply and sanitary sewage disposal may be provided on an individual *lot* basis or preferably by community systems. When water and sewer are provided with community or public systems, water supply shall meet full fire protection levels of service. The fact that such facilities can be provided does not warrant leapfrog development into areas zoned countryside or agriculture that are not *contiguous* to towns or areas of more intense zoning in the County.

### Sec. 1.304 Residential (RS) District

- A. **General.** This district is the primary residential district. It is intended to permit a wide range of residential use and encourage a variety of housing types. It is intended to be used in conjunction with the Townscape (TS) District and around the Charles Town and Ranson edges, which are the County's primary growth areas. It may also be used in and adjacent to some of the County's existing residential settlements and developed areas.
- B. **Character.** This district is typically residential in nature, which is characterized by a balance between the landscape and *buildings* with on-site *landscaping* and tree-lined streets that shelter the buildings. Clustering new development will ensure an adequate amount of *open space* will be available upon build-out to enhance neighborhood character and the life style of residents.
- C. **Uses.** This district is intended to create residential neighborhoods, while permitting a range of housing types to meet all residential needs. Institutional and recreational uses that serve the neighborhoods are permitted, but are restricted in *scale* to preserve the residential safety of the neighborhood streets. In very limited situations, small-scale, neighborhood-serving commercial retail is permitted.
- D. **Infrastructure.** This district has centralized water and sewer services provided for by a public service entity. If there is a lack of infrastructure, or the infrastructure is not adequate to support higher density development, development shall not be permitted to occur within the Residential District unless and until a commitment is made by the *developer* to provide infrastructure to support the proposed development.

### Sec. 1.305 Townscape (TS) District

- A. **General.** This district is the highest *intensity*, mixed-use district. It is intended to permit a wide range of commercial and residential uses and encourage a variety of housing types. It reflects existing development in some of the county's original unincorporated villages and towns, built using elements of community design reflecting grid street systems, focus on pedestrian *scale* improvements, an integrated mix of uses, a range of housing types and densities, compact design, an interconnected street system designed to balance the needs of all users.
- B. **Character.** This district has an urban character that is typified by *buildings* that cover a large percentage of the *lot* and are spaced closely enough that there is a sense of *street* enclosure. A minimum height of two stories and zero or minimal front and side yard *setbacks* are necessary to



preserve a small town character. Characteristics of development include recognized *Traditional Neighborhood Development* (TND) principles. An integrated mix of uses, including residential, commercial, employment/office, civic, and *open space*, an interconnected *street* system, with *sidewalks*, trails and on-street parking, in locations adjacent to and extending the fabric of existing towns or adjacent development.

- C. **Uses.** This district is intended to create or support the expansion of higher *density*, stand-alone communities with a mix of neighborhood commercial and residential uses. Institutional and recreational uses that serve this town-like neighborhood environment are permitted and encouraged. Performance standards limit the location of commercial type uses, as well as their design. Traditional Neighborhood Development principles and practices are encouraged to guide design of new development to foster identity and a sense of place and reflect characteristics of existing towns in the County.
- D. **Transitional Role.** This district is also intended to facilitate the development transition from rural to developed character at appropriate locations along the periphery of existing incorporated towns.
  - 1. **Application.** Application for *rezoning* to the Townscape District shall be limited to lands located between the boundaries of incorporated towns in the County and the “County Townscape Boundary” identified on the *Official Zoning Map*.
    - a. This district encourages development that is compatible with or enhances the existing character of the adjoining or nearby town and the surrounding area.
    - b. Any *development* within this district shall meet the standards of the district and demonstrate compatibility with the land use plans of the town and county. These standards are intended to ensure that new development complements the existing character of the area and will result in efficient and orderly growth in areas adjacent to the town centers.
  - 2. **Consistency with Comprehensive Plan.** In areas located between the corporate limits of the towns in the County and “County Townscape Boundary” shown on the Official County Zoning Maps, any decision that may be made to rezone lands from another zoning district to the Townscape (TS) District shall, first, be deemed to be consistent with the *Jefferson County Comprehensive Plan*.
- E. **Infrastructure.** This district has centralized water and sewer services provided for by a public service entity. If the infrastructure is not adequate to support higher *density* development, development shall not be permitted to occur within the Townscape District unless and until a commitment is made by the *developer* to provide adequate infrastructure to support the proposed development.

## Sec. 1.306 General Commercial (GC) District

- A. **General.** This district is the primary commercial district. It accommodates *highway* service uses and community or regional commercial retail, office, and service uses.
- B. **Character.** This district is characterized by intense activity, typically requiring a large amount of parking, often exceeding the building coverage. Landscape *buffers* and landscaped parking areas are required to soften the impact of such commercial uses. Architectural and other design controls are intended to control the mass and *scale* of structures to encourage and require more attractive *buildings* and to avoid visual degradation caused by very large buildings with large



blank walls and no building articulation or design elements. Design standards are also intended to foster a positive image of the county since many of these uses are located, or will be built in corridor gateway locations which represent and define the front door image of the county.

- C. **Uses.** This district is intended to provide for a full range of commercial uses. Mixed uses are encouraged. Orientation of Commercial uses and structures in this district in a campus like form oriented perpendicular to fronting highways as opposed to strip development form is also encouraged.
- D. **Infrastructure.** This district has centralized water and sewer services provided for by a public service entity. If there is a lack of infrastructure, or the infrastructure is not adequate to support the proposed use, development shall not be permitted to occur within the General Commercial District unless and until a commitment is made by the *developer* to provide adequate infrastructure to support the proposed development.

### Sec. 1.307 Business Park (BP) District

- A. **General.** This district is intended as the primary business and industrial district. It is intended to market to business, industrial, and governmental employers that are attracted to more rural parts of the Washington-Baltimore metropolitan area.
- B. **Character.** This district is intended to foster employment opportunity, which is generally characterized by large areas of parking and larger *buildings*. Landscape *buffers*, landscaped parking areas, and increased *landscape surface areas* are required to soften the impact of these uses. Treatments around the perimeter of the development, as well as architectural and design controls of perimeter buildings, are intended to encourage and require a more attractive *business park* environment. Perimeter treatments allow an improved *street frontage*, with interior areas that can support businesses that are not visible to the general public.
- C. **Uses.** This district is intended to provide for a full range of office, business, industrial, warehousing, wholesaling, and some commercial uses.
- D. **Infrastructure.** This district has centralized water and sewer services provided for by a public service entity. If there is a lack of infrastructure, or the infrastructure is not adequate to support the proposed use, development shall not be permitted to occur within the Business Park District unless and until a commitment is made by the *developer* to provide adequate infrastructure to support the proposed development.

### Sec. 1.308 Neighborhood Conservation (NC) District

- A. **General.** This district is intended to preserve the character of many existing communities and residential neighborhoods that were platted and developed in Jefferson County prior to the adoption of zoning, as well as projects that have site specific *lot* and dimensional standards that differ from standard lot sizes. Several of these districts are shown on the zoning maps and the largest or most noteworthy among these districts is the Neighborhood Conservation Mountain (NCM) District. Provisions governing development within the Neighborhood Conservation Mountain (NCM) District are located in Section 4.304 in this ordinance. This district shall not be used to zone vacant land outside existing neighborhoods. This district is intended to ensure that these areas are not required to seek *waiver* to improve housing that was conforming to the regulations in place when the area was platted. By retaining existing lot size and dimensional character of the areas as platted and built upon, nonconformities are avoided.



- B. **Character.** This district has different characters, from estate to townscape, depending on the configuration and size of the lots in the neighborhood.
- C. **Uses.** The district is intended to preserve the existing residential use and character.
- D. **Infrastructure.** The provision of water and sewer will vary with location.

## Sec. 1.309 Village Conservation (VC) District

- A. **General.** The purpose of the Village Conservation (VC) District is to protect and preserve the character of the County's historic and traditional unincorporated village centers and facilitate continued investment in infill and connecting residential, institutional and compatible business revitalization and development
- B. **Character.** This district recognizes the villages of the County represent traditional settlement patterns that reflect a large part of the history of Jefferson County. They range in size from *hamlets* to larger villages that historically served to support the needs of residents within the village and immediately surrounding areas for goods and services, agricultural supplies and in some cases employment opportunities. Standards for development in this district are intended to preserve the unique identities of each of the villages that set them apart from the larger County landscape. The district recognizes that the preservation of property values and vitality within the villages requires the ability to develop additional *parcels* of land along village streets and edges.
- C. **Uses.** This district is intended to reinforce the residential fabric and mix of uses traditionally associated with County villages. Institutional and recreational uses that serve the residents of the Village and surrounding areas are permitted. Small *scale*, commercial uses (e.g. general store) and businesses that provide goods and services that serve the village and surrounding rural countryside and agricultural area residents are also permitted in some situations provided no such use overwhelms the existing character of the village. Village Conservation (VC) District standards permit conventional low-density residential development and include incentives for innovative, mixed-use development compatible with the character and *scale* of the village centers.
- D. **Infrastructure.** Water supply and *sanitary sewage disposal* may be provided on an individual *lot* basis or, preferably, by community systems. If the Village is *contiguous* to one or more towns, or an area already served by a public system, a public system is preferred that serves the larger contiguous area.



## Article 2 Land Uses

### Division 2.100 Purpose

---

The purpose of this Article is to identify the uses that are permissible in each zoning district and address the structures and activities that are permitted as *accessory uses*. It is also the purpose of this Article to provide additional standards for those uses that, in order to ensure compatibility or protect environmental integrity, require limitations on the *intensity* of use, land area, site design, and other factors that are appropriate to each class of use.

### Division 2.200 Uses by Zoning District

---

All land uses or structures shall be permitted in individual zoning districts only as indicated in this Division. No use that is prohibited in a zoning district shall be permitted in that district under any circumstances. In addition to uses designated with an “N” in Tables 2.201A & 2.201B, all uses not designated “P,” “L,” or “C” are prohibited.

#### Sec. 2.201 Permitted Uses

There are several types of permissions and prohibitions of uses in each of the zoning districts. The following symbols are used in Table 2.201A, *Permitted Agricultural, Residential, and Institutional Uses*, and Table 2.201B, *Permitted Commercial, Recreational, Industrial, Special, and Temporary Uses*.

- A. “P” indicates a *Permitted use*, that is, a use that is permitted as a matter of right, subject to the General Use Standards of Division 2.300 and all other applicable standards of this Ordinance.
- B. “L” indicates a Limited Use, which is a more limited class of *permitted use*, that is, one that is subject to the General Use Standards of Division 2.300 and all other applicable standards of this Ordinance, and further limited by the standards set out in the applicable section of Division 2.400, *Limited and Conditional Use Standards*. The standards of Division 2.400 may operate to prohibit the use on some, or even many, *parcels*. However, the determination of compliance is a ministerial review by the Zoning Administrator. There is no discretion in this review because the requirements of Division 2.300, *General Use Standards*, and Division 2.400, *Limited and Conditional Use Standards*, are objective standards.
- C. “C” indicates a use allowed only upon granting a *Conditional Use* by the Jefferson County Board of Zoning Appeals, in accordance with Division 2.400, *Limited and Conditional Use Standards*. In addition to conforming to the standards for approval specified in Section 12.402, *Conditional Uses*, the use must conform to the location, design, or other conditions of Division 2.400, *Limited and Conditional Use Standards*. Not all properties may meet these requirements, thus limiting the sites upon which the use may be built.
- D. “N” indicates a use is prohibited.
- E. **Incentives.** Notwithstanding the notation in Table 2.201A, *Permitted Agricultural, Residential, and Institutional Uses*, Article 5, *Incentives*, may specifically permit a use that may be awarded as an incentive for historic preservation or provision of workforce housing. Those provisions of Article 5, *Incentives*, control this Section.



Table 2.201A Permitted Agricultural, Residential, and Institutional Uses*													
P= "Permitted," N="Not Permitted," L="Limited Use," C="Conditional Use" review and approval													
Land Use	AG		CS	ES	RS	TS	GC	BP	NC	VC	Additional Use Standards	General Standards	
	AG	FS											
<b>Agricultural Uses</b>													
Agriculture	P	P	P	L	L	L	N	N	L	L	Sec. 2.426	Sec. 2.301 Sec. 2.302	
Farmstead	P	P	P	L	L	L	N	N	N	L	Sec. 14.201B		
Clearing	P	P	L	L	L	L	L	L	L	L	Sec. 2.401		
Intensive Agriculture	L	P	P	N	N	N	N	N	N	N	Sec. 2.404		
Commercial Stable	P	P	L	L	N	N	N	N	N	N	Sec. 2.403		
<b>Residential Uses</b>													
Single-family	C	C	P	P	P	P	L	L	P	P	Sec. 2.405B	Sec. 2.301	
Equestrian	P	P	P	P	N	N	N	N	N	N			
Cluster	P	P	P	P	P	N	N	N	N	P			
Planned	P	P	P	P	P	P	N	N	N	P			
Hamlet	L	L	L	N	N	N	N	N	N	P	Sec. 2.406		
Multi-family	N	N	N	N	L	P	N	N	N	N	Sec. 3.305		
Mobile manufactured home park/subdivision	N	N	N	N	L	L	N	N	N	N	Sec. 2.407		
Small family dwelling	P	P	P	L	L	L	N	N	P	P	Sec. 2.408		
Group Residential Home	L	L	P	P	P	P	L	L	P	P	Sec. 2.405		
Group Residential Facility	L	L	P	P	P	P	L	L	P	P	Sec. 2.405		
<b>Home Uses</b>													
Residential Family child care home	L	L	L	L	L	L	L	L	L	L	Sec. 2.301G		
Residential Family child care facility	L	L	L	L	L	L	L	L	L	L	Sec. 2.409		
Home occupation	L	P	L	L	L	L	L	L	L	L	Sec. 2.410		
Home business	L	P	L	L	L	L	L	L	L	L	Sec. 2.411		
Home work space	L	P	L	L	L	L	L	L	L	L	Sec. 2.412		
Home industry	L	P	L	N	N	N	L	L	N	N	Sec. 2.413		
<b>Institutional Uses</b>													
Places of assembly	N	N	L	L	L	L	L	L	L	L	Sec. 2.417	Sec. 2.302	
Institutional Residential	N	N	L	L	L	L	N	N	L	L	Sec. 2.416		
Protective care	N	N	N	N	N	L	L	L	N	N	Sec. 2.418		
Public service facility	C	C	L	L	L	L	P	P	L	L	Sec. 2.419		
College or University	N	N	C	C	C	L	P	P	N	N	Sec. 2.414		
Hospital	L	L	N	N	N	L	L	L	L	N	Sec. 2.415		
Utilities, neighborhood	P	P	P	P	P	P	P	P	P	P			

\*For specific use definitions, see Division 14.200, Use Definitions.

**AG** – Agricultural District

**FS** – Farmstead

(Sub-Category of Agricultural District)

**CS** – Countryside District

**ES** – Estate District

**RS** – Residential District

**TS** – Townscape District

**GC** – General Commercial District

**BP** – Business Park District

**NC** – Neighborhood Conservation District

**VC** – Village Conservation District



Table 2.201B Permitted Commercial, Recreational, Industrial, and Special Uses*												
P= "Permitted," N="Not Permitted," L="Limited Use," C="Conditional Use" review and approval												
Land Use	AG		CS	ES	RS	TS	GC	BP	NC	VC	Additional Use Standards	General Standards
	AG	FS										
<b>Commercial Uses</b>												
Agriculture support and service	P	P	C	N	N	N	N	P	N	N	Sec. 14.205L	Sec. 2.302
Bed and breakfast	L	P	L	L	L	P	P	L	L	L	Sec. 2.402	
Commercial lodging	N	N	N	N	N	C	P	P	N	N	Sec. 2.420	
Commercial Retail	L	L	N	N	N	P	P	L	L	L	Sec. 2.422 Sec. 5.401C	
Country Inn	L	L	L	L	N	N	N	N	L	N	Sec. 2.421	
Child Care Center	L	L	N	N	L	L	L	L	C	L	Sec. 2.423	
Drive-in facility	N	N	N	N	N	C	P	N	N	N	Sec. 2.424	
Heavy retail and services	N	L	N	N	N	N	P	P	N	N	Sec. 14.205J	
Kennels and veterinary clinics	C	P	C	N	N	L	L	L	N	L	Sec. 2.425	
Light automobile service	N	P	N	N	N	L	P	N	N	N	Sec. 2.427	
Mixed use	N	N	N	N	N	L	P	N	N	C	Sec. 2.428	
Office	N	N	N	N	N	P	P	P	N	P		
Restaurant/Carry-out	L	L	L	N	N	P	P	L	N	L	Sec. 2.429	
Services	L	P	L	N	C	P	P	N	L	L	Sec. 2.430	
Shopping center	N	N	N	N	N	P	P	N	N	N		
Vehicular sales, rental, and service	N	N	N	N	N	N	L	N	N	N	Sec. 2.431	
<b>Recreation and Amusement Uses</b>												
Adult uses	N	N	N	N	N	C	C	C	N	N	Sec. 2.432	Sec. 2.302
Campgrounds and RV parks	L	L	L	N	N	N	L	N	N	N	Sec. 2.433	
Commercial amusement, indoor	N	C	N	N	N	N	P	N	N	N		
Commercial amusement, outdoor	C	C	N	N	N	N	L	L	N	N	Sec. 2.434	
Recreation, indoor	N	C	N	N	N	N	P	N	N	N	Sec. 14.206C	
Recreation, outdoor	L	P	L	L	L	L	L	L	L	L	Sec. 2.435	
Museums	L	L	L	N	N	L	L	L	N	L	Sec.2.446	
<b>Industrial and Employment Uses</b>												
Disposal	N	C	N	N	N	N	N	C	N	N	Sec. 2.436	Sec. 2.302
Extraction	(Exempt from zoning regulation by West Virginia Code)											
Heavy industry	N	N	N	N	N	N	N	C	N	N	Sec. 2.437	
Light industry	N	L	L	N	N	N	N	P	N	N	Sec. 2.438 Sec. 14.201B	
Recycling or storage	C	C	N	N	N	N	C	C	N	N	Sec. 2.439	
Training facilities	C	C	C	N	N	N	P	P	N	N	Sec. 2.445	
Utilities, community	P	P	P	P	L	L	P	P	L	L	Sec. 14.207E	
Utilities, regional	N	N	N	N	N	N	N	C	N	N	Sec. 2.440	
Warehousing and transportation	L	P	L	N	N	N	N	P	N	N	Sec. 2.441	
Corp./Gov. Back Office facilities	L	L	L	N	N	N	P	P	N	N	Sec. 2.445	
Salvage Yard	L	L	N	N	N	N	N	L	N	N	Sec. 2.447	
<b>Special Uses</b>												
Airports	N	N	N	N	N	N	N	C	N	N	Sec. 2.442	
Wireless Telecommunication Facilities	C	C	C	N	N	C	L	L	N	N	Sec. 2.443	

\*For specific use definitions, see Division 14.200, *Use Definitions*.



Table 2.201B (cont'd)												
Permitted Temporary Uses*												
P= "Permitted," N="Not Permitted," L="Limited Use," C="Conditional Use" review and approval												
Land Use	AG		CS	ES	RS	TS	GC	BP	NC	VC	Additional Use Standards	General Standards
	AG	FS										
<b>Temporary Uses</b>												
Commercial outdoor sales	N	N	N	N	N	N	L	N	N	N	Sec. 2.501	
Concrete/asphalt batch plant	C	C	C	N	N	N	N	L	N	N	Sec. 2.502	
Contractor's Office	N	N	N	N	L	L	L	L	N	L	Sec. 2.503	
Farm stand	L	L	L	N	N	N	N	N	N	N	Sec. 2.504	
Garage or Yard Sale	L	L	L	L	L	L	N	N	L	L	Sec. 2.505	
Model homes / Project sales office	N	N	C	C	C	C	N	N	N	C	Sec. 2.506	
Public interest event and special event	C	L	L	L	L	L	L	L	L	L	Sec. 2.507	
Sidewalk sale and farmer's market	L	L	N	N	N	L	L	N	N	L	Sec. 2.508	
Truck load sale	N	N	N	N	N	N	L	N	N	N	Sec. 2.509	

\*For specific use definitions, see Division 14.200, *Use Definitions*.

**AG** – *Agricultural District*

**FS** – *Farmstead*  
(*Sub-Category of Agricultural District*)

**CS** – *Countryside District*

**ES** – *Estate District*

**RS** – *Residential District*

**TS** – *Townscape District*

**GC** – *General Commercial District*

**BP** – *Business Park District*

**NC** – *Neighborhood Conservation District*

**VC** – *Village Conservation District*



## Sec. 2.202 Prohibited Uses

Certain uses are prohibited in various districts, having been found to be incompatible with the general development pattern desired in the district. These are designated in Table 2.201A and Table 2.201B by a cell containing the letter "N."

## Division 2.300 General Use Standards

---

### Sec. 2.301 Residential Uses

The following provisions apply to all residential uses:

- A. **Accessory Uses and Structures.** Unless specified in B, *Storage and Utility Sheds*, and C, *Fences*, of this Section, all *accessory structures* shall meet the following standards:
1. An accessory use or structure shall be established or constructed only after permits for *construction* and *occupancy* of the *principal structure* have been granted, except as provided for in Section 5.206, *Accessory Dwelling Units*.
  2. Except as provided in Division 5.200, *Affordable Housing*, accessory structures shall not be used for residential occupancy or commercial purposes.
  3. The following standards apply to the location of freestanding accessory structures:
    - a. The structure shall not be located in front of the *principal structure*, within the required front yard, or within a *required street yard*, except as provided in B, *Storage and Utility Sheds*, below.
    - b. The structure may be located in a *side yard* (excluding street yard) of a *lot* having an area of one acre or more in size, provided that the structure is located at least 20 feet behind the extended front plane of the principal *building*
    - c. The structure may be located in the *rear yard*, including a rear yard that is a *street yard*, provided:
      - i. A single-family (including lot-line and village house) *lot* less than 12,000 square feet shall have a *setback* from the rear *property line* of at least five feet.
      - ii. All other single-family lots shall have a *setback* from the rear *property line* of at least 10 feet.
      - iii. Where a garage is facing an alley, the *setback* for garage doors facing the alley shall be at least 20 feet from the alley pavement.
    - d. Walled units, *patio houses*, and atrium houses shall contain all accessory structures within their walls.
    - e. The location of freestanding accessory structures to *multi-family* or *attached* dwellings shall be approved during the land development review process to ensure that *essential access* is safe and the structures do not create a nuisance to the adjoining properties.
    - f. **Exception.** *Parcels* located in the Estate (ES), Residential (RS), and Neighborhood Conservation (NC) districts that were established prior to the



effective date of this Ordinance and are less than 40,000 square feet in size shall be governed by yard requirements (setbacks) for accessory structures that were in force prior to the effective date of this ordinance.

4. Tennis courts and swimming pools are permitted *when the lot* upon which the court or pool is located *has* a total impervious surface, including buildings, drives, walks, patios, and recreation facilities, less than 40 percent. Pools must meet all barrier requirements detailed in Appendix G of the International Residential Code, as adopted by Jefferson County.
5. Except as may be specifically permitted in B, *Storage and Utility Sheds*, below, no freestanding structure shall exceed 50 percent of the floor area of the *principal structure*.

**B. Storage and Utility Sheds or Greenhouses.** Storage buildings and/or greenhouses are permitted on a residential *lot* provided they meet the following standards:

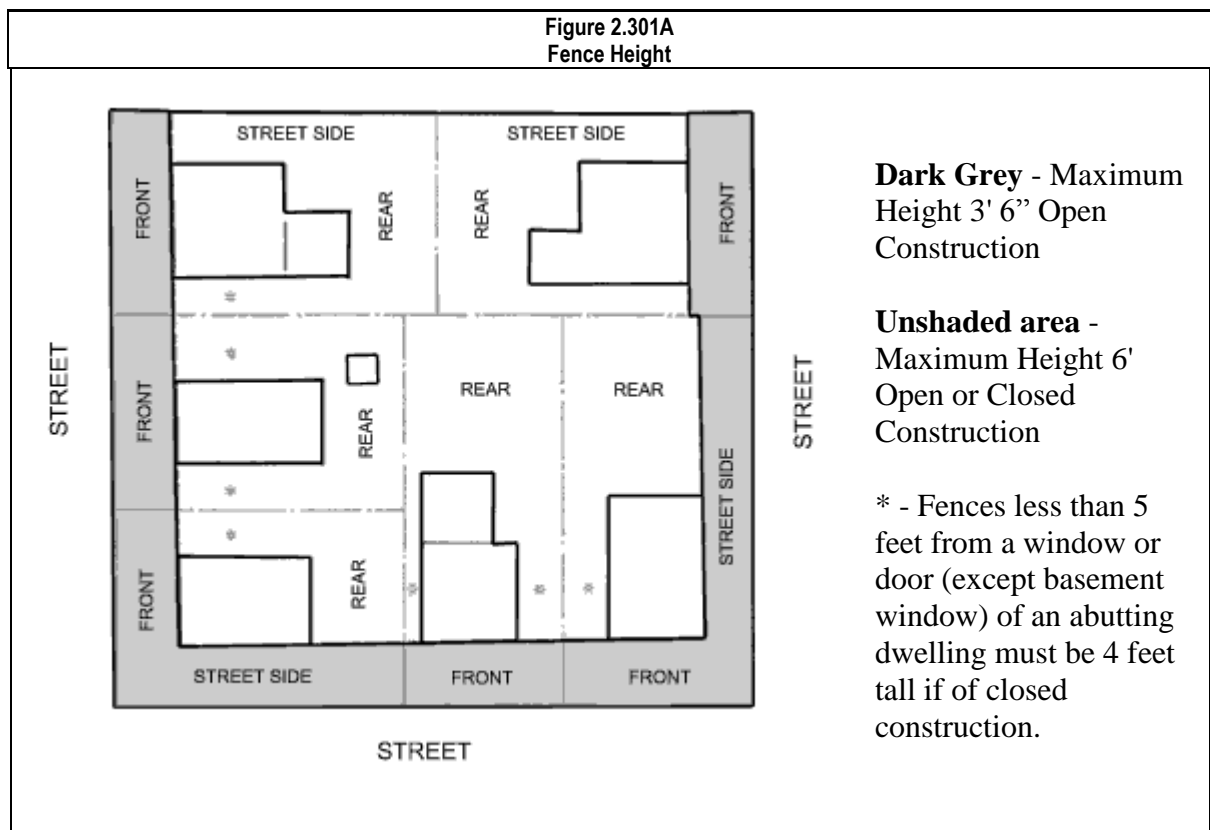
1. The storage *building* must only be used for residential storage. A greenhouse shall not be used for on-premise sale of products grown and shall be limited in size to 400 square feet in floor area.
2. The storage building shall be a permanent structure that is designed for the storage use. Converted semi-trailers, mobile manufactured homes, modular shipping containers, dumpsters, or similar structures or equipment shall not be used for storage on a permanent basis.
3. The storage building's total area does not count toward the allowable building floor area. However, the floor area of the storage building shall not exceed
  - a. 600 square feet if the *lot* is 20,000 square feet or less in area.
  - b. 800 square feet if the *lot* is more than 20,000 square feet in area.
  - c. Larger sheds shall be permitted only by a *Conditional Use*, where the Board of Zoning Appeals may-determine whether:
    - i. It is consistent and compatible with the character of the neighborhood; and
    - ii. It will not be a public nuisance.
4. Subdivisions that include more than four lots that back on a street, any one of which is less than three acres in area, shall have a covenant indicating the restrictions on storage building design and placement. The covenant shall be submitted and approved as part of the development approval. The restrictions shall be incorporated into the *plat* and approved based on whether they provide a means of storage in a manner that is consistent and compatible with the development and that minimizes the storage building's impact on lots within the subdivision, adjoining land, and public views from roads or elsewhere.

**C. Fences.**

1. All fences, excepting those which may be located in the Agricultural (AG) or Countryside (CS) districts, shall be subject to the following standards:
  - a. Fences shall be constructed of manufactured fencing materials including, unless otherwise specified, wood, stone, brick, steel, fiberglass, vinyl, stucco, or textured or scored concrete. Chain link fences are subject to the additional standards of subsection C2.



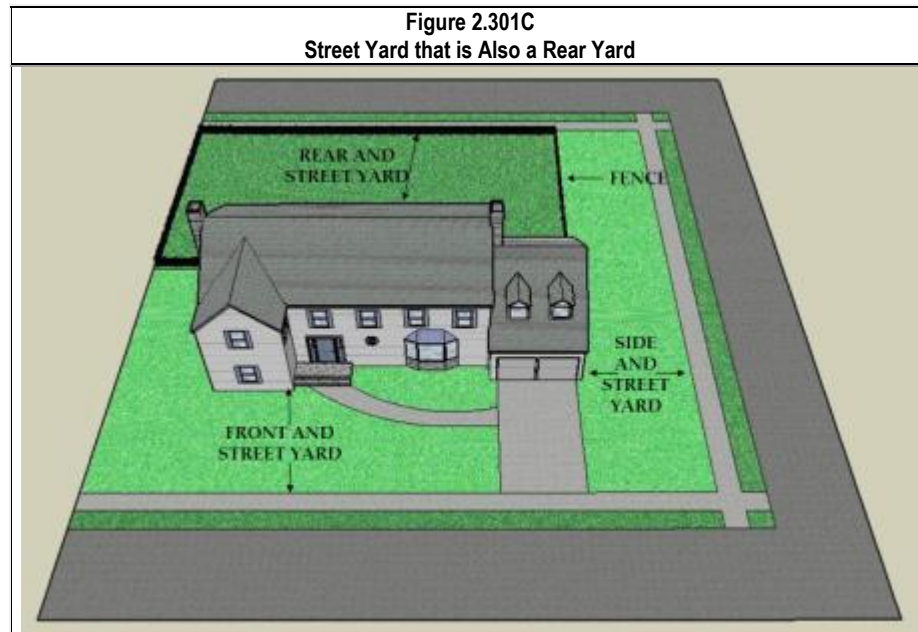
- b. Fences maybe erected right up to the *property line*, no *setback* required unless located adjacent to a street. An exception to this is when the fence placement would prevent the use of adjacent property or prevent the safe use of a *driveway*. In these cases, the fence to be set back a minimum distance of one foot from the driveway or property line.
- c. Fences can be no more than three and one-half (3.5) feet tall in the front yard area or in the *street side yard* area on corner lots. Fences in the front and street side yard area must be of open *construction*. A fence of open construction is one in which the ratio of the open portion to the closed portion is at least 1 to 1 per foot.
- d. Fences in the *rear yard* area and in the *side yard* area not adjacent to a *street* can be no more than six (6) feet tall. Fences in the rear yard and side yard areas not adjacent to a *street* may be of open or closed *construction*. A fence of closed construction is one in which the ratio of the closed portion to the open portion is more than 1 to 1 per foot.
- e. Exception - When an *abutting dwelling* has a door or window (except basement window) located less than 5 ft. from the fence, the fence must be reduced to 4 ft. in height if it is of closed *construction*.





2. No fences shall be located in *street* yards except:
  - a. On lots where a *street* yard is also a side yard, as exhibited in Figure 2.301B, “Street Yard that is also a Side Yard”, a fence may extend from the house to within 10 feet of the *property line*. Fences along street yards that are also *rear yards*, as exhibited in Figure 2.301C, “Street Yard that is Also a Rear Yard”, shall be permitted only if specified in the *landscaping plan* and *final plat* of subdivisions. The *landscape plan* shall specify a fence design along road frontages to ensure a uniform appearance.
  - b. Atrium houses and *patio houses* are exempt from the locational requirements of subsection C1d, since they are required to have walls. (See Sec. 3.303C, *Patio and Atrium Units*).





3. In addition to the standards of C1 and C2, above, chain link fences are subject to the following standards:
  - a. Chain link fences may be located in *rear yards* or *side yards*, but not in *street yards* or front yards.
  - b. Chain link fences with inserts for *opacity* are prohibited.
  - c. No chain link fence shall exceed six (6) feet in height.

**D. TV Antenna, Wireless Cable Antenna, Satellite Dishes.**

1. TV antennas, wireless cable antennas, and satellite dishes that are one meter or less in diameter are permitted without restriction.
2. *Satellite dishes* that are more than one meter in diameter are permitted if:
  - a. They are affixed to the ground in the *rear yard* and not visible from public rights-of-way or abutting properties; or
  - b. If the dish cannot be located in the rear yard, it is located on the ground within the permitted building envelope on the side of the building and the dish or *antenna* is fully screened from public view with:
    - i. a masonry wall; or
    - ii. an evergreen hedge or shrub and understory trees.

**E. Outdoor Refuse.** Trash enclosures may be constructed as an accessory to multifamily buildings or in common areas of residential development with average *lot areas* of less than 8,000 square feet in locations designated on an approved land development plan. Dumpsters must be located within trash enclosures, which must be screened according to the standards of Section 2.302F, *Accessory Waste/Trash Storage*.



## F. Stables.

1. Stables are permitted for the personal use of residents of lots that are two or more acres in size.
2. The stables must be located in the *rear yard*, and at least 25 feet from all *property lines*.
3. No rental of stable space is permitted.

**G. Residential Family Child Care Home.** *Family child care* homes, as defined by W.Va. Code §49-2B-2, shall be permitted in single-family dwellings, provided they meet the provisions of West Virginia Code requirements for family child care homes, and the following standards:

1. A “family child care home” may be permitted to provide nonresidential child care services for compensation in a provider's residence. Such facilities shall be limited to care for four (4) to six (6) children, at one time including children who are living in the household, who are under six (6) years of age. No more than two (2) of the total number of children may be under twenty-four (24) months of age.
2. Uses shall provide an on-site, fenced, outdoor play area, which shall have a fence beginning at ground level and extending to a minimum height of 42 inches so as to prevent children from crawling under or through the fence or otherwise becoming entrapped.
3. The fenced outdoor play area shall be fully screened by shrubs or other vegetation with a height equal to the fence height if it is located within 10 feet of a *property line*.
4. An off-street pick-up/drop-off area shall be provided, which may be a *driveway* provided it is kept free of parked vehicles and other obstructions for such use.
5. One space per four children shall be reserved for on-site parking during the normal hours of operation.
6. No such uses shall be permitted on a cul-de-sac unless the cul-de-sac is designed with off-street, overflow parking.
7. The child care use shall be clearly subordinate to the residential use.

## H. Vehicle Sales.

1. The sale, by *owner*, of a private vehicle, boat, trailer, or *recreational vehicle* is permitted, provided no more than three (3) vehicles per year are offered for sale from the occupant's residential property.
2. Except as provided in H1, above, it is unlawful to display any vehicles, including automobiles, boats, lawn equipment, all-terrain vehicles, or other similar items, for sale or lease, unless the sale of such items is permitted within the district and the current *certificate of occupancy* for the location has been obtained from the County.

**I. Amateur Radio Antenna.** Amateur radio antennas are permitted if the following standards are met:

1. Height, setbacks, and screening for the *antenna* structure shall be as provided in Table 2.301J, *Amateur Radio Antennas*.



Lot size and zoning district	Max. Height (ft.)	Min. Street Setback (ft.)	Min. Side and Rear Setback (ft.)	Required Screening
Lot that is at least 5 acres that is located in an AG, CS, or ES district	more than 75, up to 200 <sup>1</sup>	100; or, alternatively, 40 ft. behind back wall of principal building	Greater of required building setback or 70 ft.	Continuous evergreen hedge around sides of base that face lot lines; 2 understory trees, located to maximize interruption of views from adjacent property and public rights-of-way. Existing vegetation that provides comparable screening may be substituted for this requirement.
	40 to 75	100; or alternatively, 15 ft. behind back wall of principal building	Greater of required building setback or 25 ft.	Continuous evergreen hedge around sides of base that face lot lines; 1 understory tree, located no more than 15 feet away from the antenna, positioned to screen view from adjacent property. Existing vegetation that provides comparable screening may be substituted for this requirement.
	less than 40	Same as required for principal building.		None.
All other lots (any district)	75 or less <sup>2</sup>	Same as required for principal building.		None.

<sup>1</sup> The maximum permitted height in the AG, CS and ES Districts on lots of at least 5 acres in area is 200 ft.  
<sup>2</sup> The maximum permitted height in all other districts, or on lots of less than 5 acres in the AG, CS and ES districts is 75 ft.

2. Support structures that are not attached to the *antenna* structure shall be treated as *accessory structures* for the purposes of height, setbacks, and screening.

**Sec. 2.302 Nonresidential Use**

Nonresidential uses may have a variety of accessory uses including but not limited to storage, warehousing, or office uses within the *principal structure* or in separate structures, provided that they meet the following standards:

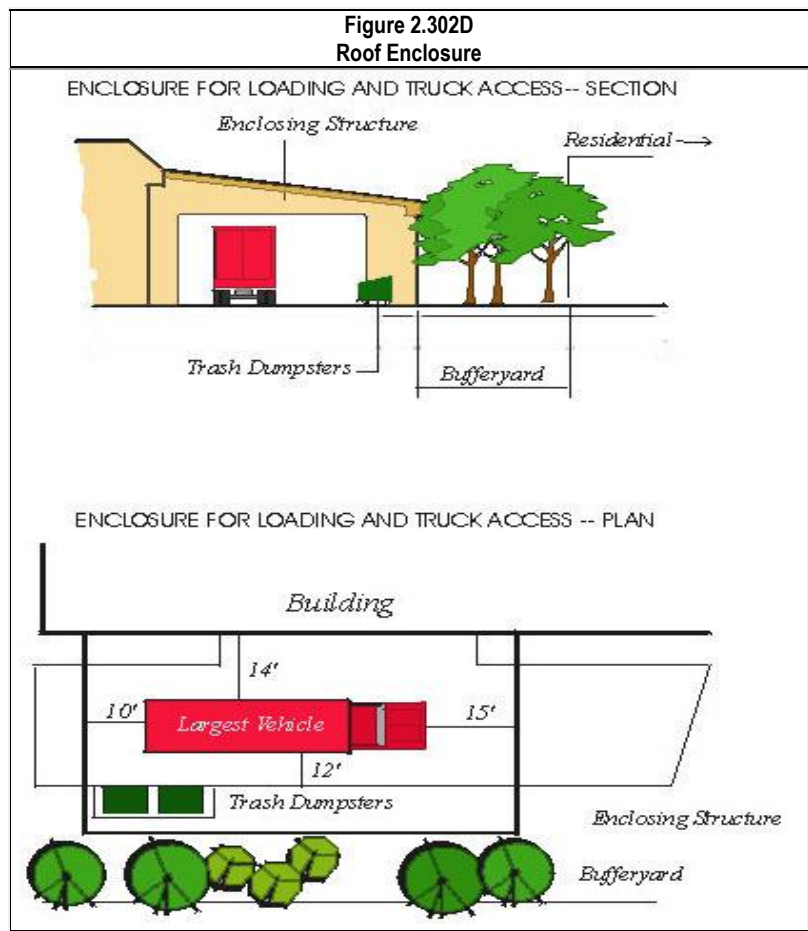
- A. **General.** No accessory uses or structures shall be located within required front, side, street, or *rear yards*. Except for loading and storage, the location of which shall be approved by the County during land development review, the organization or placement of an accessory use within the building envelope shall be at the land owner's discretion.
- B. **Accessory Uses.** All uses that are not permitted within a district are prohibited except where:
  1. They constitute less than 15 percent of the total *gross floor area* of a *principal use*;
  2. The use is essential to, or traditionally conducted in association with, an approved *principal use*; however, accessory industrial uses are prohibited in all districts except the Business Park (BP) district.
- C. **Fences.** Hazardous utilities or other uses that require fencing for safety or liability reasons or to prevent *access* shall meet the following standards:
  1. Fences shall be set back at least 6 feet from public rights-of-way.
  2. A hedge shall be planted around the fenced area if a metal mesh or chain link fence is used. The shrubs shall be installed at a no more than 48 inches on center.
  3. If barbed wire is necessary, a double row of shrubs shall be planted, each row at 36 inches on center and maintained at the fence height. All agricultural uses are excluded from this requirement.



4. If razor wire or concertina wire is to be used, a metal and/or masonry decorative fence (with approval by the Planning Commission) shall be erected 15 feet outside the wire fence and surrounded by a 0.2 *opacity* bufferyard.

D. **Loading, Truck Access, and Waste Storage.** Where loading and truck *access* is located in any yard that abuts a residential use or vacant property that can only be used for residential purposes, the following shall be required:

1. The entire area shall be screened by a bufferyard that has a 0.2 greater *opacity* than otherwise required by the bufferyard requirements in Division 8.400, *Bufferyard Requirements*.
2. A six-foot or taller berm or low maintenance, durable solid fence or wall shall be provided.
3. An alternative to provisions D1 and D2 above is to place the loading and truck access activities within a structure, as indicated on Figure 2.302D, *Roof Enclosure*. The *opacity* requirement for the bufferyard associated with this loading structure may be reduced by 0.2. See Article 10, *Design and Modulation*.

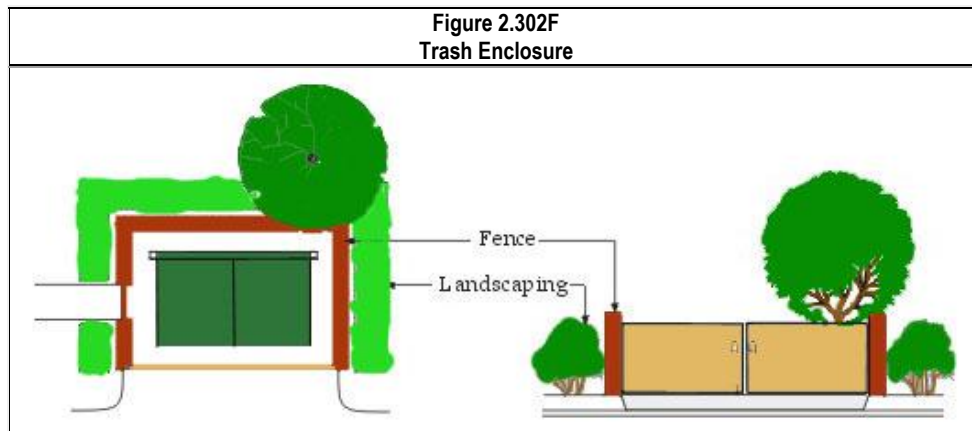


E. **Outdoor Storage.** *Outdoor storage* is prohibited except as provided in this subsection.

1. The following standards cover *exterior storage* in zoning districts, and uses not specifically permitted:



- a. **AG and CS Districts.** *Outdoor storage* is permitted only on *farmsteads* and must be related to a home business or home industry. Except for the storage of crops, the area shall be screened by a hedge or a fence from residential neighbors or public streets located within 150 feet. The storage area shall occupy no more than two percent of the property or 20,000 square feet, whichever is less.
  - b. **ES, RS, NC, and TS Districts.** Outdoor storage is not permitted.
  - c. **GC District.** Outdoor storage area is limited to five percent of the building's floor area. It shall be designed into the building *facade* and screened with a wall in the same architectural materials as the building.
  - d. **BP District.** The outdoor storage shall be screened from the *street* by the building. Where this is not achieved, then it shall be fully screened with *landscaping*. The storage area shall not exceed 15 percent of the total building floor area unless a conditional use *permit* is obtained. The screening involving a *conditional use* may be required to be a berm.
2. Except in the Business Park (BP) district, all exterior or *outdoor storage* shall be enclosed by a wall or opaque fence of sufficient height to fully screen the stored materials from public view.
  3. If a fence, rather than a solid wall, is used, then shrubs shall be planted a maximum of 36 inches on center around the entire periphery of the storage area.
- F. **Accessory Waste/Trash Storage.** Dumpsters, waste bins, and similar common waste storage facilities shall be fully enclosed with a wood or masonry fence (or other durable, low-maintenance materials approved by the Planning Commission) or *earthen berms*. The required enclosure shall have gates, which must remain closed. The area shall be landscaped as indicated in Figure 2.302F, *Trash Enclosure*. The enclosure shall be oriented so that *landscaping* faces adjoining properties and public streets.



**G. Outdoor Display of Merchandise.**

1. Outdoor displays of merchandise by retail businesses are permitted if the outdoor display area involves items for sale by a commercial retailer located within a permanent structure or designated area on the same site.
2. Outdoor displays of merchandise are allowed on a continuous basis provided that they:



- a. Do not block windows, entrances, or exits;
  - b. Do not cover more than one-half of the width of a pedestrian walkway between the storefront and the curb, or otherwise impede in any way the ability of pedestrians to access the building;
  - c. Do not exceed 15 percent of the building's ground floor area or 1,000 square feet, whichever is less;
  - d. Do not reduce the capacity of the parking areas required by this Ordinance;
  - e. Allow multiple items to be displayed on a rack, but not stacked upon each other.
  - f. Comply with all other ordinances and regulations of Jefferson County.
  - g. Do not include any display that exceeds 15 feet in height.
3. On the effective date of this Ordinance, any property on which there are outdoor displays of merchandise shall fully comply with the requirements of this section, or cease and remove the outdoor display of merchandise no later than one year after the effective date of this Ordinance.

## Division 2.400 Limited and Conditional Use Standards

---

This Division sets out the performance standards that apply only to the uses that are indicated as "L" or "C" in Table 2.201A, *Permitted Agricultural, Residential, and Institutional Uses*, and Table 2.201B, *Permitted Commercial, Recreational, Industrial, Special, and Temporary Uses*.

### Sec. 2.401 Clearing

Clearing is permitted for new development provided that such activity does not affect the *site capacity calculation* (see Division 4.300) through the cutting of forest. The following standards control the issuance of a *permit* for clearing:

- A. **Base Condition.** The existing forest coverage and type shall be determined and recorded. If the property is subsequently submitted for development, the pre-clearing forest cover shall be used in the site calculations to determine the site's capacity. In cases where the area to be cleared is classified as sinkhole, no clearing other than individual tree cutting shall be permitted.
- B. **Maximum Clearing.** Clearing shall not be permitted to exceed the protection level for the type of forest and zoning district, except as permitted in E below. See Table 4.200, *Resource Protection Standards*.
- C. **Multiple Resource Classification.** Where the forest is also another *resource* listed in Table 4.200, *Resource Protection Standards*, the protection level of the resource shall be used in the site capacity calculation, but more clearing may be permitted if the area is reforested. A bond may be required to ensure that the replanting is completed.
- D. **Clear Cutting Prohibited.** Clear cutting of no more than 10 acres or 10 percent of the site, whichever is less, shall be permitted for new development. A *reforestation* bond shall be required and the area to be clear cut shall be designed with respect to its orientation to slope, soils, and water bodies to minimize *erosion* or pollution of streams. The entire property may not be harvested except in 10 increments over a 20-year period.
- E. **Clearing for Agriculture.** Land may be cleared for agricultural use.



### Sec. 2.402 Bed and Breakfast

Bed and breakfast uses shall conform to the following standards:

- A. **Building.** The facility must be a reuse of an existing single-family building having a minimum floor area of 2,500 square feet. Additions shall amount to no more than 50 percent of the total floor area, subject to the provisions of Article 3, *District and Bulk Standards*.
- B. **Signs.** Signs must be constructed of wood or other durable, non-plastic material and shall be affixed flat against the *principal structure* or as a *monument* sign. Bed and breakfast uses in the Agricultural (AG), Countryside (CS), Estate (ES), Residential (RS), Village Conservation (VC) and Neighborhood Conservation (NC) districts are limited to five square feet of total *sign area*.
- C. **Parking.** Bed and breakfast uses must provide for all parking off-street, which shall be fully screened from adjoining land uses by hedges and *canopy trees*. The Zoning Administrator or designee may permit on-street parking to be substituted upon determining that the *street* can accommodate the required parking and that off-street parking would be detrimental to the appearance of the area.
- D. Bed and breakfast uses shall contain no more than eight (8) rooms for rent, shall be the owner's personal residence and shall be occupied by the *owner* at the time of rental.

### Sec. 2.403 Commercial Stables

Commercial stables shall be permitted in the Agricultural (AG), Countryside (CS) or Estate (ES) district, in accordance with the following standards:

- A. **Minimum Lot Area.** The minimum *lot area* is 5.
- B. **Setbacks.** Barns or riding rings shall be set back at least 50 feet from all *property lines*. All other outdoor areas for riding shall be set back a minimum of 10 feet from all property lines.
- C. **Buffers.** If located within 50 feet of a residence on an adjoining property, setbacks for buildings and outdoor areas in item B above shall be planted with a 0.2 *opacity* buffer, as specified in Division 8.400, *Bufferyard Requirements*.

### Sec. 2.404 Intensive Agriculture

Intensive agriculture is permitted provided that new intensive agriculture uses shall submit a copy of their nutrient management plan to the Department of Planning.

### Sec. 2.405 Group Residential Home and Group Residential Facility

A *group residential home* and *group residential facility* shall be a permitted residential use of property for the purposes of zoning and shall be a *permitted use* in all residential zones or districts. In the Agricultural (AG), Farmstead (FS), General Commercial (GC), or Business Park (BP) Districts, group residential home and *group residential facility* will only be permitted if the following conditions are met:

- A. **AG and FS Districts.** Where the subject property is a *lot* that was recorded as of the effective date of this ordinance and no home presently exists on the property or the property is so small as to be unable to be put to a *permitted use*, one *group residential home* and *group residential facility* may be permitted.
- B. **GC and BP Districts.** No new *group residential home* and *group residential facility* structures shall be permitted in the General Commercial (GC) and Business Park (BP) districts. However,



existing single-family residences shall be permitted to remain as conforming uses. Additionally, home businesses and home industries are permitted as accessory uses.

## Sec. 2.406 Hamlet

See Division 10.200, *Hamlet Design*.

## Sec. 2.407 Mobile Manufactured Home Parks and Subdivisions

### A. Site Area.

1. *Mobile manufactured home parks* shall have a minimum site area of 5 acres and a maximum site area of 20 acres.
2. *Mobile manufactured home subdivisions* shall have a minimum site area of 5 acres, but no maximum site area.

**B. Density; Open Space; Lots.** Mobile manufactured home parks and mobile manufactured home subdivisions shall be considered planned developments and shall meet all the standards of *density* and *open space* for such developments. The *lot* requirements of Section 3.302, *Single-Family Detached*, shall apply.

**C. Permanent Foundations; Anchors and Tie-Downs.** All mobile manufactured homes in mobile manufactured home parks or mobile manufactured home subdivisions shall be anchored in accordance with the Jefferson County Building Code Enforcement Ordinance and Appendix B, Sec. 7.2, *Mobile/Manufactured Home Park Requirements*, of the Jefferson County Subdivision Regulations.

**D. Utilities.** All units shall be served with central sewer and water facilities and electrical power. Said utility lines shall be installed underground. All electrical service equipment shall be mounted on the structure. All parks and subdivisions shall be reviewed and approved by the West Virginia Department of Health.

**E. Unit Specifications.** All mobile manufactured homes shall meet the following specifications:

1. The average height of a mobile manufactured home frame above ground elevation, measured at 90 degrees to the frame, shall not exceed four feet from the top of the foundation pad.
2. The roof of each mobile manufactured home unit shall be pitched with a minimum vertical rise of 2.5 feet for every 12 feet of horizontal run.
3. The roof of each mobile manufactured home unit shall have eaves that project a minimum of six inches from the exterior wall.
4. The wheels, axles, tongue, towing apparatus, and transporting lights shall be removed prior to final installation of the unit.

**F. Skirting.** Any mobile manufactured home unit not set on permanent masonry or concrete foundational walls shall be skirted. All such homes shall meet the skirting requirements as may be required by the Jefferson County Building Code. Homes on a crawl space shall have an access door of a minimum size of 2 feet by 2 feet in the skirting or foundation wall.

**G. Bufferyard.** Mobile manufactured home parks or subdivisions shall have a bufferyard of 0.4 *opacity* from all other uses and public streets.

**H. Design.** All *parks* or subdivisions shall meet the following standards:



1. Where a mobile manufactured home park contains more than 20 units, at least 2 public *access* points shall be provided.
  2. Laundry and maintenance buildings are permitted as an accessory use.
  3. All units are required to have an enclosed area for *outdoor storage*, which shall be permanently affixed to the land, set back a minimum 20 feet from the front property line and 5 feet from all other *property lines*, and shall have a minimum floor area of 80 square feet.
  4. Each mobile home shall be served by an individual sidewalk a minimum of 3 feet in width. Individual sidewalks shall connect with the common sidewalks within the park or subdivision, or to paved off-street parking spaces, or to paved streets.
- I. **Unit Inspection.** When a unit is to be occupied, it shall be inspected and installed in accordance with the Jefferson County Building Code Enforcement Ordinance.
- J. In the event of a conflict between the provisions of this section and the Jefferson County Subdivision Regulations, the provisions of this Ordinance shall overrule.

### Sec. 2.408 Small Family Dwelling

See Division 5.200, *Affordable Housing*.

### Sec. 2.409 Residential Family Child Care Facilities

Family child care facilities, as defined by W.Va. Code §49-2B-2, are permitted provided that the requirements of this Section are met.

- A. **Residence Requirement.** A "family child care facility" may be permitted to provide nonresidential child care services for compensation for seven (7) to twelve (12) children, including children who are living in the household, who are under six (6) years of age. No more than four (4) of the total number of children may be under twenty-four (24) months of age. A "family child care facility" may be in a provider's residence or a separate building.
- B. **Operation.**
1. The child care facility shall be clearly subordinate to the residential use.
  2. The applicant shall provide a copy of the appropriate license, approval, or registration that is required by the W.Va. Code, §49-2B-8.
- C. **Play Areas.** Outdoor play areas shall be enclosed by a fence beginning at ground level and extending to a minimum height of 42 inches so as to prevent children from crawling under or through the fence or otherwise becoming entrapped.
- D. **Building Character.** Except for permitted signs (see G below), new *construction* or exterior alteration to existing buildings or structures that are related to the conduct of the child care use shall be consistent with the residential character of the building or structure.
- E. **Access.** The use shall be accessed by a public street.
- F. **Parking, Pick-up, and Drop-off.**
1. A semi-circular *driveway* is required for drop-off and pickup. Required *parking spaces* shall not be provided within this semi-circular driveway.



2. At least two parking spaces shall be available on site in front of the *dwelling* that does not interfere with the semi-circular driveway.
- G. **Signs.** A single, non-illuminated sign or nameplate is permitted, up to six square feet in size, which shall comply with the standards contained in Article 9, *Sign Regulations*.
- H. **Miscellaneous.**
1. The application shall be signed by the *property owner* or the applicant shall provide a letter of authorization from the property owner.
  2. Fire and sanitary inspections are required.
- I. **Exemptions.** Informal family child care homes or relative family child care homes, as defined by the W.Va. Code §49-2B-2, require only the appropriate licensure from the State (see W.Va. Code, §49-2B-8). They are permitted in any residential unit as of right. This Section 2.409 does not apply to them.

## Sec. 2.410 Home Occupations

A *home occupation* is only permitted as an accessory use in a residential *dwelling* if it meets the following conditions:

- A. **Use.** Uses shall be office uses, personal services, and uses consistent with the definition of *creative workers*. No retail sales shall be permitted except that home marketers who take orders by phone and deliver to the purchaser, or e-businesses that ship as allowed by F below, or ship from another site, are allowed.
- B. **Conduct of the Business.** The use may be conducted within the *principal structure* and/or in an *accessory structure* provided the total floor area shall be less than 35 percent of the total floor area on site.
- C. **Appearance.**
  1. There shall be no alteration of the outside appearance of existing structures, except that non-historic *fascia* inconsistent with the style of the structure may be removed and replaced with materials that restore the appearance of the original style. The Historic Landmarks Commission may be consulted in this regard.
  2. New *construction* shall be consistent with the style of the neighborhood.
  3. No evidence of the *home occupation* use of the property shall be visible from the public way or *street* except as provided in E below.
- D. **Relationship to Dwelling.** The use for the occupation must be clearly incidental to the use of the *dwelling* as a residence.
- E. **Signs.** A single, non-illuminated sign or nameplate is permitted up to 3 square feet in *sign area*, which shall comply with the standards contained in Article 9, *Sign Regulations*.

## Sec. 2.411 Home Business

A *home business* is only permitted as an accessory use in a residential *dwelling* if it meets the following conditions:

- A. **Location of Business.**



1. **Agricultural (AG), Countryside (CS), Estate (ES), Residential (RS), Neighborhood Conservation (NC) and Village Conservation (VC) Districts.** A new home business may be established on any *lot* used for residential purposes within these districts when it meets the criteria for type and conduct of business identified in 2.411 C through G.
  2. **Townscape (TS) District.** During land development approval, a subdivision or portion of a subdivision may be designated for home businesses, provided:
    - a. The homes are specifically designed with space for such businesses; and
    - b. The overall development:
      - i. Has a minimum of 100 *dwelling units*; or
      - ii. Adjoins the General Commercial (GC) district.
  3. **General Commercial (GC) or Business Park (BP) Districts.** Existing nonconforming residential buildings in these districts may be used for home businesses.
- B. Existing Home Businesses.** Any home businesses formerly known as Home Occupation Level 2 under the prior code in existence on the effective date of this Ordinance, which is not located on a *farmstead* within the Agricultural (AG) or Countryside (CS) district, shall be considered a conforming accessory use; however,
1. The home business may not be expanded or enlarged except in accordance with the provisions of 2.411 C through G.
- C. Type and Conduct of Business.**
1. Only office and service uses are permitted as home businesses. However, service uses are limited to:
    - a. Educational services (NAICS 611 except 611512, 61162).
    - b. Social assistance (NAICS 624).
    - c. Miscellaneous repair services and shops (NAICS 44311, 8112, 8113, 8114).
    - d. Personal services (NAICS 8121, 8129).
    - e. Uses consistent with the definition of *creative worker* (See *Creative Worker*).
  2. No retail sales shall be permitted except that home-based marketers who receive orders by telephone or Internet and deliver products to the purchaser, or e-businesses that ship as permitted by G below, or ship from another site, are allowed.
  3. The use may be conducted within the *principal structure* and/or in an *accessory structure* provided that:
    - a. The use of the property for the home business is clearly incidental to the use of the property as a residence; and
    - b. The total floor area put to the home business use is less than 50 percent of the total floor area on site.
    - c. Except for permitted signs (see F below), no evidence of the nonresidential use of the property shall be visible from public streets.



- D. **Building Character.** Except for permitted signs (see F below), new *construction* or exterior alteration to existing buildings or structures that are related to the conduct of the home business shall be consistent with the residential character of the building or structure and shall not suggest a nonresidential use.
- E. **Parking.** Parking shall be provided on-site for the *dwelling*, plus any employees.
- F. **Signs.** A single, non-illuminated sign or nameplate is permitted up to six square feet in *sign area*, which shall comply with the standards contained in Article 9, *Sign Regulations*.

## Sec. 2.412 Home Workspace

A *home workspace* is only permitted as an accessory use in a residential *dwelling* if it meets the following conditions:

- A. **Use.** Uses shall be the creation of art or crafts by the residents of the dwelling and up to 3 unrelated employees. Such arts or crafts may include, but are not limited to, painting, pottery, sculpture, photography, cabinetry, iron work, quilts, or other such crafts, as well as uses consistent with the definition of *creative worker*.
- B. **Conduct of the Business.** The use may be conducted within the *principal structure* and/or in an accessory structure provided that:
  - 1. It is clearly incidental to the residential use, unless located in a nonconforming single-family residence in a GC or BP district; and
  - 2. In the AG and CS districts, the total floor area put to the home workspace use is:
    - a. Less than 50 percent of the total floor area on the site if the use is located in a one-story building and
    - b. Less than 60 percent of the total floor area on the site if the use is located in a two-story building.
- C. **Building Character.** Except for permitted signs (see F below), new *construction* or exterior alteration to existing buildings or structures that are related to the conduct of the home workspace shall be consistent with the residential character of the building or structure and shall not suggest a nonresidential use.
- D. **Parking.** Parking shall be provided on-site for the *dwelling*, plus any employees, plus 1 space per 250 square feet of gallery space.
- E. **Signs.** A single, non-illuminated sign or nameplate is permitted up to 6 square feet in *sign area*, which shall comply with the standards contained in Article 9, *Sign Regulations*.

## Sec. 2.413 Home Industry

A *home industry* shall conform to the following regulations:

- A. **Location.** In the Agricultural (AG) and Countryside (CS) districts, a home industry shall be conducted from a *farmstead*. In all other districts where this use is permitted, it shall occur in *dwelling units* that existed on the date of this Ordinance's adoption.
- B. **Use.** Light automobile service, agriculture and other rural services, light industry, kennels and veterinary service uses shall be permitted. Heavy industries of the following type: meat processing, trucking, welding, sheet metal, and blacksmithing shall also be permitted. Warehousing is permitted provided it is in existing structures only.



- C. **Conduct of the Business.** The use may be conducted within the *principal structure* and/or in an *accessory structure* provided the total floor area shall be less than 50 percent of the total floor area of all structures on site.
- D. **Appearance.** There shall be no alteration of the outside appearance of existing structures, except that non-historic *fascia* inconsistent with the style of the structure may be removed and replaced with materials that restore the appearance of the original style. New *construction* shall be consistent with the style of the neighborhood. No evidence in the appearance of the property shall be visible from the public way or street. On *farmsteads*, new buildings may be consistent with current agricultural practice rather than with older styles.
- E. **Relationship to Dwelling.** The use for the occupation must be clearly incidental to the use of the *dwelling* as a residence.
- F. **Parking.** Parking shall be for the dwelling, plus employee parking on site.
- G. **Signs.** A single, non-illuminated sign or nameplate is permitted up to six square feet in size, which shall comply with the standards contained in Article 9, *Sign Regulations*.

### Sec. 2.414 College or University

Any new college or educational *institution* that is not exempted from local zoning regulations by West Virginia Code shall be permitted only as a *conditional use*, as follows:

#### A. Campus Master Plan Required.

- 1. A new college or university shall submit a campus master *plan* as part of its approval process. The master plan shall be reviewed and approved by the Jefferson County *Planning Commission*. The master *plan* shall include:
  - a. The layout of streets within the campus and *access* points to the campus.
  - b. The location, use and floor area of planned and existing buildings.
  - c. The system of pedestrian circulation.
  - d. Any perimeter landscape buffers.
  - e. The general location of utilities and the size of utility lines.
  - f. The location and capacity of *stormwater management* infrastructure.
  - g. The location of outdoor recreation areas.
  - h. The location and capacity of parking areas.
- 2. A campus master plan and revised campus master plan is approved as a *conditional use*.

#### B. Effect of Campus Master Plan.

- 1. Any building that is consistent with the County-approved master *plan* shall be approved as a land development.
- 2. Any building that is inconsistent with the County-approved master plan shall first require the submission and approval of a revised master plan.



## Sec. 2.415 Hospital

Hospitals shall take access from an arterial or *collector street*. When located in the Agricultural (AG) district, hospitals shall be located within a Townscape Boundary or within one mile of a Townscape Boundary. Buildings associated with hospital use shall be permitted to exceed the height limitations established within the Zoning District within which the hospital is constructed but in no case may exceed 100 feet in height.

## Sec. 2.416 Institutional Residential

Institutional residential facilities that offer dining, recreation, health care, or a convalescent center as on-site amenities shall comply with the following standards for density:

- A. **Detached or Attached Unit Configurations.** Facilities that are configured as detached or attached units shall not exceed 1.5 times the allowed *planned development's* base *density* for the applicable district, with each unit counted as a *dwelling* unit.
- B. **Multi-Family Unit Configurations.** Facilities that are configured as multi-family shall not exceed one and one half times the allowed planned development's base density for the applicable district, with each room or suite counted as a dwelling unit.

## Sec. 2.417 Places of Assembly

So as to ensure land use compatibility, protect the integrity of neighborhoods, and preserve community character, *places of assembly* shall conform to the following standards:

- A. **Location.** All places of assembly shall comply with the provisions of Section 3.204, *Nonresidential Use Scale Regulations*, and shall be located on the classification of *roadway* required for the *scale* of the use, with the most intensive uses located on *arterial roads*.
- B. **Minimum Lot Size.** In all residential districts, places of public assembly shall have a minimum site area three times greater than the minimum *lot* size of the respective district or as specified in this paragraph, whichever is greater.
  - 1. Schools shall have a minimum site area of five (5) acres.
  - 2. A library or *museum* shall have a minimum site area of two acres or the area for a single-family use, whichever is greater.
  - 3. A religious *institution* shall have a minimum site area of one acre or the area for a single-family use, whichever is greater. Religious institutions shall also meet the maximum *Floor Area Ratio* for non-residential use in the district in which it is located in accordance with Table 3.201B, *Nonresidential Use District Standards*.
- C. **Building Size.** In the Neighborhood Conservation (NC) district, the building shall be no more than four times the average size, as measured in floor area, of the residential structures within 400 feet of the property, regardless of the type of *street* on which the property is located.

## Sec. 2.418 Protective Care

All protective care facilities shall have an emergency plan filed with the police, emergency services, and disaster and emergency agencies indicating that these facilities have a plan ensuring against any form of emergency to protect the adjoining properties. The following standards shall apply to protective care facilities:

- A. **Townscape (TS) District.** The use may be part of a county, state, or federal building.



- B. **General Commercial (GC) District.** The use shall meet the following standards:
1. The building shall be in a complex containing other county, state, or federal buildings. The architecture should be compatible with other structures in the complex; or
  2. The use may be part of a county, state, or federal building.
- C. **Business Park (BP) District.** The use shall be designed as a building with outdoor exercise areas behind walls designed in the same materials and forms as the building. A minimum *setback* of 30 feet from any side or *rear yard* is required. Such uses shall be a minimum of 500 feet from a residential zoning district.

### Sec. 2.419 Public Service Facility

- A. **Access.** Public service facilities shall take *access* from an arterial or *collector street*.
- B. **AG, CS, ES, RS, NC and VC Districts.** In the Agricultural (AG), Countryside (CS), Estate (ES), Residential (RS), and Neighborhood Conservation (NC) districts, the applicant shall demonstrate that the use cannot be located in a district in which it is a *permitted use* and has to be located in one of the above districts for service reasons. A bufferyard shall be provided on all sides with an increased *opacity* of 0.3.
- C. **TS District.** In the Townscape (TS) district, the design shall be compatible with a more developed or urban environment. Masonry walls, rather than fences, shall be used to screen the facility. The street faces shall be improved to provide an expansion of the *sidewalk* areas with *landscaping* and seating to make the utility a useful part of the streetscape.

### Sec. 2.420 Commercial Lodging

In the Townscape (TS) District, the number of rooms in a commercial lodging facility shall not exceed 60.

### Sec. 2.421 Country Inn

Country inns are permitted in the Agricultural (AG), Countryside (CS), Estate (ES), and Neighborhood Conservation (NC) districts subject to the following standards:

- A. **Building appearance and character.**
1. The structure, site development, and *landscaping* shall convey a rural character.
  2. In design, a country inn may be a *conversion* or enlargement of an existing structure or new *construction*.
    - a. If new construction, the design shall be such that it fits into the historic context of the buildings in the area, or designed to blend into the landscape so as to have minimal visual impact.
    - b. If an enlargement, it shall be consistent with the character of the existing building and historic details restored to be true to the original design.
    - c. Adaptive re-use of existing *historic structure* shall be approved by the Jefferson County Historic Landmarks Commission as a means of preserving a historic structure. Incentives may be available for this purpose. See Section 5.305, *Renovation Incentives*.



- B. **Duration of accommodation.** The duration of overnight guest accommodation shall not exceed twenty-nine consecutive nights.
- C. **Accessory commercial sales and services.** When located on sites over 25 acres, or over 10 acres in the Estate (ES) district, country inns may provide additional services including:
  - 1. Restaurant, dining facilities, and banquet seating for weddings, showers, and similar events with seating capacity limited to 80, or 2 times the number of rooms, whichever is less.
  - 2. Social or business functions.
  - 3. Spa services for overnight accommodation clientèle.
  - 4. Gift shops.
  - 5. Any parking associated with these functions shall be located a minimum distance of 100 feet from adjacent properties or no less than 50 feet from adjacent properties if a bufferyard of 0.7 opacity is provided.
- D. **Size.** The country inn shall have no more than 30 rooms on *parcels* ranging in size from 10 to 250 acres in size. However, when located on *parcels* exceeding 250 acres in size one additional room may be added for each 10 acres of land area in excess of 250 acres, provided however, in no case may a country inn exceed 55 rooms.
- E. **Setback.** The country inn and associated parking shall be set back at least 100 feet from adjacent properties or any agricultural uses.
- F. **Room Density.**
  - 1. Farmsteads: no more than one room per 2.5 acres.
  - 2. Hamlets: 15 rooms per acre.
- G. **Density Transfer.** On *farmsteads* that are larger than 200 acres, the site for a country inn may be subdivided from the farmstead and still be allocated *density* from the farmstead, provided that the country inn site is at least 10 acres.
- H. **Location in Hamlet.** In a hamlet, commercial lodging shall be located in the commercial center and meet the standards for hamlets. See Division 10.200, *Hamlet Design*.

## Sec. 2.422 Commercial Retail

- A. **AG District.** In the AG district, commercial retail uses shall be permitted if they comprise no more than 15 percent of the floor area of a building dedicated to the permitted Agriculture Support and Services use (See Sec. 14.205, *Commercial Uses*).
- B. **BP District.** In the Business Park (BP) district, retail and service uses shall be permitted on the ground floor of a multi-story *building* that is a *permitted use* in the respective district, provided the retail or service use constitutes no more than 33 percent of the total *gross floor area*. It shall also be permitted for wholesale, warehousing, or industrial uses where a showroom is associated with storage, distribution, or processing of materials such as, but not limited to, tile, brick, or stone.
- C. **NC District.** In the Neighborhood Conservation (NC) district, commercial retail uses shall be permitted as a *conditional use* limited to 4,000 square feet in area. Commercial retail uses



already established in the NC district as of the effective date of this Ordinance shall be permitted. Any expansion of an established use shall be treated as a *conditional use*.

- D. **VC District.** In the Village Conservation (VC) district, commercial retail uses shall be limited to 4,000 square feet in area.

### Sec. 2.423 Commercial Child Care Center

Commercial child care centers, as defined by the W.Va. Code §49-2B-2, are permitted in the following districts provided that the requirements of this Section are met.

- A. **AG, RS, TS, & VC Districts.** Commercial child care is permitted in the Agricultural (AG), Residential (RS), Townscape (TS), or Village Conservation (VC) districts. When located in the Residential (RS), Townscape (TS), or Village Conservation (VC) districts, the center shall be a part of an approved multi-tenant commercial development and subject to the following standards.
1. **Licensure.** The applicant shall provide a copy of the appropriate license, approval, or registration that is required by the W.Va. Code, §49-2B-8.
  2. **Play Areas.** Outdoor play areas shall be enclosed by a fence beginning at ground level and extending to a minimum height of 72 inches so as to prevent children from crawling under or through the fence or otherwise becoming entrapped.
  3. **Building Character.** Except for permitted signs (see 6 below), new *construction* or exterior alteration to existing buildings or structures that are related to the conduct of the child care use shall be consistent with the residential character of the building or structure.
  4. **Parking, Pick-up, and Drop-off.**
    - a. An area is required for drop-off and pickup. Required *parking spaces* shall not be provided for within this area.
    - b. At least four *parking spaces* shall be provided.
  5. **Signs.** A single, non-illuminated sign or nameplate is permitted, up to six square feet in size, which shall comply with the standards contained in Article 9, *Sign Regulations*.
- B. **GC & BP Districts.** Commercial day care is permitted in the General Commercial (GC) and Business Park (BP) districts subject to the following standards:
1. It is located at least 500 feet away from uses that:
    - a. Generate significant truck traffic;
    - b. Produce toxic fumes; or
    - c. Involve equipment or conditions that may create an attractive nuisance danger to children.
  2. It is located at least 1/4 mile away from any disposal use.
  3. The standards listed in Section 2.423(A)(1) through (A)(5) above are met.
- C. **NC District.** Commercial child care is permitted only as a conditional use in the Neighborhood Conservation (NC) district, subject to the standards noted in Section 2.423(A)(1) through (A)(5) above.



## Sec. 2.424 Drive-In Facilities

Drive-in facilities shall conform to the following standards:

- A. **Access and Circulation.** *Access* to drive-in facilities shall be from an alley, if one exists, and the circulation shall be on the rear or interior sides of the facility so the streetscape of the use retains an urban character.
- B. **Ordering Station.** The ordering station shall be buffered from adjacent residential uses with a solid wall and/or *landscaping* to reduce noise transmission.
- C. **Vehicle Stacking Requirements.** Uses with drive-in facilities shall provide appropriate off-street vehicle stacking spaces in accordance with the provisions contained in Sec. 7.205, *Vehicle Stacking Requirements*.

## Sec. 2.425 Kennels and Veterinary Clinics/Hospitals

*Kennels* and *veterinary clinics/hospitals* may be permitted in the Agricultural (AG), Countryside (CS), General Commercial (GC), Townscape (TS), or Business Park (BP) districts subject to the following provisions:

### A. AG and CS Districts.

- 1. The use is permitted:
  - a. As a *home business* on a *farmstead* (subject to the standards of Section 2.411, *Home Business*); or
  - b. On lots of 5 acres.
- 2. Runs or paddock areas shall be set back a minimum of 200 feet from residentially zoned or used property.

### B. GC District.

- 1. A minimum of one acre is required if there are to be outside runs.
- 2. No dog runs may be located be within 200 feet of residentially zoned or used land.
- 3 For uses where all operations and activities are conducted within a fully enclosed *building*:
  - a. The building shall be designed and constructed with noise resistant materials (plans and specifications for noise reduction materials shall be approved by the Zoning Administrator through the land development approval process, or if an existing building is to be used, through the building *permit* process).
  - b. The minimum lot size shall be 5,000 square feet in a shopping center or 10,000 square feet for freestanding buildings.

### C. TS & VC District.

- 1. Veterinary practice shall be limited to dogs, cats, and other small animals weighing less than 150 pounds.
- 2. Boarding services and dog runs are not permitted.
- 3. Kennels that are accessory to the veterinary practice are permitted, provided that all kennel facilities are enclosed within a sound-proofed building so that no unreasonable noise or odor is detectable off-site by persons with normal sensibilities.



**D. BP District.**

1. A minimum of one acre is required if there are to be outside runs.
2. A minimum of two acres of land area are required for large animal veterinary clinics.
3. Runs or paddocks shall be used only during daylight hours and shall be set back a minimum of 100 feet from residentially zoned or used property.

**Sec. 2.426 Agriculture**

Agricultural uses in the Agricultural (AG), Estate (ES), Residential (RS), Village Conservation (VC), Neighborhood Conservation (NC) and Townscape (TS) districts may include the growing of field crops, horticulture, orchards, and viniculture. See Division 14.200, *Use Definitions*.

**Sec. 2.427 Light Automobile Service**

In the Townscape (TS) district, light auto service uses shall only be permitted subject to the following standards:

**A. Site Standards.**

1. The site on which the use is located shall have a minimum of 200 feet of *frontage* on an arterial or *collector street*.
2. The light automobile service use shall be located in a manner such that access is limited to two locations along the arterial or *collector street* and a buffer is provided adjacent to adjoining residential uses.

**B. Architectural Standards.**

1. Gasoline service canopies shall have pitched roofs with a common design for the service building and *canopy*.
2. The land development *plan* submittal shall include a concept plan and design guidelines that protect the character of the streetscape.
3. The building must be built to the front *setback* lines, consistent with other buildings in the area.
4. The *landscaping* and other design features shall be determined to provide a continued pedestrian environment that is attractive and safe.

**Sec. 2.428 Mixed Use**

**A. General.** Mixed use development contains different use types on different floors within a building. It may also include some single-use buildings if the overall project is mixed use (See E below).

**B. Required Use Mix.**

1. One of the uses in a mixed use development shall be residential. At least 30 percent of the total floor area of the mixed use development shall be put to residential use.
2. Any other use that is permitted in the district is also permitted in mixed use development.

**C. Recreation Space.** Each residential unit shall have 200 square feet of public or private outdoor recreation or activity space in the form of any combination of balconies, useable roof top areas,



or ground level spaces such as plazas that are designed for the use and enjoyment of the residents.

- D. **Parking.** Parking requirements shall be reduced to the maximum parking needed for the composite uses in the peak parking hour subject to submission of a Mixed Uses & Shared Parking study as required in Section 7.107, *Mixed Uses and Shared Parking*, and approval by the Zoning Administrator.
- E. **Multiple Building Mixed Uses.** Where there are more than four buildings in a mixed use development, not all buildings are required to include residential use, nor do all buildings have to be mixed use, provided the following are demonstrated:
  - 1. At least 65 percent of the buildings will have residential use in them at full project build-out.
  - 2. Residential uses are included in the first building constructed.
  - 3. If any building is to be exclusively residential or nonresidential, the County shall require phasing to ensure that the project meets the required mix of uses. However, no building in a mixed use development shall be exclusively put to office use.
  - 4. Institutional uses may be located in single-use buildings.
  - 5. Such complexes shall have a unified *land development plan*, which shall have a pedestrian-oriented circulation plan as a significant element in the overall plan.

## Sec. 2.429 Restaurant/Carry-out

- A. **AG and CS Districts.** A restaurant and/or food carry-out shall be permitted in the Agricultural (AG) and Countryside (CS) districts subject to the following provisions:
  - 1. It shall be located on a *farmstead*.
  - 2. Customer seating capacity shall be limited to 40 persons, except that as part of a country inn. The seating capacity of a country inn may be such that all guests can be seated in two sittings.
- B. **BP District.** Restaurants in the BP district are intended to serve employees within the district. They shall be located within office buildings and shall not have signage that is visible from outside the building.
- C. **VC District.** A restaurant shall be permitted in the Village Conservation (VC) district but shall be limited to seating capacity for 50 persons. The architecture of the building shall be residential in character. No architectural design or treatment that is identifiable as a logo for a national restaurant chain shall be permitted.

## Sec. 2.430 Services

Services shall be permitted in the Agricultural (AG), Countryside (CS), Village Conservation (VC) and Neighborhood Conservation (NC) Districts if they were already established as of the effective date of this Ordinance.

## Sec. 2.431 Vehicular Sales, Rental, and Service

Vehicular sales and service establishments shall conform to the following standards:



- A. **Lighting.** All lighting shall be designed and installed to prevent glare or excessive light spillover onto adjacent properties, in accordance with Article 7, *Parking, Loading, Access, and Lighting*.
- B. **Location of Repair Bays.** Repair bays shall not front an adjacent public street *right-of-way* or towards residentially zoned land.
- C. **Display Areas.** All vehicle display areas and lots shall be screened in accordance with Article 8, *Landscaping and Tree Protection*. One vehicle may be on an elevated display, with a maximum height of the structure being no more than 36 inches for each 100 feet of arterial street *frontage*.
- D. **Location of Accessory Uses.** *Accessory uses* and structures, such as car wash facilities and their incidental functions (vacuums and air compressors), shall be set back a minimum distance of 50 feet from all rear and *side yards* that are adjacent to a residentially zoned or used property.
- E. **Use of Right-of-Way.** No vehicles shall be parked on the public right-of-way. Violating vehicles may be towed by Jefferson County without notice and shall constitute a zoning violation.

### Sec. 2.432 Adult Uses

Adult use facilities shall be permitted as a *conditional use* in the Business Park (BP) and General Commercial (GC) districts subject to the following standards:

- A. **Visibility of Merchandise or Activities.** It shall be unlawful for an *owner* or operator of an adult use to allow the merchandise or activities of said business to be visible from any point outside the walls of the building housing the enterprise.
- B. **Signage.**
  - 1. No flashing lights, photographs, icons, human silhouettes, drawings, or pictorial representations of any manner, shall be allowed on the exterior of the building.
  - 2. Notwithstanding the provisions of Article 9, Sign Regulations, it shall be unlawful for any such enterprise to erect, construct, or maintain any *sign* for such enterprise other than one primary sign, which shall meet the following requirements:
    - a. Affixed flat against a primary wall of the building;
    - b. Not exceed sixty-four (64) square feet; and
    - c. Contain only the name of such enterprise and a phrase identifying what type of adult business is contained therein.
- C. **Landscape Buffer.** A 0.5 *opacity bufferyard* with a minimum 20 feet width shall be provided on all sides of the *lot* containing the adult use.
- D. **Location and Separation.**
  - 1. **Measurement.** The following location and separation requirements shall be measured from the nearest *property line* of a protected use to the nearest public entrance door of the premises of the adult use along the street *right-of-way* line providing the nearest direct route usually traveled by pedestrians between such points. For purposes of determining measured distance, property situated on the opposite side of the street from a protected use shall be considered as if it were located on the same side of the street with such protected use. Where a multi-tenant facility such as a *shopping center* is involved, measurement shall occur from the boundary of the unit's leasehold interest instead of the *property line*.



2. It shall be unlawful to establish an adult use within 1,000 feet of any residential district or from the following protected uses:
  - a. Any building primarily and regularly used for worship services and religious activities;
  - b. Public or private school;
  - c. Public *park* and playground;
  - d. Public library;
  - e. Public or private community center;
  - f. Hospital; or
  - g. Museum.
3. The minimum spacing between two or more adult uses shall be 2,500 feet.

E. **Gambling Facilities.** Gambling or casino type games of chance (video or mechanical) that provide any type of payoff or remuneration shall not be permitted in Jefferson County unless expressly and explicitly permitted and authorized by the West Virginia Code as amended. When expressly and explicitly permitted and authorized by the West Virginia Code, such use shall only be permitted as a *conditional use* in the Townscape (TS), Business Park (BP) and General Commercial (GC) districts.

## Sec. 2.433 Campgrounds and Recreational Vehicle Parks

Campgrounds and *recreational vehicle* (RV parks), shall meet the following standards:

- A. **Minimum Site Area.** The minimum site area for this use is 10 acres.
- B. **Density.** The overall *density* shall not exceed ten (10) campsites or RV sites per acre for the entire site.
- C. **Open Space.** *Open space* for common areas shall be planned and provided for at convenient, centralized locations to provide at least 200 square feet per *recreational vehicle* space. Such open space may include play yards, pools, and recreation buildings, but shall not include public facilities and open areas that are not accessible to the guests.
- D. **Buffers.** Campgrounds and *RV parks* shall have a minimum *bufferyard opacity* of 0.5 on all sides or a natural forest buffer of at least 50 feet from non-campground uses.
- E. **Access.** Site *access* shall be from an *arterial* or *collector* road excepting campgrounds established prior to the effective date of this ordinance. Road right-of-ways shall be a minimum of 50 feet in width. Main entrance and primary looping roads shall be constructed of asphalt and be two-way. Other roads within a campground may be constructed of gravel. One-way gravel or better surface roads shall be at least 12 feet in width with 2 foot shoulders on both sides.
- F. **Campsite / RV Site Design.**
  1. Campsites and RV sites must be a minimum of 1,500 square feet in size not to include road right-of-ways and not to exceed a 3% slope in any direction. Each campsite shall have a minimum road frontage width of twenty (20) feet.
  2. A special tent area may be set aside. Tent sites shall not exceed 25% of all spaces/sites. The size of a tent site shall be based on 500 square feet per tent and tent area shall be a minimum of 10, 000 square feet.
  3. A tent may be placed on any campsite or RV site.



- 4. Each campsite shall be provided with a sanitary, covered garbage can.
- G. **Utilities.** All secondary service utility lines shall be installed underground. Services shall be provided as follows:
  - 5. All RV spaces shall be served with, potable water, and electrical power.
  - 6. All tent campsites shall have access to potable water, electric power and comfort stations within 100 feet.
  - 7. At least 50% of all RV spaces shall be served with sanitary sewer connections.
  - 8. A campground shall provide at least one sanitary sewerage dump station for every forty (40) or fraction thereof trailer or recreational vehicle hookups, one water refill station and one solid waste disposal collection.
  - 9. As a minimum, design capacities for centralized water and sewerage systems shall be based on the total number of campsites proposed plus 25% again to accommodate the tent area (if any), plus an allowance for sewerage dump station and a water refill station.
- H. **Parking.** Each *parking space*, shall have a minimum dimension of 10 feet by 20 feet, and shall be surfaced with gravel, according to surface requirements for gravel roads, or better covering in order to maintain a dust-free condition. Parking areas may not be used for overnight camping or occupancy.
- I. **No Permanent Residence.** No *recreational vehicle* shall be used as a permanent place of residence.

**Sec. 2.434 Commercial Amusement, Outdoor**

Commercial outdoor amusement facilities shall be permitted in the Agricultural (AG), General Commercial (GC) and Business Park (BP) districts under the following conditions:

- A. **Type of Commercial Amusement.** The use shall be limited to fairgrounds, shooting ranges, hunting preserves, fishing preserves, and race facilities.
- B. **Access.** The site shall receive direct *access* from an arterial or collector road.
- C. **Bufferyards.** Bufferyards shall be provided in accordance with Division 8.400, *Bufferyard Requirements*.

**Sec. 2.435 Outdoor Recreational Facility**

Outdoor recreation facilities for tot lots and passive parks shall be located on parcels no less than 1/2 acre in size. Outdoor recreational facilities that provide for *active recreation* including ball fields and game courts shall be located on *parcels* that are no less than two acres in size and shall take direct *access* from an arterial or *collector street*.

**Sec. 2.436 Disposal/Landfill**

Disposal uses or landfills may be permitted as a conditional use in the Agricultural (AG) district on Farmsteads (FS) or the Business Park (BP) district in accordance with the requirements of article fifteen, chapter twenty-two of the Code of West Virginia (*Solid Waste Management Act*). Such uses shall meet the following requirements:

- A. **End Use Plan.** An *end use plan* shall be submitted providing the following:



1. The ground surface shall be restored to a condition permitting the safe long-term operation of one of the following uses: agriculture, residential, recreational (see 2 below), or nonresidential. Either an escrow account or an annual fee shall be required, as approved by the County Attorney and County Commission, to ensure that there are sufficient funds set aside for the *restoration*.
2. If future recreational use is identified, management of such use shall be established. Risks from any subsurface materials to future uses shall be identified.
3. Monitoring and post-closure maintenance plans shall be submitted and adequate funding provided.

**B. Buffers.** All buffers shall contain berms.

1. The buffer must be at least 100 feet inside the property boundary and used for an agriculture use or forested.
2. Noise studies shall be conducted to determine the berm's exact height based on the equipment operated at the site. The berm shall ensure the *Day Night Level (DNL)* does not exceed 55 at the *property line* or at any building with a line of site to the property.

**C. Ground and Surface Water.** Different types of disposal uses have different potential impacts on groundwater. *Construction* wastes are generally the least likely to threaten the groundwater; composting, sanitary land fills, and hazardous waste sites are progressively more threatening. The following standards shall be applied to the review and approval of these uses:

1. The depth of natural soil and type of soil shall be reviewed. Clay and composite liners shall be adequate to contain all wastes. Jefferson County may impose requirements for multiple liners, *drainage* systems, monitoring, and pumping systems to control *leachates*.
2. Monitoring wells may be required.
3. An emergency response plan must be reviewed and approved. The County may impose tipping fees to ensure that an adequate emergency response fund is available.

**D.** Disposal facilities involving radioactive materials are prohibited in all zone districts.

## Sec. 2.437 Heavy Industry

Heavy industrial uses are permitted as conditional uses in the Business Park (BP) district subject to the following restrictions:

- A. **Access.** The site shall have *access* from an *arterial street*.
- B. **Minimum Lot Size.** The minimum *lot* size is 5 acres.
- C. **Additional Bufferyards.** In addition to any required district *bufferyard*, the site shall have a 0.3 *opacity* bufferyard on all sides.
- D. **Community Impact Statement.** Approval of a *Community Impact Statement* by the Board of Zoning Appeals is required along with the conditional use permit.

## Sec. 2.438 Light Industry

On *farmsteads* in the AG and CS districts, light industry is permitted for processing agricultural products grown on the farmstead property. In addition to the product grown on the property, raw produce or product may be imported provided that some portion of the primary ingredient is grown on the



farmstead. Total employment in processing should be less than eight for year-round processing or 16 for seasonal processing.

### Sec. 2.439 Recycling or Storage

Recycling and storage uses have different *scales* with varying nuisance potentials. Small-scale recycling is permitted with few additional restrictions, while larger-scale uses must meet more restrictive standards, as follows:

- A. **Recycling Drop-Off.** This is a small local drop-off where materials are collected for shipment to a recycling facility. It may be permitted as a *conditional use* in the Business Park (BP) and General Commercial (GC) districts, and on *Farmsteads* in the Agricultural District. All such facilities shall meet the following:
1. It shall be located along and have direct *access* to a collector or arterial *roadway*.
  2. All recycling materials shall be enclosed by a solid perimeter wall at a height such that the recycling materials are not visible from any public *right-of-way* or adjacent property. The wall shall be designed to blend with the architecture of the *building*.
  3. No materials causing offensive odors or unsanitary conditions or having caustic, toxic, or otherwise potentially harmful chemicals or compounds shall be stored.
  4. All *principal structures* and *accessory structures* shall be located a minimum of 500 feet from residentially zoned or used properties and any public use or building.
  5. The total area devoted to this accessory use shall not exceed 500 square feet.
  6. If storage is located outside against the building, it shall be enclosed by a fence. If it is freestanding, it shall be designed to meet the standards of the waste or trash storage area in Section 2.302F, *Accessory Waste/Trash Storage*. It shall be oriented so that *landscaping* faces adjoining properties or streets.
- B. **Resource Recovery or Recycling Facility.** *Resource* recovery or recycling facilities are permitted by *conditional use* approval, subject to the following additional standards:
1. The use shall have direct access to a *collector roadway* that principally serves a Business Park (BP) district. The location shall be such that truck traffic will not have to be routed through residential streets.
  2. Loading areas shall be located:
    - a. Behind the building; or
    - b. On the side of the building, provided that such loading areas are completely screened from view from public rights-of-way.
  3. All recycling materials shall be enclosed by a solid perimeter wall at a height such that the recycling materials are not visible from any public *right-of-way* or adjacent property. The wall shall be designed to blend with the architecture of the *building*.
  4. No materials causing offensive odors or unsanitary conditions or having caustic, toxic, or otherwise potentially harmful chemicals or compounds shall be stored.
  5. All *principal structures* and *accessory structures* shall be located a minimum of 1,000 feet from residentially zoned or used properties and any public use or building.



## Sec. 2.440 Utilities, Regional

Regional utilities, as defined in Section 14.207, *Industrial Uses*, may be approved in the Business Park (BP) district following approval of a *Community Impact Statement* by the Board of Zoning Appeals.

## Sec. 2.441 Warehousing and Transportation

Warehousing and transportation, in support of Agricultural activities, is permitted in the Agricultural (AG) District. Such uses may also be permitted in Countryside (CS) when located on a farmstead.

## Sec. 2.442 Airports

All proposed airport development applications shall be submitted with a noise impact assessment. The assessment shall identify the initial and 20-year projected *Day Night Level (DNL)* noise contour lines beginning with 50 DNL and proceeding to 75 DNL. The following standards shall be met:

- A. **Airport Boundary.** The 20-year, 65 DNL line shall lie completely within airport property or Business Park (BP) zoned or used land that is subject to a noise easement.
- B. **55 DNL Limited Development Area.**
  - 1. No new residential development shall be permitted within the 55 DNL contour line. If for some reason a new residential use must be permitted, the *building* shall have insulation and windows that limit aircraft noise within the building to 50 DNL.
  - 2. If the 55 DNL area expands, a zoning and land use *plan* for all land within the 55 DNL noise contour shall be submitted. This plan shall indicate the feasibility of restricting such land to nonresidential uses. Airport *approval* shall be based on the ability to minimize noise intrusion into existing residential areas and to prohibit new residential development that would hinder future airport expansion.
  - 3. Once established, the County shall require all rezonings that would permit residential use within the 55 DNL noise contour to record the noise contours on the property. In addition, all developments and all individual *lot* surveys shall show the noise contours, with an accompanying warning indicating the County will not restrain future airport growth because of residential development inside the 55 DNL noise contour.
- C. **Site.** The minimum site area for this use shall be 200 acres.

## Sec. 2.443 Commercial Wireless Telecommunication Facilities and Towers

- A. **Land Development Plans.** Land development *plan* approval is required.
- B. **Fence.** A fence that is 8 feet in height shall enclose all freestanding wireless telecommunications towers, wireless telecommunications structures, and wireless telecommunications facilities.
- C. **Height and Setbacks.** These setbacks shall apply in all zones. Setbacks may be modified as part of the *Conditional Use* process when such process is required. These setbacks are for new towers only.
  - 1. Any wireless telecommunications facility shall be located at least the length of the height of such tower plus an additional 10 percent to any external *property line*. For towers with preformed collapse points, it shall be the length of the longest section plus 10 percent.
  - 2. All portions of wireless telecommunications towers, wireless telecommunications structures, and wireless telecommunications facilities (excluding the required fence and guy wires) shall be a minimum of 15 feet from all *property lines*.



3. No wireless telecommunications facility shall exceed 110 feet in height.

**D. Application Location Considerations.**

1. Applicants shall either be an FCC licensee, or have a binding rental commitment from a person who is an FCC licensee. Applications for wireless telecommunications facilities, antennas, towers, and structures shall include a needs assessment that shows areas of poor coverage that will be corrected by the tower or *antenna*. This study should identify the location, or group of locations, where a facility will meet the communications requirement.
2. Propagation studies or maps shall also be submitted by the applicant showing existing coverage from all constructed or approved sites in the vicinity, as well as coverage anticipated with the proposed site. Propagation studies shall be run at a series of progressively lower heights until the height where signal becomes ineffective. The location of the proposed facilities shall be approved or denied based on the following priorities:
  - a. First, if co-location on another tower that meets the requirements of this section is possible, then the proposed facility shall be so co-located.
  - b. Second, if co-location is not feasible and the facility can be located on an existing utility structure such as a water tower or power pole, then the proposed facility shall be so located.
  - c. Third, if the first and second priority locations are not feasible, then the facility shall be located on or in an existing taller structure such as a steeple where the *antenna* can be camouflaged to retain the appearance of the structure.
  - d. Fourth, if the first, second, and third priority locations are not feasible, then the facility shall be located on a site where the tower will largely be screened from view by existing vegetation on the site.
  - e. Fifth, if no other alternatives are available, then the proposed facility may be located on another location, with screening, camouflage, or concealment measures as approved by the Board of Zoning Appeals or Zoning Administrator.
3. No location shall be approved if another location of higher-order priority is available. For example, if a proposed location is fourth priority and a second priority location is a feasible alternative, then the application for the fourth priority site shall be denied.

**E. Other Application Requirements.**

1. The applicant must provide a West Virginia licensed engineer's certificate of structural integrity and safety of the proposed facility and the existing structure with the site plan.
2. For new structures/towers, applicant must prove that the support structure/tower is structurally designed to accept the co-location of at least two companies.
3. Applicants shall submit a balloon test and photo simulations to show what a proposed wireless facility would look like from various vantage points. The applicant shall be required to give two weeks notice to the public and the Board of Zoning Appeals indicating the date and time such tests will be conducted.



4. Applications shall also be accompanied by findings prepared by the applicant, indicating why a Distributed Antenna System (DAS) will not provide an adequate means of providing telecommunication services.
5. Applications shall be accompanied by a non-refundable application fee which may be used by the Board of Zoning Appeals or Zoning Administrator to employ an independent consultant to advise the review authority concerning the demonstration of need accompanying the application and the appropriateness of the proposed infrastructure in the context of the location or setting in which it is proposed.

## F. Other Provisions.

1. If no functioning *antenna* is attached to a tower for 24 consecutive months, then the *owner* of the property shall:
  - a. Dismantle the tower and all associated structures; and
  - b. Restore the site as nearly as possible to pre-existing site conditions.
2. The applicant shall submit documentary evidence of compliance with all Federal Aviation Administration and Federal Communications Commission requirements.
3. Any portions of wireless telecommunications towers, structures, and facilities that are below the tree line and located within 300 feet of the Appalachian Trail shall be camouflaged to minimize the visual impact of such when viewed from the Trail. The Planning Commission shall have final authority over the level of such camouflaging.
4. All towers shall be painted a non-contrasting gray or similar color, minimizing its visibility, unless otherwise required or requested by the Federal Communications Commission, Federal Aviation Administration, or the Jefferson County Board of Zoning Appeals (in the Conditional Use Permit).
5. No advertising is permitted anywhere on the wireless telecommunications antennas, wireless telecommunications equipment shelters, wireless telecommunications facilities, or wireless telecommunications towers.
6. The utilization of an existing structure does not require the creation of a separate lot.
7. Upon notification to the Department of Planning, operational, temporary test towers/antennas may be erected for a period not exceeding 30 days per parcel.
8. Wireless telecommunication towers, excepting *antennas*, based within 250 vertical feet of the Blue Ridge Line shall not rise above the average tree canopy within a 100-foot radius of the proposed site. The 250 vertical feet shall be measured by drawing a perpendicular line from the site to the Blue Ridge Line.

G. **Certificate of Appropriateness.** A Certificate of Appropriateness shall be issued by the approval authority (Board of Zoning Appeals or the Zoning Administrator), regardless of location, indicating the proposed telecommunication facility has utilized a concealment or camouflage technique which is appropriate to the local landscape setting.

## Sec. 2.444 Utilities, Community

A. **RS and VC Districts.** In the Residential (RS) and Village Conservation (VC) districts, the *applicant* shall demonstrate that the use cannot be located in a district in which it is a *permitted*



*use* and has to be located in one of the above districts for service reasons. A *bufferyard* shall be provided on all sides with an increased *opacity* of 0.3.

- B. **TS District.** In the Townscape (TS) district, the *applicant* shall demonstrate that the use cannot be located in a district in which it is a *permitted use* and has to be located in one of the above districts for service reasons. The design shall be compatible with a more developed or urban environment. Masonry walls, rather than fences, shall be used to screen the facility. The street faces shall be improved to provide an expansion of the *sidewalk* areas with *landscaping* and seating to make the utility a useful part of the streetscape.

### Sec. 2.445 Training Facilities and Corporate & Government Back Office Operational Facilities

Training Facilities and Corporate & Government Back Office operational facilities shall be permitted in the Agricultural (AG) and Countryside (CS) districts, in accordance with the following standards:

#### A. Character.

1. The office shall have the character of a *farm* or Country Inn.
2. In design, the office may be a *conversion* or enlargement of an existing structure or new *construction*.
  - a. If new *construction*, the design shall be such that it fits into the historic context of the buildings in the area, or designed to blend into the landscape so as to have minimal visual impact.
  - b. If an enlargement, it shall be consistent with the character of the existing building and historic details restored to be true to the original design.
  - c. Adaptive re-use of an existing historic structure(s) shall be encouraged for back office use but shall be subject to approval by the Jefferson County Historic Landmarks Commission as a means of preserving a historic structure. Incentives may be available for this purpose. See section 5.305, *Renovation Incentives*.
  - d. If more than one building is used to support the back office use, it shall be designed to support the character of a farmscape in the appearance of a barn or *farm* outbuilding.

- B. **Size.** The minimum site size for such use shall be not less than 10 acres. No single structure devoted to back office facility use may exceed 7,000 square feet and the total square footage of all structures used to support the use may not exceed 20,000 square feet unless approved as a *conditional use*.

- C. **Setback.** All buildings and associated structures including parking areas shall be set back a minimum distance of 100 feet from adjacent agricultural and/or residential uses.

### Sec. 2.446 Museums

*Museums* shall be permitted as a *limited use* in the Agricultural (AG), Countryside (CS), Townscape (TS), General Commercial (GC), Business Park (BP) and Village Conservation (VC) districts subject to the following standards:



- A. *Museums* shall not be located on sites under ten (10) acres in land area, except and unless the Museum represents the adaptive use of a building or structure having public significance by reason of its architecture, or historical significance by reason of former use or *occupancy*.
- B. The transportation system upon which the *museum* location is dependent shall not sustain a reduction in *Level of Service (LOS)* on adjacent highways that service the museum
- C. Adequate parking shall be provided to support employees, workers, and visitors who may be present at the *museum* at any time. Each proposed museum shall provide a record of, or estimate of visitation anticipated as a basis for estimating demand for parking facilities. At a minimum a museum shall have one (1) *parking space* for each two-hundred and fifty (250) square feet of *gross floor area* devoted to exhibits and curator functions.

## Sec. 2.447 Salvage Yards

*Salvage yards* shall be subject to compliance with the provisions of the Jefferson County Salvage Yard Ordinance.

## Division 2.500 Temporary Use Standards

---

This Division sets out the standards for approval of temporary uses. A temporary use *permit* shall be required in all cases.

- A. **General Standards.** All temporary uses shall be reviewed against the following criteria:
  - 1. **Traffic circulation.** The temporary uses shall have adequate sight distances for entrance and exit. Adequate turn lanes shall be provided, or police control retained to move traffic in and out of the use safely. Adequate capacity must be available on the street to handle the anticipated flow of traffic.
  - 2. **Public Convenience and Litter Control.**
    - a. Adequate on-site restroom facilities may be required to serve the persons expected.
    - b. Adequate waste containers are required.
    - c. A written guarantee shall be required that all litter generated by the event shall be removed at no expense to the County. This shall include adjoining public rights-of-way.
  - 3. **Signs.** The size and location of signs shall be approved by the Zoning Administrator at the same time as the temporary use. Sign standards are set out in Article 9, *Sign Regulations*.
  - 4. **Compliance with This Ordinance.** The use shall meet the other requirements of this ordinance for *setback* and parking and receives approval of proposed signs from the Zoning Administrator.
- B. **Imposition of Conditions.** The Zoning Administrator may establish additional conditions as necessary to ensure land use compatibility or minimize potential adverse impacts on neighboring properties, public streets, or the County. These may include, but are not limited to, the following:
  - 1. Modification or restrictions on hours of operation or duration of the event.
  - 2. Posting of a performance bond to ensure clean up and removal of refuse and signage.



3. Arrangements satisfactory to the County for the provision of special or extraordinary services or equipment, such as traffic control or security personnel, or equipment that is needed to ensure safe operation of the use or event. This may also include liability insurance.
4. The Zoning Administrator may refuse to issue a *permit* if the event is too large to be safe for the site, neighborhood, street, or other infrastructure, or may place limits on attendance to ensure it can be properly managed.

### Sec. 2.501 Commercial Outdoor Sales

Commercial outdoor sales may be held in the parking lot or *pervious* areas of the site such as a lawn. Such sales may be either special events or regular sales. Each is regulated differently.

- A. **Outdoor Sales.** The location must have adequate parking to accept the added customer traffic.
- B. **Special Sales Events.** A permitted retail use is permitted truck load sales, tent sales, or other special sales, provided:
  1. In no event shall more than five percent of the parking lot be used for temporary commercial outdoor sales. The applicant shall demonstrate that the area of parking not occupied by the sales area is sufficient for the normal parking activity and that generated by the sales event.
  2. If the site has a conforming bufferyard, the sale need have no additional setback. If there is no bufferyard, then it shall have a minimum 50-foot *setback* from any *lot* line.
- C. **Cross-Reference.** Section 2.302G, *Outdoor Display of Merchandise*, applies to permanent outdoor sales, including garden centers that are only open for part of the year.

### Sec. 2.502 Concrete/Asphalt Batch Plant

Concrete/asphalt batch plants may be located in the Business Park (BP), Agricultural District (AG) or Countryside (CS) District as a temporary use and shall meet the following standards:

- A. **Location.** The facility must be for a project within the County. No such use shall be located within 700 feet of a residentially used property.
- B. **Surety.**
  1. The *applicant* shall provide a written agreement and advanced *surety* in the amount of 125 percent of the estimated site *restoration* cost to ensure complete site restoration upon the facility's dismantling or should the *permit* be revoked.
  2. The applicant shall provide a written agreement and advance *surety* in the amount of 125 percent of the estimated road *restoration*/replacement costs along anticipated principal truck routes. This amount will be determined by the County Commission or their designated appointee. This *surety* ensures roads will be reconstructed to their original or better condition as the use concludes or if the *permit* is revoked.
- C. **Access.** If deemed necessary by the Board of Zoning Appeals, the property *access* shall be controlled by special traffic markings and/or signalization paid for by the applicant. Such instances warranting such traffic improvements may include locations at busy intersections or other extensive interference with primary traffic from trucks. Prior to receiving a permit, the



applicant must provide written communication from the Board of Zoning Appeals designated appointee indicating adequate provisions have been made.

- D. **Sanitation and Waste Disposal.** The West Virginia Department of Health, or another applicable department or agency, shall approve the sanitary facilities and means of waste disposal. Prior to receiving a permit, the applicant must provide written communication from the applicable department or agency indicating adequate provisions have been made.
- E. **Utilities.** The County's inspector shall approve all electric and lighting facilities. Prior to receiving a permit, the applicant must provide written communication from the Inspector indicating adequate provisions have been made.
- F. **Noise.** Maximum noise levels may be established. The levels shall be based on the distance of the site to adjoining residential uses and any history of complaints about similar uses.

## Sec. 2.503 Contractor's Office

- A. **Removal.** All such offices shall be removed before *occupancy* is permitted or, in residential developments, after the last house is framed.
- B. **Signage.** The contractor's office may have a *wall sign* attached to it that is not greater than 6 square feet in *sign area*.

## Sec. 2.504 Farm Stand

In addition to meeting any West Virginia Department of Highways (WVDOH) requirements, Zoning Administrator shall approve the curb cut for the farm stand and shall ensure that there is adequate parking.

## Sec. 2.505 Garage or Yard Sale

Garage or yard sales are permitted between the hours of 6 a.m. and 6 p.m.

## Sec. 2.506 Model Homes or Sales Offices

The use of model homes and/or a project sales office is permitted with the following limitations:

- A. **Establishment.** Prior to the completion of the roads, they may be established and occupied for sales and promotional use only.
- B. **Utilities.** Water supply and sanitary waste disposal are required, as required by the district standards.
- C. **Removal.** The sales office structure shall be removed within 15 days of completion of the first model home, which shall then function as the sales office.

## Sec. 2.507 Public Interest and Special Events

Special events shall meet the following standards:

- A. **Frequency and Duration.** The special event shall be limited to no more than four successive days.
- B. **Access Control.** If deemed necessary by the Sheriff's Department, property *access* shall be controlled by special traffic personnel paid for by the applicant. Prior to receiving a permit, the applicant must provide written communication from the Sheriff's Department indicating adequate provisions have been made.



- C. **Sanitation.** The County, or another applicable department or agency, shall approve the sanitary provisions. Prior to receiving a permit, the applicant must provide written communication from the applicable department or agency indicating adequate provisions have been made.
- D. **Utilities and Lighting.** The County's inspector shall approve all electric and lighting facilities. Prior to receiving a permit, the applicant must provide written communication from the Inspector indicating adequate provisions have been made.
- E. **Noise.** Maximum noise levels may be established. The levels shall be based on the distance of the site to adjoining residential uses and any history of complaints about similar events.
- F. **Surety.** The applicant shall provide surety for complete site *restoration* upon the event's conclusion or should the *permit* be revoked.
- G. **Exemptions.** Special events in stadiums, County parks and properties, and fairgrounds shall be regulated by the County and are not limited by this section.

### Sec. 2.508 Sidewalk Sales and Farmers' Markets

- A. **Sidewalk Sales.** Individual businesses may hold *sidewalk* sales within the Townscape (TS) and General Commercial (GC) districts provided:
  - 1. There shall be four feet of unobstructed space on the *sidewalk* during the sales event.
  - 2. No more than 15% of the available parking area may be used for sales associated with the event.
- B. **Farmers' Market.** A County-designated farmers' market may be established by the County and a *permit* issued after review by the Zoning Administrator or designee.

### Sec. 2.509 Truck Load Sales

Truck load sales shall only be permitted when hosted by a *shopping center* as a center-wide event and shall meet the following standards:

- A. **Site Area.** The minimum site area for *shopping centers* use is three acres.
- B. **Sale Area.** No more than two percent of the required parking area shall be used.
- C. **Setback.** No such use shall be closer than 150 feet from any public road *frontage*.
- D. **Frequency and Duration.** Each shopping center is permitted five truckload sales per year. Each sale shall terminate after 72 hours from initiation.

### Division 2.600 Right to Farm

---

This Division, in furtherance of article nineteen, chapter nineteen of the Code of West Virginia, sets forth County policy limiting the circumstances under which agricultural operations may be deemed to constitute a nuisance, trespass, or other interference with the reasonable use and enjoyment of land. This Division also establishes the means by which mandatory disclosures, to land purchasers and users will be required to help new residents in rural areas of Jefferson County better understand the impact of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas.



## Sec. 2.601 Policy and Purpose

- A. It is the declared policy of the County to preserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural products. It is the purpose of this Division to reduce the loss to the County of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to constitute a nuisance, trespass, or other interference with the reasonable use and enjoyment of land, including, but not limited to, smoke, odors, flies, dust, noise, chemicals, or vibration, provided that nothing in this chapter shall in any way restrict or impede the authority of the state and of the County to protect the public health, safety, and welfare.
- B. It is in the public interest to promote a more clear understanding between agricultural operations and nonagricultural residential neighbors concerning the normal inconveniences of agricultural operations which follow generally accepted agricultural practices and do not endanger public health or safety.
- C. This Division is not intended to and shall not be construed as in any way modifying or abridging local, state, or federal laws relating to health, safety, zoning, licensing requirements, environmental standards (including those standards which relate to air and water quality), and the like.
- D. An additional purpose of this Division is to promote a good-neighbor policy by advising purchasers and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or use. These potential problems include, but are not limited to, noises, odors, dust, flies, chemicals, smoke, vibration, and hours of operation that may accompany agricultural operations. It is intended that, through mandatory disclosures, purchasers and users will better understand the impact of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas. However, this Division shall be effective regardless of whether disclosure was made in accordance with Section 2.605, *Right to Farm Notice and Real Estate Transfer Disclosure*.

## Sec. 2.602 Definitions

As used in this Division, the following terms shall have the meanings indicated:

**AGRICULTURAL LAND** -- All real property within the boundaries of Jefferson County that is lying in the Agriculture and Conservation Districts, or that is lying in other zoning districts if carried on the tax rolls of the State Department of Assessments and Taxation as agricultural or that is lying in other zoning districts if it has been used as an agricultural operation continuously for one year or more.

**AGRICULTURAL OPERATION** -- Includes, but is not limited to, the cultivation and tillage of the soil; composting; production, harvesting, and processing of agricultural crops; raising poultry; production of eggs; production of milk and dairy products; production of livestock, including pasturage; production of bees and their products; production of fish; production of fruit, vegetables, and other horticultural crops; production of aquatic plants; aquaculture; production of timber and any commercial agricultural procedure performed as incident to or in conjunction with such operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market; and usage of land in furtherance of educational and social goals, such as 4-H, Future Farmers of America, and the like.

**GENERALLY ACCEPTED AGRICULTURAL PRACTICES** -- Those methods used in connection with agricultural operations which do not violate applicable federal, state, or local laws or public health, safety, and welfare and which are generally accepted agricultural practices in the agriculture industry. "Generally accepted agricultural practices" includes practices which are recognized as best management



practices and those methods which are authorized by various governmental agencies, bureaus, and departments, such as the Jefferson County Cooperative Extension Service, the Jefferson County Natural Resource Conservation Service, and the like. If no generally accepted agricultural practice exists or there is no method authorized by those agencies mentioned herein which governs a practice, the practice is presumed to be a generally accepted agricultural practice.

**Sec. 2.603 Limitation of Actions**

- A. A private action may not be sustained with respect to an agricultural operation conducted on agricultural land on the grounds that the agricultural operation interferes or has interfered with the use or enjoyment of property, whether public or private, if the agricultural operation was, at the time the interference is alleged to arise, conducted substantially in accordance with generally accepted agricultural practices.
- B. Notwithstanding any provision of this section, no action alleging that an agricultural operation has interfered with the reasonable use or enjoyment of real property or personal well-being shall be maintained if the plaintiff has not sought and obtained a final judgment of the agricultural reconciliation committee, as defined in Section 2.604, *Resolution of Disputes and Procedure for Complaints – Investigation and Declaration*.

**Sec. 2.604 Resolution of Disputes and Procedure for Complaints - Investigation and Declaration**

- A. Nuisances which affect public health.
  - 1. Complaints. A person may complain to the Jefferson County Health Department to declare that a nuisance which affects public health exists.
  - 2. Investigations. The Health Department may investigate all complaints of nuisance received against an agricultural operation. When a previous complaint involving the same condition resulted in a determination by the Health Department that a nuisance condition did not exist, the Health Department may investigate the complaint, but the Health Department may also determine not to investigate such a complaint. The Jefferson County Health Department may initiate any investigation without citizen complaint.
  - 3. Declaration of nuisance. If the Health Department determines that a nuisance exists, the Health Department may declare the existence of a nuisance. In determining whether a nuisance condition exists in connection with an agricultural operation, the Health Department shall apply the criteria provided in Chapter 18 of the WV Public Health Laws. Further, the Health Department may consider the professional opinion of the Jefferson County Cooperative Extension Service of the West Virginia University, or other qualified experts in the relevant field in determining whether the agricultural operation being investigated is conducted in accordance with generally accepted agricultural management practices.
- B. Resolution of disputes regarding agricultural operations.
  - 1. Should any matter arise regarding an interference with the use or enjoyment of property from agricultural operations conducted on agricultural land, the parties to that matter shall submit the matter to the Agricultural Development Officer first contacting the Agricultural Development Office for Jefferson County, 150 Burr Boulevard, Suite 200, Kearneysville, West Virginia



2. There is hereby established the Jefferson County Agricultural Reconciliation Committee, which shall arbitrate and mediate disputes involving agricultural operations conducted on agricultural lands and issue opinions on whether such agricultural operations are conducted in a manner consistent with generally accepted agricultural management practices.
3. The Agricultural Reconciliation Committee shall be composed of five persons. The Jefferson County Board of County Commissioners shall appoint the members of the Agricultural Reconciliation Committee, one member shall be from a municipality within the County, one member shall be a member of a homeowners' association and a resident of Jefferson County, one member shall be a resident of Jefferson County who is not engaged or otherwise has a pecuniary interest in the commercial practice of agriculture, and 2 members who shall be members of the Agriculture Preservation Task Force as set forth herein. The Agriculture Preservation Task Force shall select from among its members on a case-by-case basis, 2 people with competence in the subject matter of the dispute at issue, whose names shall be submitted to the Board of County Commissioners and upon the Board's approval shall serve as members of the Agricultural Reconciliation Committee.
4. The Agricultural Reconciliation Committee will conduct its proceedings in an informal manner, and the rules of evidence shall not apply. The Agricultural Reconciliation Committee has the power, but is not required hereunder, to hold hearings, to compel testimony under oath and the production of documents. In each case before it, the Agricultural Reconciliation Committee shall issue orders settling or otherwise resolving controversies arising out of agricultural operations, including but not limited to the invasion of property and personal rights by agricultural operations conducted on agricultural land. Proceedings shall be conducted in accordance with the duly adopted Rules of Procedure for the Jefferson County Agricultural Reconciliation Committee which may be amended from time to time. The Reconciliation Committee will render a written decision within 30 *days* of the final proceedings and may extend the decision deadline for one additional 30 day period.
5. Orders of the Agricultural Reconciliation Committee shall be binding on the parties as a matter of law, but their enforcement shall be suspended by operation of law if, within 30 *days* of the date of the Committee's judgment, a party appeals such order to the Circuit Court for Jefferson County. *Appeal* from orders of the Committee shall be by a trial de novo.
6. If the Agricultural Reconciliation Committee or a Court finds that the conduct of a party in bringing or maintaining an action in connection with an agricultural operation conducted on agricultural land was in bad faith or without substantial justification, the Reconciliation Committee or Court may require that party to pay to the *owner* of the agricultural operation (or any other party opponent) the costs of the proceeding and the reasonable expenses, including reasonable attorney's fees, incurred by that party in defending against the action.

## **Sec. 2.605 Right to Farm Notice and Real Estate Transfer Disclosure**

- A. Upon any transfer of real property by any means, the transferor shall provide the purchaser or *lessee* a statement specifically advising the purchaser or *lessee* of the existence of this Division which shall be in substantially the form set forth in Appendix A at the end of this Division.



- B. Any person who violates any provision of this section is guilty of an infraction punishable by a civil penalty not exceeding \$100.00. Failure to comply with any provision of this Right to Farm Notice and Real Estate Transfer Disclosure section shall not prevent the recording of any document, or the title to real property or any mortgage or deed of trust made in good faith or for value, and it shall not affect the application of this Division.

**APPENDIX A**

**REAL ESTATE TRANSFER DISCLOSURE STATEMENT**

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY LOCATED IN THE COUNTY OF JEFFERSON, STATE OF WEST VIRGINIA, DESCRIBED AS \_\_\_\_\_ . THIS STATEMENT IS A DISCLOSURE OF THE EXISTENCE OF THE JEFFERSON COUNTY RIGHT TO FARM ORDINANCE IN COMPLIANCE WITH DIVISION 2.600 OF THE ZONING ORDINANCE OF JEFFERSON COUNTY (RIGHT TO FARM).

**SELLER'S INFORMATION**

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

AGRICULTURAL OPERATIONS (as defined in the Jefferson County Zoning Ordinance, Division 2.600, *Right to Farm*) LAWFULLY EXIST IN ALL ZONING DISTRICTS WITHIN THE COUNTY. You may be subject to inconveniences or discomforts arising from such operations, including but not limited to noise, odors, fumes, dust, flies, the operation of machinery of any kind during any 24-hour period (including aircraft), vibration, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, and pesticides. Jefferson County has determined that inconveniences or discomforts associated with such agricultural operations shall not be considered to be an interference with reasonable use and enjoyment of land, if such operations are conducted in accordance with generally accepted agricultural management practices. Jefferson County has established a reconciliation committee to assist in the resolution of disputes which might arise between persons in this county regarding whether agricultural operations conducted on agricultural lands are causing an interference with the reasonable use and enjoyment of land or personal well being and whether those operations are being conducted in accordance with generally accepted agricultural practices. If you have any questions concerning this policy or the reconciliation committee, please contact the Jefferson County Department of Planning for additional information.

Seller \_\_\_\_\_ Date: \_\_\_\_\_

Seller \_\_\_\_\_ Date: \_\_\_\_\_

**I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT:**

Buyer \_\_\_\_\_ Date: \_\_\_\_\_

Buyer \_\_\_\_\_ Date: \_\_\_\_\_

**IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.**



**APPENDIX B**

**JEFFERSON COUNTY RIGHT TO FARM NOTICE**

Jefferson County recognizes and supports the right to farm agricultural lands in a manner consistent with generally accepted agricultural management practices. Residents of property on or near agricultural land should be prepared to accept the inconveniences or discomforts associated with agricultural operations, including but not limited to noise, odors, flies, fumes, dust, the operation of machinery of any kind during any 24-hour period (including aircraft), vibration, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. Jefferson County has determined that inconveniences or discomforts associated with such agricultural operations shall not be considered to be an interference with reasonable use and enjoyment of land, if such operations are conducted in accordance with generally accepted agricultural practices. Jefferson County has established an agricultural reconciliation committee to assist in the resolution of disputes which might arise between persons in this county regarding whether agricultural operations conducted on agricultural lands are causing an interference with the reasonable use and enjoyment of land or personal well being and whether those operations are being conducted in accordance with generally accepted agricultural practices. If you have any questions concerning this policy or the reconciliation committee, please contact the Department of Planning.



## Article 3 District and Bulk Standards

### Division 3.100 Purpose

---

The purpose of this Article is to establish the *intensity* standards for land uses within each *zoning district*, providing for the maximum allowable intensities of use. The district standards are designed to provide a specific community character, consistent with the Jefferson County *Comprehensive Plan*. Intensity for residential uses is governed by density and an *open space ratio (OSR)*, which represents the portion of a site being developed that must remain in *open space*.

- A. **Nonresidential Uses.** Governing the *intensity* of nonresidential uses is a *floor area ratio (FAR)* and a *landscape surface ratio (LSR)*. Additional use standards include a minimum site area and required utilities specific to each district. These standards vary by zoning district, community character, and, within a district, by land use.
- B. **Residential Uses.** *Bulk standards* govern the provisions for residential lots based on housing type and by zoning district. These standards include densities, minimum *lot area*, *lot width*, setback, and minimum *open space ratios (OSR)*. These standards vary by zoning district, and by form of development within each district. Maximum heights and residential mix requirements are also identified.

### Division 3.200 District Performance Standards

---

#### Sec. 3.201 District Standards

The district standards applicable to all residential uses is provided in Table 3.201A, *Residential Use District Standards*, which includes provisions for density, *intensity*, utility requirements, and minimum site area. Provided in Table 3.201B, *Nonresidential Use District Standards*, are the applicable standards for nonresidential uses, which include provisions for intensity, utility requirements, and maximum height. Information relating to these standards and their abbreviations is as follows:

- A. **Use District and Development Types.** The first column of both tables reflects the zoning districts (shaded in grey) and *permitted uses* and intensities for various forms of development within each district.
- B. **Minimum Open Space Ratio (OSR) / Landscaped Surface Ratio (LSR).** The second column reflects the minimum *open space* (Table 3.201A, *Residential Use District Standards*) or minimum landscaped surface ratio (Table 3.201B, *Nonresidential Use District Standards*) required on a site. The ratio is calculated as a percentage of the site area, e.g. 0.25 indicates 25 percent of a site must be open space (residential) or *landscaped area* (nonresidential).
- C. **Density.** The third and fourth columns of Table 3.201A, *Residential Use District Standards*, reflect the maximum allowable *dwelling units* per acre. The specifications of *maximum gross density* and *maximum net density* are for the purpose of calculating site capacity (Division 4.300, *Site Capacity Calculations*).
- D. **Maximum Floor Area Ratio.** The third and fourth columns of Table 3.201B, *Nonresidential Use District Standards*, reflect the maximum allowable *intensity* of nonresidential uses, which is measured by total floor area and controlled by a *floor area ratio (FAR)*. The specifications of maximum gross FAR and maximum net FAR are for the purpose of calculating site capacity (Division 4.200, *Resource Protection Standards*).



- E. **Required Utilities.** The fifth column of both tables indicates whether public or community utilities are required or on-site water supply and/or sanitary waste disposal are permitted.
- F. **Minimum Site Area.** The last column of Table 3.201A, *Residential Use District Standards* indicates the area needed for eligibility of the applicable development type.
- G. **Residential Use District Standards.**

Table 3.201A Residential Use District Standards						
District and Development Type <i>Average lot size</i>	Min. OSR	Density		Required Utilities	Minimum Site Area	
		Max. Gross	Max. Net			
<b>Agricultural (AG)</b>						
Farmstead 40 ac.	0.00	0.025	0.025	on site	40 ac.	
Equestrian 5 ac.	0.50	0.090	0.183	on site	35 ac.	
Cluster 1 ac.	0.80	0.111	0.833	on site	18 ac.	
Planned 15,000 sf.	0.90	0.191	2.134	community	80 ac.	
Hamlet 6,000 sf.	0.92	0.300	4.461	community	150 ac.	
*Hamlet transit access 4,800 sf	0.55	2.50	9.000	community	40 ac.	
<b>Countryside (CS)</b>						
Farmstead 40 ac.	0.00	0.025	0.025	on site	40 ac.	
Single-family 5 ac.	0.00	0.183	0.183	on site	5 ac.	
Equestrian 3 ac.	0.30	0.211	0.301	on site	20 ac.	
Cluster 1 ac.	0.70	0.250	0.833	on site	20 ac.	
Planned 20,000 sf.	0.80	0.300	1.653	community	60 ac.	
Hamlet 6,000 sf.	0.90	0.462	4.461	community	100 ac.	
*Hamlet transit access 4,800 sf avg.	0.40	3.00	9.000	community	25 ac.	
<b>Estate (ES)</b>						
Single-Family 2 ac.	0.30	0.397	0.411	on site	2 ac.	
Cluster 20,000 sf.	0.60	0.661	1.653	community/public	6 ac.	
Planned 15,000 sf.	0.65	0.925	2.500	public	20 ac.	
<b>Residential (RS)</b>						
Single-family 15,000 sf.	0.15	1.96	2.13	public	15,000 sf.	
Cluster 10,000 sf.	0.30	2.25	2.90	public	5 ac.	
Planned 6,000 sf.	0.40	3.50	5.00	public	10 ac.	
<b>Townscape (TS)</b>						
Single-family 5,000 sf.	0.20	4.25	5.54	public	5,000 sf.	
Planned	0.25	5.00	9.00	public	2 ac.	
Multi-family	0.25	7.00	14.00	public	3 ac.	
<b>Village (VC)</b>						
Single-family 15,000 sf.	0.00	2.00	3.00	on site/public	15,000 sf.	
Cluster 8,000 sf.	0.20	3.00	4.5	public	2 ac.	
Affordable housing (see Article 5, Incentives) provides bonuses that exceed these values.						
*Density for Hamlet Transit Access may be used only for all portions of properties located within a 2,000 foot radius of the transit access facility or station and parking area.						



H. Nonresidential Use District Standards.

Table 3.201B Nonresidential Use District Standards					
District and Development Type	Min. LSR	FAR		Required Utilities	Minimum Site Area
		Max. Gross	Max. Net		
<b>Agricultural (AG)</b>					
Agriculture	0.95	N/A	N/A	on site	10 ac.
All other permitted uses	0.90	0.045	0.446	on site	10 ac.
<b>Countryside (CS)</b>					
Agriculture	0.95	N/A	N/A	on site	10 ac.
All permitted nonresidential uses	0.80	0.089	0.446	on site	10 ac.
<b>Estate (ES)</b>					
All permitted nonresidential uses	0.60	0.179	0.446	community	2 ac.
<b>Residential (RS)</b>					
Retail	0.40	0.197	0.329	community	20,000 sf.
Offices and service	0.50	0.237	0.457	community	20,000 sf.
All other permitted nonresidential uses	0.40	0.223	0.446	community	20,000 sf.
<b>General Commercial (GC)</b>					
Retail	0.15	0.280	0.329	community	10,000 sf.
Office and lodging	0.30	0.395	0.564	community	10,000 sf.
Services	0.15	0.379	0.446	community	10,000 sf.
All other permitted nonresidential uses	0.15	0.379	0.446	community	20,000 sf.
<b>Business Park (BP)</b>					
Office and lodging	0.30	0.395	0.564	community	40,000 sf.
Industrial	0.20	0.519	0.649	community	40,000 sf.
Warehouse	0.20	0.604	0.705	community	80,000 sf.
All other permitted nonresidential uses	0.30	0.265	0.379	community	40,000 sf.
<b>Townscape (TS)</b>					
Commercial retail	0.05	0.374	0.394	community	5,000 sf.
Office and lodging	0.15	0.411	0.484	community	20,000 sf.
Services	0.15	0.397	0.467	community	5,000 sf.
All other permitted nonresidential uses	0.25	12.000	0.592	community	10,000 sf.
<b>Village (VC)</b>					
Retail	0.05	0.30	0.35	on site/public	15,000 sf.
Services & other nonresidential uses	0.10	0.35	0.40	on site/public	15,000 sf.

**Sec. 3.202 Bonuses**

The zoning districts in Table 3.201A, *Residential Use District Standards*, include incentives to achieve the preferred character of the community. For instance, density incentives are incorporated to encourage *single-family cluster* and *planned development* over conventional single-family development. In addition, within the Residential (RS) district, there are incentives for transitioning between districts and for affordable housing (refer to Division 5.200, *Affordable Housing*, for the provisions for affordable housing and small family dwellings).

**Sec. 3.203 Single Lot Subdivision in Certain Circumstances**

Notwithstanding the other provisions of this Ordinance, a subdivision of land creating one (1) new lot may be permitted under the following circumstances:

- A. Agricultural (AG) Zone District. Within the Agricultural (AG) Zone District, any *parcel* existing prior to the effective date of this ordinance which is between 10 and 18 acres in size shall be



permitted to subdivide a single lot, provided that no new *lot* so created is less than 2 acres in land area.

- B. **Countryside (CS) Zone District.** Within the Countryside (CS) Zone District, any *parcel* existing prior to the effective date of this ordinance which is between 7 and 12 acres in size shall be permitted to subdivide a single lot, provided that no new *lot* so created is less than 3 acres in land area.

Such single lots so created may, but need not be, provided to accommodate parent to child transfers in ownership. The provisions of Section 24.104, *Minor and Rural Subdivision and Site Development*, of the Subdivision and Land Development Regulations, which establish the process for review and approval of Minor and Rural Subdivision, shall govern the process for review and approval of any single *lot* subdivision.

## Sec. 3.204 Nonresidential Use Scale Regulations

- A. **General.** All nonresidential uses are limited in *scale* either by the provisions of Article 2, *Land Uses*, or by the standards of this Section. Some uses, such as an institutional use within a residential district, are regulated to ensure a scale that is consistent with the street design capacity. For other uses, the scale of building is essential to its character, such as the scale of a nonresidential use within the Residential (RS) District that abuts or is in close proximity to a residential use.

- B. **RS District Limitations.** In the Residential (RS) district, *scale* or size of buildings is limited as follows:

1. Single use buildings shall be limited to a maximum of 5,000 square feet, except as in B4 below.
2. A *shopping center* or building designed for multiple tenants with individual exterior *access* shall be limited to 9,000 square feet.
3. A multi-tenant building with common entrances shall be limited to 7,500 square feet.
4. A drug store or hardware store shall be limited to 8,000 square feet.
5. The total land area devoted to all nonresidential uses in any development proposed in a Residential (RS) district shall not exceed 5% of the total site area.

- C. **VC District Limitations.** In the Village Conservation (VC) district, *scale* or size of buildings is limited as follows:

1. Single use buildings or a general store shall be limited to a maximum of 5,000 square feet.
2. A *Mixed use* building designed for multiple tenants with individual exterior access shall be limited to 8,000 square feet.
3. A multi-tenant building with common entrances shall be limited to 6,000 square feet

- D. **Institutional Uses.** The *scale* of institutional uses in the Residential (RS) and Townscape (TS) districts is controlled by the type of street from which the property has *primary access*. The scale is measured by use, so that whether the use is a single building or a campus of two or more buildings, the maximum scale is for the whole use, not for individual buildings.



1. **Local Streets.** The maximum building *scale* is 6,000 square feet of floor area on the ground floor, with a maximum for all floors of 9,000 square feet.
  2. **Collector or Minor Arterial Streets.** For these two-lane roads, the maximum building *scale* is 20,000 square feet of floor area on the ground floor with a maximum for all floors of 36,000 square feet.
  3. **Major Arterials and Four-Lane Roads.** The maximum *scale* is 60,000 square feet of floor area on all floors.
  4. **Villages.** The maximum building *scale* of institutional uses in the Village Conservation (VC) district shall not exceed 4,000 square feet of floor area on the ground floor, with a maximum for all floors of 7,000 square feet, regardless of the type of street from which the property may take access.
- E. **Recreational, Indoor Uses.** The *scale* of indoor recreational uses in residential districts is controlled by the type of road to which the property has *primary access*. The scale is measured by use, so that whether the use is a single building or a campus of two or more buildings, the maximum scale is for the whole use, not for individual buildings.
1. **Local Streets.** The maximum building *scale* is 8,000 square feet of floor area for all floors.
  2. **Collector or Minor Arterial Streets.** For these two-lane roads, the maximum building *scale* is 15,000 square feet of floor area on all floors.
  3. **Major Arterials and Four-Lane Roads.** The maximum *scale* in a residential district is 30,000 square feet of floor area on all floors.

### Division 3.300 Bulk Regulations

#### Sec. 3.301 Housing Palette for Residential Development

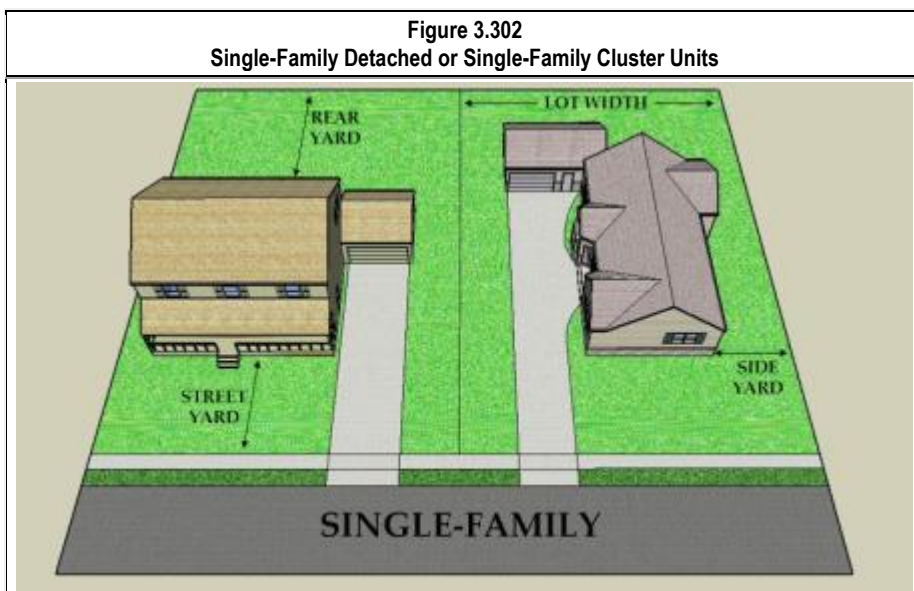
The housing palette provides for a range of housing types and sizes allowed by right in planned development. Each housing type within the palette includes the required dimensions, such as minimum *lot area*, *lot width*, and *setbacks*; maximum *height*; and maximum *floor area ratio (FAR)*. Section 3.302, *Single-Family Detached*, covers single-family and single-family *cluster* units. All housing types are permitted in the *planned development* use, as indicated in Table 3.301, *Housing Palette*.

Housing Form	Housing Types
Single-family	Single-family, Lot Line, Village, Patio
Two-family	Twin, Duplex
Attached single-family	Atrium, Weak Link, Townhouse, Roof-Deck Townhouse, Duplex Townhouse
Multiple-family	Multiplex, Apartments



**Sec. 3.302 Single-Family Detached**

This housing type consists of a single-family detached residence located on a privately-owned *lot* with private yards on each side of the unit, as shown in Figure 3.302, *Single-Family Detached or Single-Family Cluster Units*. Provided in Table 3.302A, *Single-Family Lot and Building Standards*, are the dimensional standards for single-family detached units. Parcels located in any district that were established prior to the effective date of this Ordinance and fail to meet *lot* size and dimension standards contained in this Ordinance shall be governed by yard requirements (setbacks) for principal and *accessory structures* that were in force prior to the effective date of this ordinance. The dimensional criteria for single-family *cluster* units shall be governed by Table 3.302B, *Cluster Single-Family Lot and Building Standards*.





	Minimum					Maximum
	Lot Area	Lot Width (feet)	Street Yard (feet)	Side Yard/total (feet)	Rear Yard (feet)	Height (feet)
Agricultural (AG)	10 ac.	500	100	100	60	35/100 <sup>1</sup>
Countryside (CS)	5 ac.	250	50	60	60	35
Estate (ES)	2 ac.	170	50	40	50	35
Residential (RS)	15,000 sf.	90	30	18	30	35
Townscape (TS)	5,000 sf.	50	12	5/12	20	35
Village Conservation (VC)	10,000 sf.	70	20	8/18	30	35
Village Conservation (VC) Shenandoah Junction	6200 sf.	50	12	5/12	20	35
Neighborhood Conservation (NC40)	40,000 sf.	100	40	15/30	50	35
Neighborhood Conservation (NC20)	20,000 sf.	80	20	8/16	12	35
Neighborhood Conservation (NC10)	10,000 sf.	80	20	8/16	12	35
Neighborhood Conservation (NC6)	6,000 sf.	60	25	5/10	20	35
Neighborhood Conservation (NCM)	20,000 sf.	80	20	8/16	12	35
Mobile Manufactured Home	Lot and building standards are the same as Townscape (TS) and Residential (RS) standards depending on zone district location. This does not include mobile manufactured home parks or subdivisions.					
<sup>1</sup> The second height refers to agricultural structures.						

Cluster - Zoning District	Minimum						Maximum	
	Lot Area	Lot Width (feet)	Percent in Width Type	Street Yard (feet)	Side Yard single/total (feet)	Rear Yard (feet) <sup>1</sup>	Height (feet)	Floor Area Ratio
Agricultural (AG)	5 ac. <sup>3</sup>	200	N/A	50	30/50	50	35	0.10
	1 ac. <sup>4</sup>	150	N/A	40	15/40	50	35	0.15
Countryside (CS)	3 ac. <sup>3</sup>	180	N/A	50	30/50	50	35	0.12
	1 ac. <sup>4</sup>	150	N/A	50	15/40	50	35	0.15
Estate (ES)	20,000	100	N/A	30	12/30	40	35	0.20
Residential (RS)	11,250	90	remainder	20 <sup>1</sup> /30 <sup>2</sup>	8/20	25	35	0.33
	10,000	80	50					0.32
	8,750	70	25					0.25
Village Conservation (VC)	10,000	70	N/A	20	8/18	20		0.35
	8,000	60	N/A	20	8/18	20	35	0.30

<sup>1</sup> Where the lot is accessed from an alley, the garage shall have an 18-foot setback from the alley if it loads directly to the alley or five feet if it is a side load garage.

<sup>2</sup> The first number is the house setback; the second is the setback for a front load garage. Remainder: Since there will be rounding of the numbers to whole dwellings, it is likely that this will be less than 25 percent.

<sup>3</sup> Equestrian Development

<sup>4</sup> Cluster Development



Sec. 3.303 Planned District Housing Types

A. **Lot-Line and Village House.** These two single-family housing types have different yard configurations than the typical single-family unit. The *lot-line house* is positioned on one lot line without any setback. The *building* separation is narrower in the front to provide a large private side yard. The village house is set much closer to the street. The *lot* sizes duplicate lot sizes for single-family (see Figure 3.303A, *Lot-Line and Village Houses*, and Table 3.303A, *Lot-Line and Village House Lot and Building Standards*).

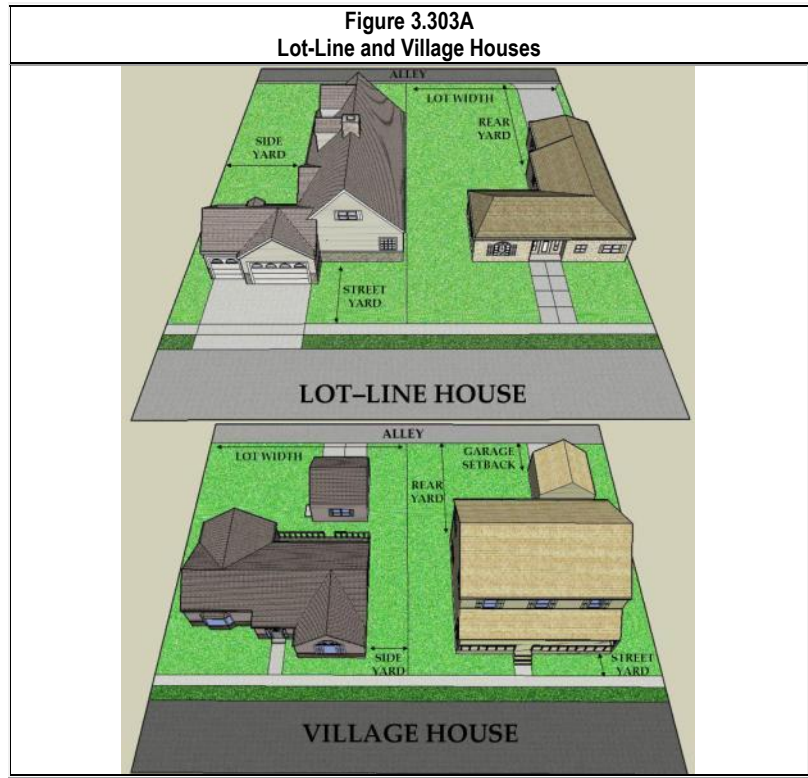


Figure 3.303A  
Lot-Line and Village Houses

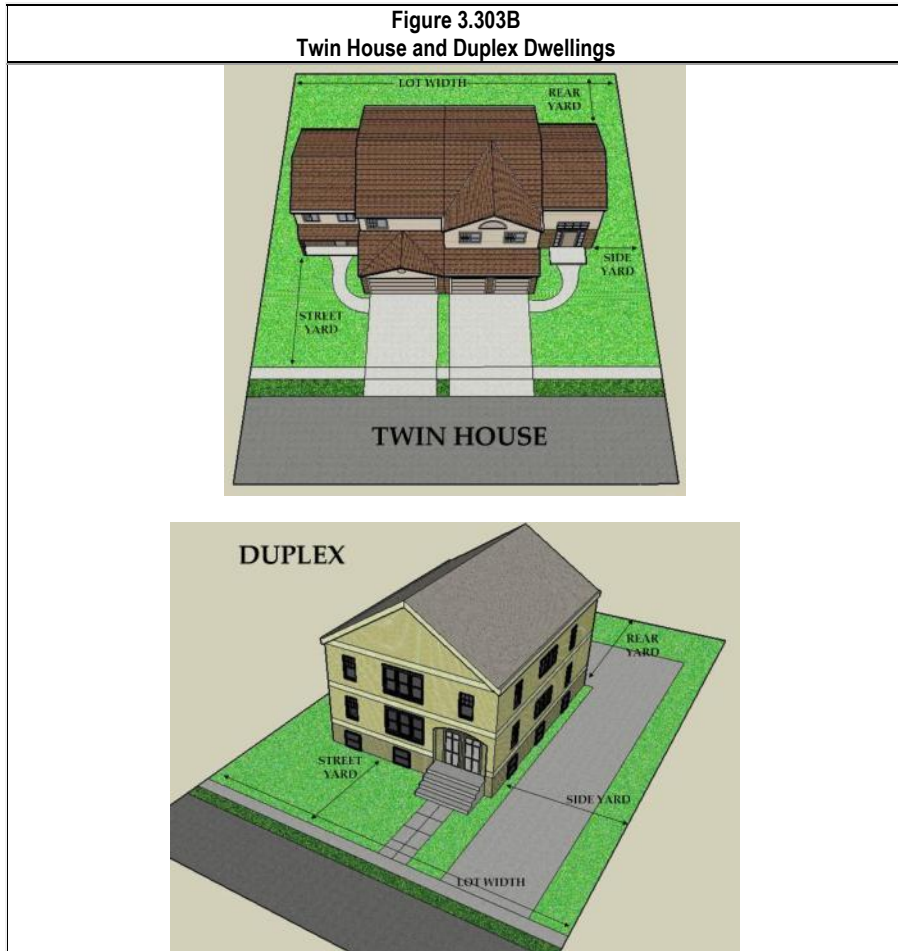
Table 3.303A Lot-Line and Village House Lot and Building Standards								
Development Type - Zoning District	Minimum						Maximum	
	Lot Area (sf.)	Lot Width (feet)	Percent in Width Type	Street Yard House/Garage (feet)	Side Yard single/total (feet)	Rear Yard (feet)	Height (feet)	Floor Area Ratio
Lot-Line	6,600	66	remainder	15/25	10/28 <sup>1</sup>	30	35	0.3
	6,000	60	50					0.3
	5,400	54	25					0.26
Village House	5,450	60	remainder	10/25	5/15	25	35	0.38
	5,000	55	50					0.38
	4,540	50	25					0.32

<sup>1</sup>The lot-line house is set on one property line with a zero setback, and the *building* is intended to be L-shaped. The two side yard numbers are the minimum setback, the first being the street face of the building. This portion of the *building* must be at least 25 percent of the building's depth. The second number is the setback of the remainder of the unit, which provides a private side yard.

Remainder: Since there will be rounding of the numbers to whole dwellings, it is likely that this will be less than 25 percent.



- B. **Twin Houses and Duplexes.** These are two-family dwellings. The *twin house* may be divided into lots for individual fee simple ownership, while the *duplex* is two units on a single *lot* with units on different floors (See Figure 3.303B, *Twin House and Duplex Dwellings*, and Table 3.303B, *Twin House and Duplex Lot and Building Standards*).

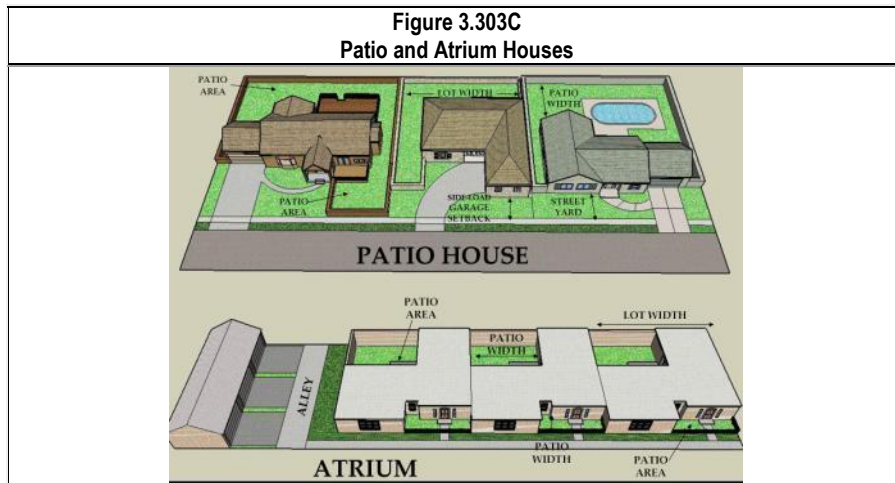


**Table 3.303B  
Twin House and Duplex Lot and Building Standards**

Standard	Twin			Duplex
	9,600	9,000	8,400	8,000
Minimum Site Area per Building	9,600	9,000	8,400	8,000
Minimum Lot Area per Dwelling Unit	4,800	4,500	4,200	4,000
Minimum Percentage in Width Type	remainder	50	25	N/A
Minimum Frontage	48	45	42	70
Minimum Street Yard	20	20	20	20
Minimum Side Yard single/total	5/N/A	5/N/A	5/N/A	8/22
Minimum Rear Yard	25	25	25	25
Maximum Floor Area Ratio	0.42	0.42	0.4	0.4
Maximum Height	32	32	32	32
Remainder: Since there will be rounding of the numbers to whole dwellings, it is likely that this will be less than 25 percent.				



C. **Patio and Atrium Houses.** These are both units whose lots are walled. The *patio house* can be single-family, similar to a *lot-line*, or in a two-family configuration. Only the *rear yard* is fenced on the patio house, preserving a narrow street yard. The *atrium* can be considered a form of one-story attached housing, and a street yard is required (see Figure 3.303C, *Patio and Atrium Houses*, and Table 3.303C, *Patio and Atrium Lot and Building Standards*).

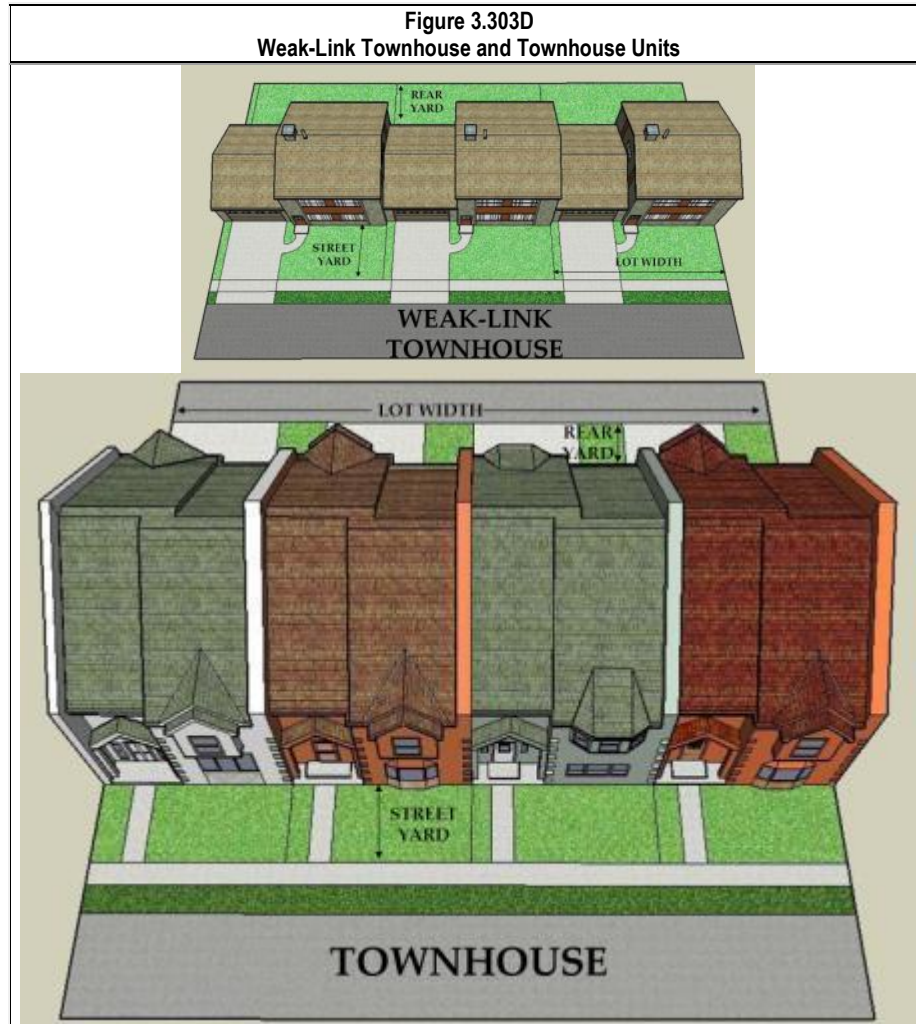


**Table 3.303C  
Patio and Atrium Lot and Building Standards**

Standards	<i>Patio House</i>			<i>Atrium House</i>		
Minimum Site Area per Group	25,000			16,500		
Minimum Lot Area per Dwelling Unit	5,450	5,000	4,640	3,600	3,300	3,000
Minimum Frontage	60	55	50	60	55	50
Minimum Lot Width Type	remainder	50	25	remainder	50	25
Minimum Street Yard dwelling/garage <sup>1</sup>	12/20			5/20		
Minimum Building Separation	8			0		
Minimum Patio/Atrium Area	1080 <sup>2</sup> /48	1,000 <sup>2</sup> /48	930 <sup>2</sup> /48	880/48	800/48	720/48
Minimum Patio/Atrium Width	22/6	20/6	20/6	26/6	24/5	22/5
Maximum Floor Area Ratio	0.56	0.56	0.5	0.7	0.7	0.65
Maximum Building Coverage	0.48	0.48	0.5	0.7	0.7	0.65
Maximum Height	28			18		

<sup>1</sup> Setback from right-of-way to garage front when facing street.  
<sup>2</sup> The patio area is a rectangle having minimum area and width that is a basic yard, but does not count all the yard area. This ensures a useable main space.  
 Remainder: Since there will be rounding of the numbers to whole dwellings, it is likely that this will be less than 25 percent.

D. **Townhouse and Weak-Link Townhouse.** These are both attached units where the units are lined up in a row with units sharing side walls. The weak-link townhouse has both a one- and two-story portion of each unit and is, thus, wider than the traditional townhouse (see Figure 3.303D, *Weak-Link Townhouse and Townhouse Units*, and Table 3.303D, *Weak-Link Townhouse and Townhouse Lot and Building Standards*).



**Table 3.303D  
Weak-Link Townhouse and Townhouse Lot and Buildings Standards**

Standard	Weak-link Townhouse			Townhouse		
Minimum Site Area per Building	10,800			7,200		
Minimum Lot Area per Dwelling Unit <sup>1</sup>	3,900	3,600	3,300	2,600	2,400	2,200
Minimum Frontage <sup>1</sup>	39	36	33	26	24	20
Minimum Lot Width Type	remainder	50	25	remainder	50	25
Minimum Street Yard	15			12		
Minimum Building Separation <sup>2</sup>	10			10		
Minimum Rear Yard <sup>3</sup>	30			30		
Maximum Floor Area Ratio	0.77	0.88	0.72	1.2	1.2	1.1
Maximum Building Coverage	0.55			0.5		
Maximum Height	35			35		

<sup>1</sup> These values assume that the garage access is from an *alley* to the rear. If the access is from the street, add 20 percent to lot area and width.

<sup>2</sup> The building separation may be common open space if linked to other common areas.

<sup>3</sup> A rear load garage may extend into the rear yard, provided the maximum building coverage is unchanged and the yard is half the width of the lot.

Remainder: Since there will be rounding of the numbers to whole dwellings, it is likely that this will be less than 25 percent.



E. **Roof Deck and Duplex Townhouses.** The *roof deck townhouse* is a townhouse that has its yard on its roof. It is ideal for areas where a view is available from the roof. The unit is more compact than normal townhouses. The *duplex townhouses* contain two units on a single townhouse lot, one over the other (see Figure 3.303E, *Roof Deck and Duplex Townhouses*, and Table 3.303E, *Roof Deck and Duplex Townhouse Lot and Building Standards*).

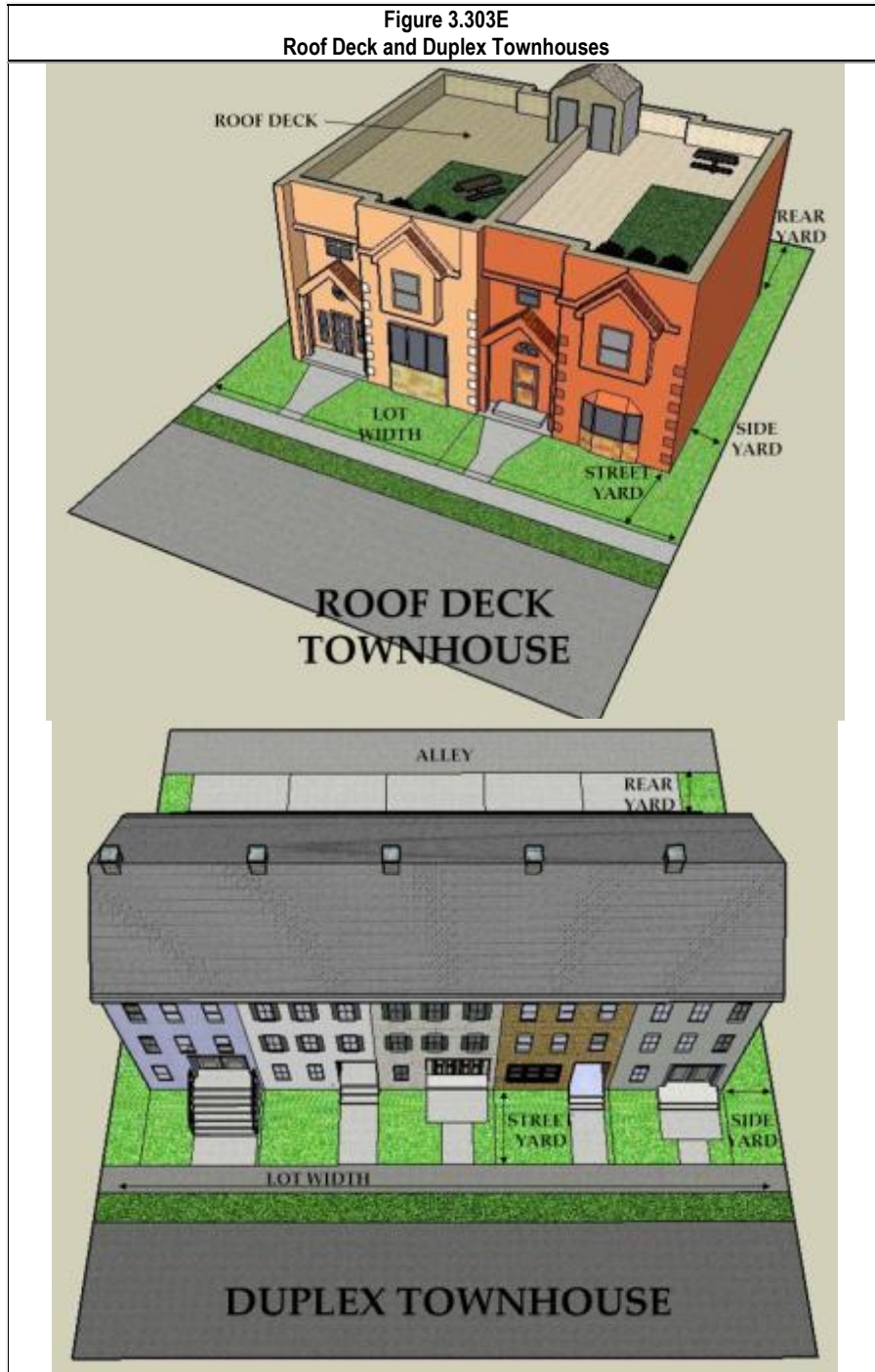
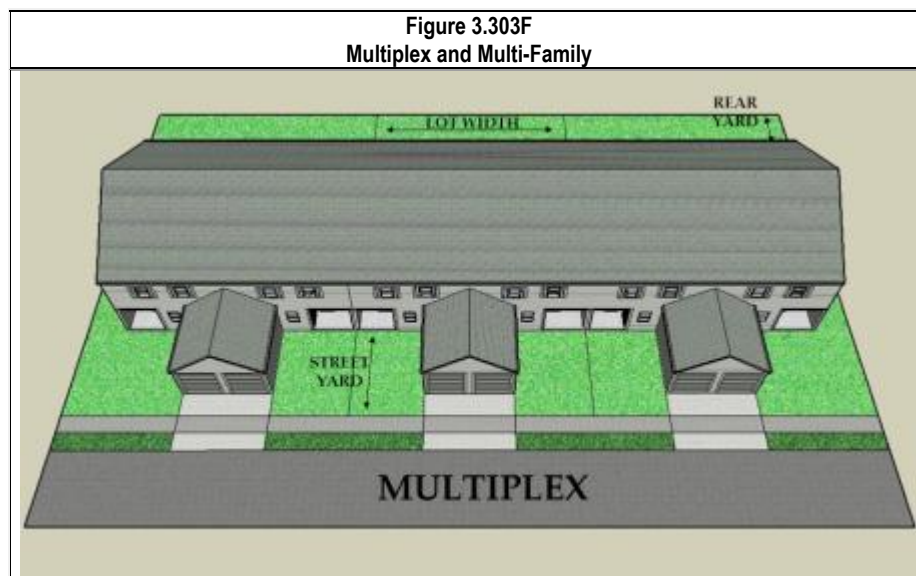


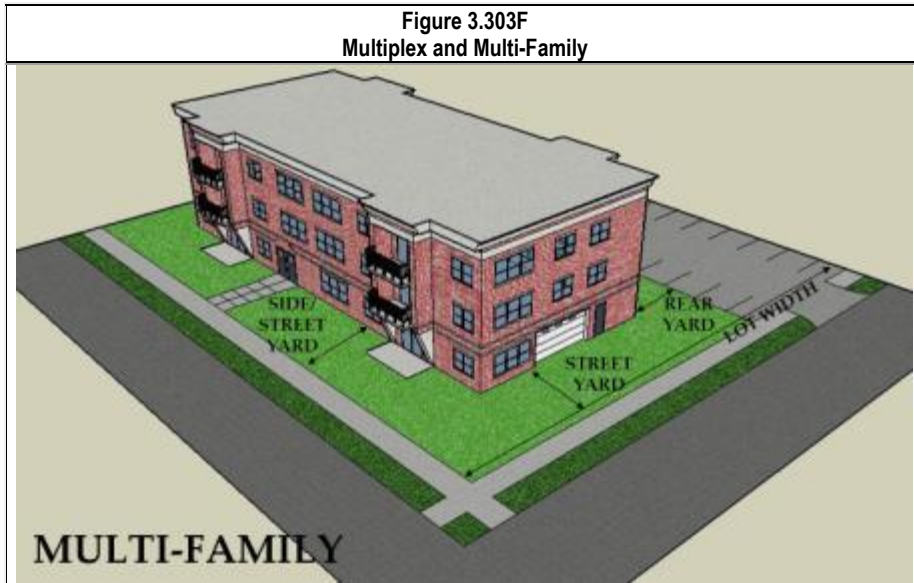


Table 3.303E Roof Deck and Duplex Townhouse Lot and Building Standards							
Standard		Roof Deck Townhouse <sup>1</sup>			Duplex Townhouse <sup>2</sup>		
Minimum Site Area per Building		8,000			11,200		
Minimum Lot Area	per Dwelling Unit	2,180	2,000	1,800	16,000	15,000	14,000
	per Lot	2,180	2,000	1,800	32,000	30,000	28,000
Minimum Frontage		24	22	20	32	30	28
Minimum Lot Width Type		remainder	50	25	remainder	50	25
Minimum Street Yard		12			20		
Minimum Building Separation <sup>3</sup>		15			18		
Minimum Rear Yard		20			20		
Maximum Floor Area Ratio		1.5	1.5	1.25	1.8	1.8	1.5
Maximum Building Coverage		0.64			0.6		
Maximum Height		40			45		

<sup>1</sup> These units shall have their garages taking alley access.  
<sup>2</sup> The duplex townhouse has two units per townhouse lot; thus, the difference between per dwelling unit and per lot.  
<sup>3</sup> The building separation may be common open space if linked to other common areas.  
 Remainder: Since there will be rounding of the numbers to whole dwellings, it is likely that this will be less than 25 percent.

F. **Multiplex and Multi-Family.** These are both multi-family unit types. The *multiplex* has many attributes of a *townhouse*, except that units may be second floor or ground floor units. Multiplex also describes homes that have been reconfigured as *apartments* or small apartments designed to look like large, single-family units. The multi-family is normally apartments or condominiums of two to five stories (see Figure 3.303F, *Multiplex and Multi-Family*, and Table 3.303F, *Multiplex and Multi-Family Lot and Building Standards*)



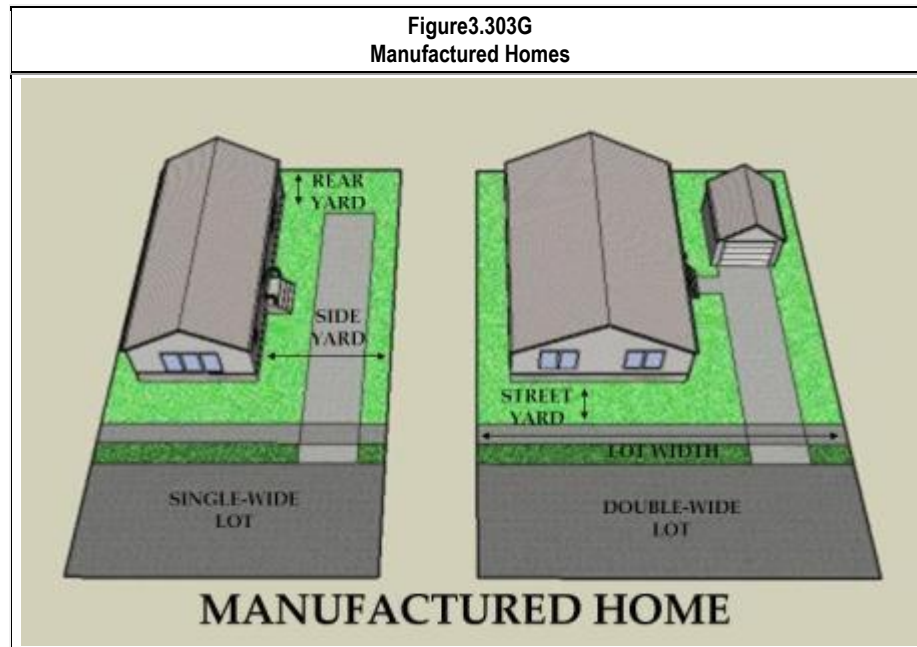


**Table 3.303F  
Multiplex and Multi-Family Lot and Building Standards**

Standard	Multiplex	Multi-Family
Minimum Site Area per Building	8,000	15,000
Minimum Lot Area per Dwelling Unit	2,000	1,800
Minimum Frontage	80	100
Minimum Street Yard	20	20
Minimum Parking Setback from Curb	Not permitted in Street Yard	12/15 <sup>1</sup>
Minimum Building Separation	16	30
Minimum Rear Yard	15	20
Minimum Parking Setback	12	12
Maximum Height	35	60

<sup>1</sup> The 15 feet refers to setback from public street rights-of-way. Where private internal circulation is used, 12 feet is permissible.

**G. Mobile Manufactured Homes.** Mobile manufactured homes are placed on lots in *mobile manufactured home parks* or *mobile manufactured home park subdivisions* where the lots meet standards that depend on whether the unit is of single-wide or double-wide *construction* (see Figure 3.303G, *Manufactured Homes*).

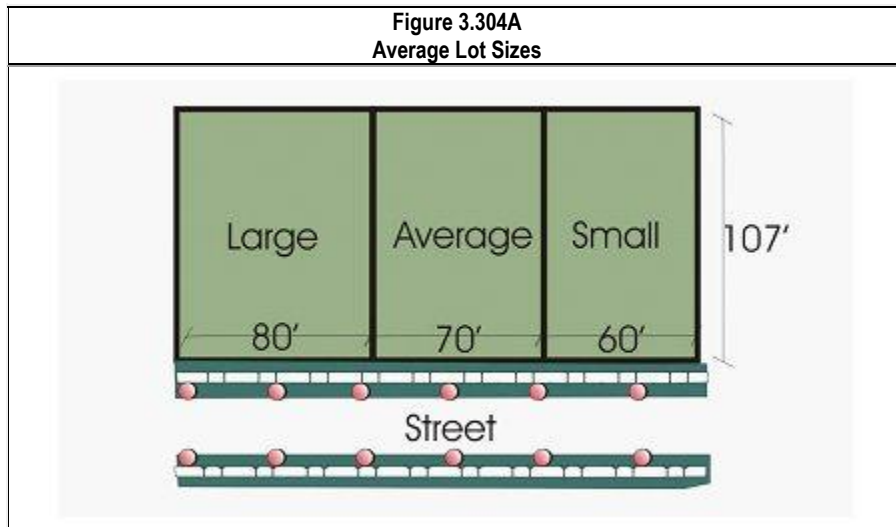


**Table 3.303G  
Manufactured Home Site Lot and Building Standards**

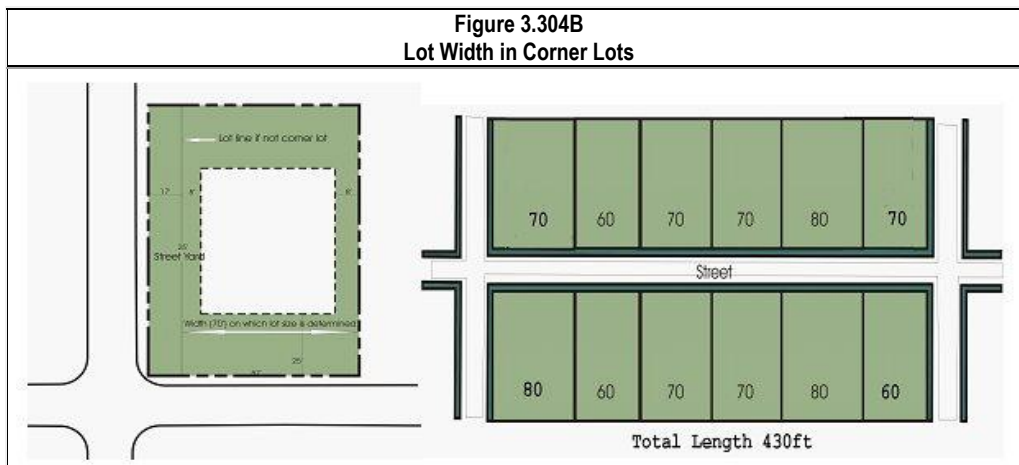
Zoning District	Minimum					Maximum
	Lot Area	Lot Width (feet)	Street Yard (feet)	Side Yard single/total (feet)	Rear Yard (feet)	Height (feet)
Single-Wide Unit	4,300	45	15	8/20	10	20
Double-Wide Unit	5,700	60	15	8/20	10	20

**Sec. 3.304 Averaged Lots**

Subsections A through E of Section 3.303, *Planned District Housing Types*, use what is called averaged lots; that is, there are three *lot* sizes listed for the *lot area* group or housing type (*see* Figure 3.304A, *Average Lot Sizes*). They are based on an average lot for the group or type on which the density is calculated. They are listed in order: large, average, and small lot area. The controlling element is not the lot area, but *lot width*. The average lot area and width result in a depth of the lot that achieves the lot area. In developing the large and small lot, width was varied and depth maintained. The following rules govern the use of averaged lots:



- A. **Large lots.** In the row called "minimum lot width type" in Tables 3.303A through 3.303E, a percent of the units of each type is provided for the smallest and average widths. The large lot size is always listed as "remainder" because the percentages are minimums. The number of each size type must meet the minimum. Frequently, the calculation will require more than the minimum percentage. Thus, the largest will have to be the remaining percentage.
- B. **Corner lots.** *Lot width*, rather than area, is controlling to determine the percentage of lots in each category. Lot width is measured at the *setback* line for the street yard on which the house fronts. In determining the width of the lot, the effect of corner lots with two street yards shall be taken into account. The increase in lot width due to the second street yard, the difference between the street yard, and the *side yard* shall be determined. This value shall be subtracted from the width of the corner lot to determine the size category in which the lot falls (see Figure 3.304B, *Lot Width in Corner Lots*).
- C. **Calculations Example.** If the development is going to have 51 dwellings, a minimum of 50 percent (25.5) will have to be rounded up to 26 units. Similarly, the 25 percent smaller unit type will be 13 units. Thus, there will only be 12 of the larger units ( $51 - 26 - 13 = 12$ ).





**Sec. 3.305 Residential Mix Standards**

All *planned developments* shall provide a mix of *dwelling unit* types. Table 3.305, *Dwelling Unit Mix Requirements*, indicates the number of dwelling unit types required for developments of a given size. When a development is to be phased, the maximum residential development capacity of the site shall be used for calculating the required mix. When a *parcel* is broken up over time and developed as planned developments, the County may impose a mix based on the original property size to ensure an adequate mix of housing types.

Table 3.305 Dwelling Unit Mix Requirements			
Project Size	Minimum Number of Types	Maximum Percentage Any Type	Minimum Percentage Any Type*
Less than 40	1	100	25
40 -- 99	2	70	20
100 or more	3	60	16
* This applies even if there is more than the minimum number of types.			



**Sec. 3.306 Non-Residential Bulk Requirements**

Non-residential bulk requirements include minimum *lot area* and yard requirements. For some districts and uses, there is a build-to line to which the fronts of the *buildings* must be built.

Table 3.306 Non-Residential Bulk Requirements							
District and Use	Minimum						
	Lot Area	Lot Width (ft.)	Build-to Line (ft.)	Front Yard (ft.)	Side Yard (ft.)	Rear Yard (ft.)	Height Limit (ft) *
<b>Agricultural (AG)</b>							
Agriculture	10 ac.	400	N/A	50	50	50	35/60*
All Other Uses	10 ac.	400	N/A	150	100	300	35
<b>Countryside (CS)</b>							
Agriculture	10 ac.	400	N/A	50	50	50	35
All Other Uses	10 ac.	400	N/A	150	100	300	35
<b>Residential (RS)</b>							
All Non-Residential Uses	1 ac.	125	N/A	50	20	50	35
<b>Townscape (TS)</b>							
All Non-Residential Uses	20,000 sf.	100	N/A	25	10	30	35
<b>General Commercial (GC)</b>							
Commercial Retail	1 ac.	125	15	N/A	8	10	35
Office / Lodging	1 ac.	125	20	N/A	10	10	35
Services	1 ac.	125	20	N/A	10	10	35
All Other Uses	20,000 sf.	100	15	N/A	10	10	35
<b>Business Park (BP)</b>							
Office / Lodging	1 ac.	125	N/A	25	15	30	35
All Other Uses	20,000 sf.	100	15	N/A	10	10	35
<b>Neighborhood Conservation (NC)</b>							
All Non-Residential Uses	1 ac.	100	N/A	40	30	40	35
<b>Village Conservation (VC)</b>							
All Non-Residential Uses	15,000sf.	80	N/A	20	8	30	35

\* Second figure shown refers to Height Limit refers to agricultural structures

**Sec. 3.307 Lot Area Exemption**

In any district where a single-family *dwelling* is permitted, a dwelling may be erected on any lot or *parcel* of record which was created prior to the effective of this ordinance, despite the fact that the lot or parcel does not meet the minimum area or dimensional requirements of this ordinance, provided:

- A. The lot or parcel was lawfully created in compliance with the applicable subdivision regulations at the time the lot was created; and
- B. Health Department regulations can be met;

This provision shall apply to all lots, *mobile manufactured home parks* and *mobile manufactured home subdivisions* that existed prior to the effective date of this ordinance.

**Division 3.400 Exception Yard and Height Standards**

The following exceptions are established to provide relief from the zone regulations, where applicable:

- A. **Height Exceptions.** The following structures, or parts thereof, are exempt from the height limitations set forth in the several zones, except as limited by any height restriction imposed by



the Federal Aviation Administration for safe operation airport. Where lower heights are required, they shall be met.

1. Public utility poles, towers, and wires.
  2. Radio and television antennae and towers.
  3. Municipal water tanks and standpipes.
  4. Hospitals.
  5. Agricultural structures such as barns silos, windmills, and grain elevators and grain storage facilities provided their height does not exceed twice the distance from the nearest property line.
  6. Architectural projections such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys.
  7. Special structures such as gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, fire towers, and substations.
- B. Yard Exceptions.** The following structures shall be allowed to project into or be constructed in any required yard or beyond the *building setback* line as indicated in this Section. On lots with a minimum requirement of 15,000 square feet or less, none of these intrusions shall be permitted to come closer than three feet from any *property line*; nor should any intrusion be such that it forces trespass onto the adjoining property. Some intrusions need maintenance or are part of an accessway. In no case should the result of a permitted intrusion be to require a person using the accessway or maintaining the *building* or structure to encroach upon the adjoining property.
1. Bay windows, not to exceed two feet. This intrusion is permitted into front and *rear yards*, but into *side yards* only where the lots are greater than 10,000 square feet.
  2. Chimneys, not to exceed two feet.
  3. Clothesline posts.
  4. *Driveways* for side load or rear garages may be in side setbacks with the following limitations: Lots greater than one acre, 12 feet; lots 15,000 square feet to one acre, five feet; smaller lots, no closer than two feet to side *property lines*. Drives may intrude into front or *rear yards* as required to provide access.
  5. Fences, walls, and hedges in accordance with Section 2.201, *Permitted Uses*.
  6. *Awnings* and *canopies* not to exceed three feet.
  7. Mailboxes no closer than one foot from the *sidewalk*. In no case shall the mailbox reduce the width of the sidewalk below that required by the Americans with Disabilities Act.
  8. Signs in accordance with Article 9, *Sign Regulations*.
  9. Overhanging roof, eave, gutter, cornice, or other architectural feature not to exceed three feet. Where greater overhangs are desired architecturally, the *building* shall be moved back so as to intrude no further into the yard.
  10. Planting boxes not to exceed 18 inches.
  11. Recreational equipment for the residential unit only to within five feet.



12. *Sidewalks* to entries.
  13. Steps or stairs to a *dwelling*, non-enclosed, not to exceed four feet.
  14. Non-enclosed porches, decks, or terraces no more than two feet above *grade* at their highest point, not more than one-half the depth of the *rear yard* or 50 feet, except for lots less than 15,000 square feet. On lots less than 15,000 square feet, the maximum width of a deck shall be 20 feet, provided no such deck shall be closer than five feet to any *property line*.
  15. Non-enclosed porches, decks, and terraces more than two feet in height may intrude into the *rear yard*, but not front or *side yards*. The maximum intrusion into the *rear yard* shall be one-third the depth of the rear yard. For lots less than 15,000 square feet, the deck shall not be closer to a *property line* than five feet plus two feet for every foot the deck's maximum height exceeds two feet.
  16. Trees, shrubs, flowers, and other plants, or landscape features in accordance with the vision requirements of Article 8, *Landscaping and Tree Protection*.
  17. Sheds. See Section 2.201, *Permitted Uses*.
  18. Side load front garages for lots less than 15,000 square feet shall be permitted to extend to within five feet of the *property line* or 67 percent of *required street yard*, whichever is more. Where side load front garages are used, the *developer* shall be required to install one plant unit to screen two-car garages or two *plant units* for garages of three or more spaces, in addition to any other required *landscaping*.
  19. Alley *access* garages may be within two feet of the alley for side load garages or 15 feet for garages where one backs out into the alley.
  20. Garbage disposal equipment.
  21. Recreational equipment for the common use of all development residents shall be located on lots or out-lots in accordance with the approved final *landscape plan*. The Planning Commission may permit locations closer than the *setback* when the location is adjudged safe as landscaped so as not to detract from the appearance of the development due to its reduced setback.
  22. Gate houses or security posts shall be permitted to the street *property line* or within the street *right-of-way* for center island locations, provided the County Engineer, or designee, approves the location as suitable for safety, or utilities in that location.
- C. **Easements.** Some lots will have utility, *drainage*, or other *easements*. No intrusion structures shall be permitted into such *easements* except where *driveway* access needs to cross the easement and lots are so narrow that the house size would have to be reduced if the easement were left unimproved.
- D. **Utility Exceptions.** In accordance with the Statutes of the State of West Virginia, nothing in this Ordinance shall impose restrictions on the type or location of any poles, towers, wires, cables, conduits, vaults, laterals, or any other similar distributing equipment of a *public utility*.



## Article 4 Environmental Protection

### Division 4.100 Purpose

---

- A. **General.** This Division establishes the basic performance standards to protect natural resources by preserving a portion of them in *open space*, as indicated in Division 4.200, *Resource Protection Standards*. The term "natural resources" refers to a number of natural resources, as indicated in Table 4.200, *Resource Protection Standards*. Division 4.300, *Site Capacity Calculations*, requires that all developments are obliged to conduct a site capacity analysis, which regulates the maximum development *intensity* based on district standards and unique site conditions. A site capacity analysis is conducted to ensure that public health, safety, and welfare are protected by preventing *development* from exceeding the site's capacity to sustain it. Additional standards to protect individual resources are provided in Division 4.400, *Open Space Regulations*. The *open space* may be used only in accordance with Division 4.500, *Additional Resource Standards*. Division 4.700, *General Environmental Standards*, addresses environmental emissions that individual uses may create. It sets standards to ensure that the community is protected from nuisances that could be created by a use.
- B. **Resource Protection Incentives and Flexibility.** *Resource* protection is important because the *construction* of *buildings*, parking, or other uses can be hazardous to life and property. The threat to public health and property may be on site or off site and may include impacts such as air, groundwater, and/or surface water pollution. Resource protection also provides property value enhancement, and general quality of life benefits for residents and businesses. The clustering permitted in Tables 3.201A, *Residential Use District Standards*, and 3.201B, *Nonresidential Use District Standards*, ensures that protection can more easily be accomplished by the *developer* without adverse impacts on the site's *development* potential.
- C. **Surface and Groundwater Quality and Quantity Benefits and Flood Damage Prevention.**
1. A particular focus of this Division is to improve water quality and enhance opportunities for groundwater recharge to maintain adequate water supply in the County. The *open space* requirement provides for *wildlife habitat*, reduces run-off, and increases groundwater recharge. The open space and natural vegetation requirements are the least expensive and most effective ways of enhancing the quality of water in streams. The protection of trees benefits the local microclimate in summer and winter. *Open space* along stream corridors also provides for movement of many animal species.
  2. Protection of Flood plains and standards for *development* in Floodplains, *Floodways*, and Flood-Prone areas shall be consistent the requirements and provisions of the Jefferson County Flood Plain Management Ordinance. This Ordinance does not imply that land outside the areas of special *flood* hazards or uses permitted within such areas will be free from flooding or flood damage. This Ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damage that results from reliance on this Ordinance or any administrative decision lawfully made hereunder.

### Division 4.200 Resource Protection Standards

---

Natural resources are to be protected by leaving a portion of the *resource* undisturbed and designated as *open space* in residential developments or as undisturbed landscape surfaces for nonresidential



developments. A minimum open space standard is set out in Table 4.200, *Resource Protection Standards* for each type of resource.

Resource	Open Space Ratio (AG and CS districts)	Open Space Ratio (ES, RS and TS districts)	Open Space Ratio (GC and BP districts)
Water Bodies	1.00	1.00	1.00
Riparian Buffers	0.90 (1.00) <sup>2</sup>	0.90 (1.00)	0.70 (1.00)
Floodway	1.00	1.00	1.00
Floodplain	1.00	1.00	1.00
Wetlands	1.00	1.00	1.00
Core Woodlands Mature	0.80	0.80	0.60
Core Woodlands Young	0.65	0.75	0.55
Mature Woodlands	0.70	0.70	0.45
Young Woodlands	0.60	0.55	0.25
Sinkholes	1.00	1.00	1.00
Sinkhole Buffers	0.75 (1.00)	0.75 (1.00)	0.40 (1.00)
Highly Vulnerable Areas	0.70 (1.00)	0.60 (1.00)	0.30 (1.00)
Moderately Vulnerable Areas	0.50	0.50	0.15
Steep Slopes greater than 25%	0.90	0.90	0.80
Steep Slopes 15-25%	0.60	0.60	0.20
Historic Sites Category I	0.95	0.95	0.75
Historic Sites Category II	0.90	0.90	0.60
Wellhead Protection Areas	0.85	0.85	0.65
Riparian Buffers from water bodies that serve as potable water supplies	(1.00)	(1.00)	(1.00)

<sup>1</sup> Note that Division 4.500 contains additional standards for natural resources.

<sup>2</sup> Figures shown in parenthesis throughout this table indicate resource protection ratios for resources only when they are located in the Elk Run and Elk Branch Watersheds.

The uses that are permitted within the *open space* are contained in Division 4.400, *Open Space Regulations*. Note that the *resource* protection standards identified in the table vary for the most intense districts. Additionally, the mountain area of Jefferson County is primarily platted into lots, therefore requiring different *resource* protection treatment. A Neighborhood Conservation - Mountain (NCM) district is used to regulate *resource* protection in this area, rather than the site capacity calculations, because there are few large *parcels* remaining where the calculations can be applied. See Section 4.304, *Neighborhood Conservation Mountain District*. Finally, protection standards for Riparian Buffers from drinking water supply sources (the Elk Run and Elk Branch) present unique circumstances and Buffer protection standards are more restrictive from these water supply sources than in other locations.

### Division 4.300 Site Capacity Calculations

This Division contains the standards for site capacities. Farmsteads or agriculture in the Agricultural (AG) district are exempt from the site capacity calculation requirement, but shall demonstrate that they protect *floodways*, floodplains, and wetlands.

#### Sec. 4.301 Site Capacity Requirement

- A. **General.** Each property proposed for *development* shall, at the time of preliminary and final land development plan approval or subdivision, submit a site capacity analysis based on the site's physical conditions, hazards, and natural resources. A preliminary site capacity calculation shall



be presented at the time of a proposed *rezoning* for both the present zoning and the proposed rezoning.

- B. Exceptions.** A full site capacity calculation is not required in the following circumstances:
1. Any site not containing natural resources listed within Table 4.200, *Resource Protection Standards* shall not be required to submit a site capacity calculation.
  2. No site capacity calculation is required for a lot of record as of this Ordinance's adoption date that is:
    - a. Proposed for residential use; and
    - b. Cannot be further subdivided.
    - c. Zoned Business Park (BP) under this Ordinance, subdivided and subjected to the *Community Impact Statement* process under a previous Ordinance.
  3. Any site which is not buildable as a result of the site capacity calculation shall conduct the site capacity calculation applying only the floodplain and wetland resources to determine the number of *dwelling units* that may be built.
  4. Any lot of record as of this Ordinance's adoption date proposed for a nonresidential use less than 20,000 square feet in area and which is buildable after floodplains or wetlands are taken into account, but would not be buildable after other *resource* standards are applied shall conduct the site capacity calculation applying only the floodplain and wetland resources.
  5. Individual lots in subdivisions or land *developments* approved subject to this Ordinance's provisions are not required to submit individual site capacity calculations because protection is achieved in the subdivision approval process.

#### **Sec. 4.302 Residential Site Capacity Calculation**

Table 4.302, *Example of a Residential Site Capacity Calculation*, is an example of a completed residential site capacity calculation form. This form shall be presented with preliminary and final subdivision plan applications and site plans for all residential developments and any zoning change requests.



<b>Step 1</b>	Enter gross site area as determined by actual survey.					<b>100.00 ac.</b>
	Subtract land within existing roads' ultimate rights-of-way or land within major utilities' rights-of-way (minimum 50-foot width for entire R.O.W.).					<b>-2.80 ac.</b>
	Subtract land cut off from use by railroad, highway, or water body.					- ac.
	Subtract all water bodies.					- ac.
	Subtract land previously dedicated as open space.					- ac.
	Equals Base Site Area.					<b>= 97.20 ac.</b>
<b>Step 2</b>	Measure all natural resources in the base site area and enter in Acres Measured (Column 2). If resources overlap, measure only that resource with the highest resource protection ratio. These numbers provide each resource's area of land. Multiply by Resource Protection Ratio for the district (Column 3, 4, or 5 for the appropriate zoning) and insert result in Column 6.					
	<b>Natural Resource</b>	<b>Acres Measured (Column 2)</b>	<b>Open Space Ratio (AG, CS) (Column 3)</b>	<b>Open Space Ratio (ES, RS, TS) (Column 4)</b>	<b>Open Space Ratio (GC, BP) (Column 5)</b>	<b>Protected Land (Column 6)</b>
	Water Bodies	<b>1.20</b>	1.00	1.00	1.00	<b>1.20 ac.</b>
	Riparian Buffers	<b>3.44</b>	0.90	0.90	0.70	<b>3.10 ac.</b>
	Floodways		1.00	1.00	1.00	
	Floodplain		1.00	1.00	1.00	
	Wetlands	<b>1.70</b>	1.00	1.00	1.00	<b>1.70</b>
	Core Woodlands, Mature		0.80	0.80	0.60	
	Core Woodlands, Young		0.65	0.75	0.55	
	Mature Woodlands	<b>6.03</b>	0.60	0.65	0.40	<b>3.92</b>
	Young Woodlands	<b>5.65</b>	0.45	0.55	0.25	<b>2.54</b>
	Sinkholes		1.00	1.00	1.00	
	Sinkhole Buffers		0.75	0.75	0.40	
	Highly Vulnerable Areas		0.70	0.80	0.50	
	Moderately Vulnerable Areas		0.50	0.90	0.70	
	Steep Slopes more than 25%		0.90	0.90	0.80	
	Steep Slopes 15-25%	<b>3.93</b>	0.45	0.60	0.30	<b>2.36</b>
Historic Sites Category I		0.95	0.95	0.75		
Historic Sites Category II		0.90	0.90	0.60		
Wellhead Protection		0.85	0.85	0.65		
<b>Step 3</b>	Sum of Column 2 equals Total Resource Land.	21.95				
<b>Step 4</b>	Protected Resource Land equals sum of Protected Land (Column 5).					<b>14.82 ac.</b>
<b>Step 5</b>	Enter Base Site Area (Step 1).					<b>97.20</b>
	Multiply by Gross Density for use and district from Table 3.201A. Equals District Yield (round down to whole number).					<b>217</b>
<b>Step 6</b>	Enter Base Site Area (Step 1).					<b>97.20</b>
	Multiply by Open Space Ratio for use and district, Table 3.201A. Equals District Open Space.					<b>24.30</b>
<b>Step 7</b>	Enter Base Site Area (Step 1).					<b>97.20</b>
	Subtract District Open Space (Step 6) or Protected Resource Land (Step 4), whichever is greater. Equals Buildable Land.					<b>72.90</b>
	Times Net Density for use and district (Table 3.201A). Equals Site Specific Yield (round down to whole number).					<b>211</b>
<b>Step 8</b>	Select District Yield (Step 5) or Site Specific Yield (Step 7), whichever is less.					<b>210</b>

**Sec. 4.303 Nonresidential Site Capacity Calculation**

Table 4.303, *Example of a Nonresidential Site Capacity Calculation*, is an example of a completed nonresidential site capacity calculation form. Applicants shall complete the required data for all steps and submit the calculations. This form shall be presented with preliminary and *final plats* of all nonresidential developments and any zoning change requests.



**Table 4.303  
Example of a Nonresidential Site Capacity Calculation**

<b>Step 1</b>	Enter gross site area as determined by actual survey.					20.00 ac.
	Subtract land within existing roads' ultimate rights-of-way or land within major utilities' rights-of-way (minimum 50-foot width for entire R.O.W.).					-.50 ac.
	Subtract land cut off from use by railroad, highway, or water body.					- ac.
	Subtract all water bodies.					- ac.
	Subtract land previously dedicated as open space.					- ac.
	Equals Base Site Area.					=19.50 ac.
<b>Step 2</b>	Measure all natural resources in the base site area and enter in Acres Measured (Column 2). If resources overlap, measure only that resource with the highest resource protection ratio. These numbers provide each resource's area of land. Multiply by Resource Protection Ratio for the district (Columns 3, 4, or 5 for the appropriate zoning) and insert result in Column 6.					
	<b>Natural Resource</b>	<b>Acres Measured (Column 2)</b>	<b>Open Space Ratio (Column 3)</b>	<b>Open Space Ratio (AG, CS, SE, SR) (Column 4)</b>	<b>Open Space Ratio (NC, GC, BP) (Column 5)</b>	<b>Protected Land (Column 6)</b>
	Water Bodies		1.00	1.00	1.00	
	Riparian Buffers		0.90	0.90	0.70	
	Floodways	1.54	1.00	1.00	1.00	1.54
	Floodplain	3.03	1.00	1.00	1.00	3.03
	Wetlands		1.00	1.00	1.00	
	Core Woodlands, Mature		0.80	0.80	0.60	
	Core Woodlands, Young		0.65	0.75	0.55	
	Mature Woodlands		0.60	0.65	0.40	
	Young Woodlands		0.45	0.55	0.25	
	Sinkholes		1.00	1.00	1.00	
	Sinkhole Buffers		0.75	0.75	0.40	
	Shallow Bedrock		0.70	0.80	0.50	
	Highly Vulnerable Area		0.50	0.90	0.70	
	Steep Slopes more than 25%		0.90	0.90	0.80	
	Steep Slopes 15-25%		0.45	0.60	0.30	
Historical Sites Category I		0.95	0.95	0.75		
Historical Sites Category II		0.90	0.90	0.60		
Wellhead Protection		0.85	0.85	0.65		
<b>Step 3</b>	Sum of Column 2 equals Total Resource Land.					<b>4.57</b>
<b>Step 4</b>	Protected Resource Land equals sum of Protected Land (Column 5).					<b>4.57 ac.</b>
<b>Step 5</b>	Enter Base Site Area(Step 1).					<b>19.50 ac.</b>
	Multiply by Gross FAR for use and district from Table 3.201B.					<b>0.28 ac.</b>
	Equals District Yield (round to two decimal places).					<b>5.46 ac.</b>
<b>Step 6</b>	Enter Base Site Area(Step 1).					<b>19.50 ac.</b>
	Multiply by Landscaped Surface Ratio for use and district, Table 3.201B					<b>0.15</b>
	Equals District Open Space.					<b>2.93 ac.</b>
<b>Step 7</b>	Enter Base Site Area (Step 1).					<b>19.50 ac.</b>
	Subtract District Open Space (Step 6) or Protected Resource Land (Step 4), whichever is greater.					<b>4.57 ac.</b>
	Equals Buildable Land.					<b>14.93 ac.</b>
	Times Net FAR for use and district (Table 3.201B).					<b>0.35</b>
	Equals Site Specific Yield (round down to whole number).					<b>6.46 ac</b>
<b>Step 8</b>	Select District Yield (Step 5) or Site Specific Yield (Step 7), whichever is less.					<b>5.46 ac.</b>
	Convert to square feet by multiplying by 43,560.					<b>237,837 sf.</b>
	Minimum Landscaped Surface (Step 4 or Step 6), whichever is greater.					<b>4.57 ac.</b>



#### Sec. 4.304 Neighborhood Conservation Mountain District

- A. **Purpose and Intent.** These provisions are created to regulate land use and *development* on the Blue Ridge mountainside of the County, in such a manner as to provide for residential *development* and to: (1) assure mountainside *development* will not result in substantial damage to natural *resource* areas or native vegetation areas; (2) assure that mountainside *development* is compatible with the *slope* of the land; and (3) prevent *erosion* and minimize clearing and *grading* disturbances. All individual lots in the NCM district are regulated by this Section, rather than by a site capacity calculation. Many lots are nonconforming as to *lot area*, so small that *septic systems* are not feasible. The mountain area is generally forest-covered *steep slopes*. Unlike the rest of Jefferson County, the steep slopes are thousands of feet in length, creating a more sensitive environment. Protection is afforded by limiting the amount of area that may be disturbed for buildings, *driveways*, decks, or cleared for lawn areas. A land *development*/lot plan shall be filed with the Department of Zoning for the rest of the lot that must be protected from disturbance other than that permitted in this Section. The permitted disturbed area is related to the *slope* and other conditions on the site.
- B. **Disturbed Area.** The amount of area on a lot or group of *contiguous* commonly owned lots that may be disturbed is as follows:
1. Slopes greater than 40 percent – 5 percent (.05) of the area.
  2. Slopes 25 to 40 percent - 10 percent (0.1) of the area.
  3. Slopes 16 to 24 percent - 20 percent (0.2) of the area.
  4. Slopes less than 16 percent - 30 percent (0.3) of the area.
  5. *Drainage* swales ephemeral - no disturbance for 10 feet on either side of the centerline of the swale.
  6. Streams - no disturbance for 15 feet from the edge of the stream.
  7. **Wells and Waste treatment area** - Any clearing or disturbance for well and or Septic/System shall be the minimum necessary to satisfy Health Department requirements and shall not be included in calculations to determine area(s) of disturbance.
  8. **Slope measurement.** In determining an area in a *slope* category, there should be a minimum of four feet of vertical change and 25 feet of horizontal distance to be classified as an area of a specific slope category. The lot(s) shall have contours at two foot intervals plotted. Any area of the steepest slopes shall be designated first, mapping the greatest vertical change of elevation that meets the slope category. Subsequent areas of lesser slope shall then be mapped. The measurement is over a group of contours, not from contour to contour. The area of each of the four contour lines representing the areas of B1 to B4 above shall be totaled.
  9. **Buildable site area.** The area of each *slope* or other category shall be multiplied by the corresponding values in B above and summed to determine the total area of the site that may be disturbed.
  10. **Disturbance during construction.** On any lot whereon a single family home or *accessory structure* is proposed for *construction*, an additional 10% of the *lot area* beyond the “Buildable site area” determined in 9 above, may be disturbed, provided such area shall be re-established in plantings in accordance with the provisions of Section 4.513F, *Afforestation for Mitigation*, of this ordinance within one year from the date of disturbance.



### C. Additional Provisions

1. **Repair or replacement.** Nothing in this section shall be interpreted to deny a *property owner(s)* the right to repair or replacement of any existing structure or portion thereof which may be damaged or destroyed by fire or other natural causes, regardless of *slope* conditions or disturbance limitations outlined in this section.
2. **Single family residence exemption.** When application of these standards would deny use of the site for a single family residence, a single family residence shall be permitted provided the footprint of the home, together with any outbuildings, shall not exceed 1,000 square feet and the total disturbance shall not exceed 25% of the total *lot area*.
3. **Prior Health Department approvals acknowledged.** Any lot which has received approvals for *construction* of a waste treatment system and well prior to the effective date of this ordinance shall be permitted to *construct* a single family residence notwithstanding the provisions limiting disturbances on slopes identified in Section 4.304B.
4. **Additions for existing residential structures.** Any lot of record which is improved with a residential structure which was built prior to the effective date of this ordinance shall be permitted to *construct* an addition, or an accessory structure, notwithstanding the provisions limiting disturbance on slopes identified in Section 4.304B, provided the footprint of such addition and/or accessory structure shall not exceed 600 square feet in area.
5. **Lot Development Plan.** The *developer* or *owner* shall submit building and *grading* plans that include the location of any proposed structure(s), the waste system area, well location, any trenches for utilities, and any areas of the yard for lawn, decks, or patios for County approval prior to disturbing the site. These improvements shall be shown on a contour map of the lot(s). Calculations and mapping shall demonstrate that the site requirements are being met. In doing this, areas of the steepest *slope* may be left undisturbed and the disturbance area transferred to a less steep area of the site to facilitate building on the site. Permissible *development* on areas of lesser slope shall not be transferred to areas of greater slope.
6. **Essential Access.** Where an area of no disturbance runs across the front of the lot and would prohibit *access* to the site, access shall be allowed, but all utilities shall be in the drive access and the access shall be limited to 10 feet in width and a disturbed area as narrow as feasible as determined by the County Engineer. In determining capacity, the actual disturbed area for such access shall be subtracted from the total area of disturbance allowed on the site.
7. **Lot Development Plan Filed.** The lot development plan shall be filed with the Jefferson County Department of Planning and shall identify the *lot area* to remain undisturbed. Any further disturbance or clearing of land identified as undisturbed area shall be considered a violation of this ordinance. A note on the *plan* shall indicate the calculation of disturbed area and indicate that the land *owner* understands this limitation and accepts it. The note shall read as follows: "Parcel \_\_\_ has a total area of \_\_\_ square feet. \_\_\_ square feet shall remain undisturbed and \_\_\_ square feet is available for house, yard, decks, patios, drives, and utilities or other actions that would disturb the land. No *development* beyond this area available for the home shall be permitted to be disturbed or built upon, except as provided in Section 4.304(C)(8)."



8. **Undisturbed Area.** On any approved lot *development plan* filed with the Jefferson County Department of Planning, areas shown as undisturbed within this District shall remain undisturbed except as follows:
  - a. Invasives, exotics and maintenance. A *landowner* may at any time remove invasive or exotic plants (see Section 8.502C, *Invasives or Exotics*). Any clearing or disturbance of invasive or exotic plant species exceeding a total of 400 square feet in land area, within any five year period, shall be replanted in accordance with Section 4.513F, *Afforestation for Mitigation*.
  - b. Dead or weakened tree removal. Trees in undisturbed areas may be removed to eliminate a safety hazard. This may include any dead or weakened tree endangering any home, buildings or roads. Such disturbance may include limbing of existing trees to protect scenic views or viewsheds or to remove dead or weakened limbs.
  - c. Other tree and brush removal. Any tree less than three (3) inches in diameter at breast height (DBH) or *understory*, may be removed within the undisturbed area.
  - d. Delineation of undisturbed area for non-building purposes. Any *parcel* with an existing structure(s) constructed prior to the effective date of this ordinance, may submit a lot development *plan* for approval to establish a delineation of areas to remain undisturbed. Once approved, the lot development plan may be used to determine the portion of undisturbed areas where woody plant materials within the undisturbed area of the *parcel* may be cut or removed.
  
9. **Construction or disturbances prior to approval.** Any clearing which exceeds the permitted area of disturbance identified in Section 4.304B or 4.304C shall be subject to the provisions of Section 4.513F, *Afforestation for Mitigation*, of this ordinance as a condition of approval of any permits for *construction*. *Lot areas* to be restored to comply with the disturbance limitations identified in Section 4.304B shall be identified on the lot development *plan* and a bond shall be posted to guarantee performance within a period of one year from the date that any *construction permit* is issued.

**D. Redevelopment of Existing Lots**

To enhance opportunities to improve *stormwater management* and *sediment* and *erosion* control measures and achieve the stated purposes of this district the following provisions *permit* the voluntary re-configuration and re-platting of lots which existed prior to the effective date of this ordinance within the Neighborhood Conservation Mountain District (NCM). This provision shall apply under the following circumstances.

1. When a minimum of five (5) *contiguous* lots in a Subdivision, recorded prior to the effective date of this ordinance, are held in common ownership in the NCM District, the *owner* may submit a *plat* proposing lot reconfiguration or re-subdivision for approval by the County Planning Commission. The Planning Commission shall review the *plat* for approval consistent with the requirements of a major subdivision consistent with the requirements of the County Subdivision Regulations provided:
  - a. The plat shows a reduction of at least 20% of the total original number of lots that are being reconfigured;
  - b. The revised lot configuration demonstrates an improvement in the means by which Storm Water management and/or *Sediment* and Erosion control measures will be enhanced as a result of re-configuration



- c. The *plat* includes a note that all of the replatted lots must either be connected to an approved community or *public sewer* and water system or have Health Department approval prior to the issuance of a building permit; and,
  - d. The plat includes building restriction lines equal to the original subdivision *setback* restrictions.
  - e. The revised lot configurations remain subject to the limitations to disturbance and clearing on *steep slopes* in accordance with the provision of Section 4.304B.
2. Once the reconfigured *plat* is approved by the Planning Commission and recorded in the Jefferson County land records, the lots shall be treated as existing lots for single family dwellings as permitted under Section 3.307 of this ordinance.

### Division 4.400 Open Space Regulations

Section 4.401, *Uses in Open Space*, indicates the uses for which *open space* may be used. This Division also contains additional performance standards and *mitigation* requirements.

#### Sec. 4.401 Uses In Open Space

Table 4.401A and B, *Uses in Open Space*, lists uses that may be permitted in *open space* that is required elsewhere in this Ordinance. The uses listed are narrower subsets of the use categories listed in Table 2.201. In so doing, a closer match of the *permitted uses* to the resource's tolerance is provided.

Table 4.401A Uses in Open Space							
Use	General Open Space	Water Bodies	Riparian Buffer	Floodway	Floodplain	Wetland	Woodland
<b>Agricultural Uses</b>							
Apiaries	P	N	L	N	P	N	P
Field Crops	P	N	N	N	P	N	N
Orchards	P*	N	L*	N	P*	N	N
Pasture	P	N	L	L	P	N	P
Kennels and Stables	P	N	N	N	N	N	N
Nursery	P	N	N	N	L*	N	N
<b>Recreational Uses</b>							
Ball Fields	P	N	N	N	L*	N	N
Golf Course	P	N	L*	L	L*	N	N
Nature Area	P	L	P	L	P	L	P
Nature Center	P	N	L	N	L	N	L
Picnic Area	P	N	L	N	L	N	L
Water Dependent Uses	P*	C*	P*	N	P*	N	N
Pools	P	N	N	N	N	N	N
Courts	P	N	N	N	L*	N	N
Trails	P	N	P	N	P	L	P
<b>Public Facilities</b>							
Public/Private Roads Sewer/Water	L	C	L	C	C	C	C
Detention	P	L	P	N	L	L	N
Essential Access	P	C	L	C	C	C	C
P = Permitted; N = Prohibited; L = Limited Use; C = Conditional Use For resource standards for limited and conditional uses, see this Division. For other resource standards, see Division 4.500, Additional Resource Standards.							
* Denotes uses in Open Space are not permitted, regardless of letter shown, if such uses are located in Open Space required for resource protection within the Elk Run or Elk Branch Watershed.							



Table 4.401B Uses in Open Space							
Use	Sinkhole	Sinkhole Buffer	Moderately Vulnerable Karst Areas	Highly Vulnerable Karst Areas	Steep Slopes	Historic Sites	Wellhead Protection Area
<b>Agricultural Uses</b>							
Apiaries	N	P	P	P	P	P	P
Field Crops	N	N	P	L	P	L	L
Orchards	N	L*	P*	P*	P*	P*	L
Pasture	N	P*	P*	P*	P	P	L
Kennels and Stables	N	N	N	N	P	L	L
Nursery	N	N	P	L	P	L	L
<b>Recreational Uses</b>							
Ball Fields	N	N	P	L	N	N	L
Golf Course	L	N	P	L	L	L	L
Nature Area	L	L	P	P	L	L	P
Nature Center	N	L	L	L	L	L	L
Picnic Area	N	L	P	L	N	L	L
Water Dependent Uses	N	N	N	N	N	L*	N
Pools	N	N	P	L	N	N	N
Courts	N	N	P	L	N	N	N
Trails	C	L	P	P	P	P	P
<b>Public Facilities</b>							
Public/Private Roads Sewer/Water	N	N	P	L	L	C	L
Detention	N	L	P	L	L	L	L
Essential Access	N	N	P	L	L	C	L
P = Permitted; N = Prohibited; L = Limited Use; C = Conditional Use For resource standards for limited and conditional uses, see this Division. For other resource standards, see Division 4.500, Additional Resource Standards.							
* Denotes uses in Open Space are not permitted, regardless of letter shown, if such uses are located in Open Space required for resource protection within the Elk Run or Elk Branch Watershed.							

**Sec. 4.402 Standards for Open Space Uses**

As per Table 4.401A, *Uses in Open Space*, various *open space* uses are identified as permitted, limited uses, or conditional uses. The rationale behind such designations is that some uses present potential threats to resources unless design or *mitigation* techniques are applied. This Division sets forth the standards required for *approval* of certain uses identified in Table 4.401A, *Uses in Open Space*, as limited or conditional uses, in addition to the general standards for those uses in Article 12, *Procedures and Administration*.

**Sec. 4.403 Apiaries**

Apiaries located within any *riparian buffer* shall not impair the function of the buffer through clearing or disturbances for roads.

**Sec. 4.404 Field Crops**

- A. **Historic Sites.** Field crops are permitted; but areas on historic sites historically maintained as lawns shall remain as lawn.



- B. **Wellhead Protection.** Field crops shall not be planted within 50 feet of wellheads.
- C. **Highly Vulnerable Areas.** Field crops in highly vulnerable karst areas shall be subject to best management practices. No-till farming practices and cover crops shall be encouraged in such areas to minimize changes to groundwater recharge functions.

#### Sec. 4.405 Orchards

Orchards shall leave at least a 50-foot uncultivated *riparian buffer* between the orchard's maintained area and a water body, sinkhole, and wellhead protection area. Spraying shall be directed away from the water body, sinkhole, and wellhead protection area. When located within the Elk Run and Elk Branch watersheds, the buffer shall be expanded to a 100 foot natural buffer.

#### Sec. 4.406 Pasture

- A. **Riparian Buffer.** *Pastures* adjacent to a waterbody need not be fenced unless usage causes the vegetative cover within 30 feet of a waterbody to be lost. If the vegetative cover is threatened, then fencing shall be installed at least 30 feet from the water body, and that area shall be maintained in a natural condition of grass or *woodland* vegetation. When located within the Elk Run and Elk Branch watersheds, *pastures* need not be fenced unless usage causes the vegetative cover within 60 feet of a perennial or ephemeral stream to be lost. If the vegetative cover is threatened, then fencing shall be installed at least 60 feet from the centerline of perennial and ephemeral streams, and that area shall be maintained in a natural condition of grass or woodland vegetation.
- B. **Wellhead Protection Area.** *Pastures* shall not be located within 50 feet of wellhead protection areas.

#### Sec. 4.407 Commercial Kennels and Stables

- A. **Floodplains.** Outdoor *pastures* and riding trails shall be permitted in the floodplain.
- B. **Historic Sites.** All fencing shall be of a type used in the historic setting, or screened from view with a hedge maintained at a height to screen the fence, or use a wall.
- C. **Wellhead Protection.** The buildings, parking, or other areas associated with the use shall be at least 50 feet from any wellhead.

#### Sec. 4.408 Nurseries

- A. **Riparian Buffer and Floodplains.** Nurseries shall maintain a 40-foot natural *buffer* between tilled area and the water body. Fill is prohibited in this area. When located within the Elk Run and Elk Branch watersheds, the buffer shall be expanded to a 100 foot natural buffer.
- B. **Historic Sites.** Planting areas shall be those historically used for agriculture, not part of the yard. All sales activities shall be from an existing structure on the property.

#### Sec. 4.409 Ball Fields

Ball fields may be permitted in *Highly vulnerable areas* where a geotechnical study is conducted to ensure that all *grading* and *construction* are performed in locations where such activities will not increase the risk of pollution or ground subsidence.



## Sec. 4.410 Golf Courses

A. **Best Management Practices.** Golf courses shall meet the following Best Management Practices:

1. Nutrient additions shall only be made in concentrations such that the grass will take up all the nutrients applied with no leaching below the root zone of the grasses.
2. Pesticides, herbicides, or other chemicals shall be managed to limit the potential for such materials reaching the groundwater. This may require special under-draining or other *construction* techniques to capture or reduce *infiltration* of these chemicals.

B. **Crossing Riparian Buffers, Floodways, or Floodplains.** Golf courses shall be permitted to cross riparian buffers, *floodways*, and floodplains provided there is no change in the *flood* elevation due to the *construction*. Tees and greens shall be above flood elevation. No *filling* is permitted to raise tees or greens except in areas where the floodplain is less than two feet in depth. A pedestrian or golf cart trail and bridge are permitted.

1. **Parallel Course Construction.** Where the course will parallel the water body, no clearing of natural vegetation shall be permitted in the *riparian buffer* except for *flood* water access. The course shall be constructed to provide a 40 percent increase in stormwater storage during a 100-year storm event.
2. **Wetlands.** Wetlands shall be preserved. The course shall be designed so that wetlands are natural hazards. No *filling* will be permitted, and there shall be a wetland buffer of natural vegetation at least 15 feet around the border of the wetland that is part of the hazard design.
3. **Nutrient Management Plan.** A nutrient management plan shall be developed for the fairways, tees, and greens to protect waters and wetlands from damage due to nutrients and pesticides.
4. **Sinkholes.** Sinkholes shall be in the rough, not in the fairway of the course. Cart trails shall avoid the sinkhole.
5. **Sinkhole Buffers, Shallow Bedrock Areas, or Highly Vulnerable Areas.** A geotechnical study shall be required. The course shall be designed to avoid areas that are particularly vulnerable. Tees and greens shall not be permitted in the most sensitive areas. The areas within 50 feet of a *sinkhole* shall be left natural or be rough. Every effort shall be made to avoid the fairway being in sensitive portions of the area.
6. **Steep Slopes.** *Steep slopes* (over 25%) may be used as rough. Golf cart trails or paths shall be the only *grading* permitted in these areas. The alignment of such trails shall be designed to avoid the concentration of stormwater that can result in *erosion*. The *developer* may be required to provide special erosion protection measures to ensure erosion is not a long-term problem. The County engineer shall specify any such requirements.
7. **Wellhead Protection.** Land within 50 feet of the wellhead shall not be used for the golf course.

**Sec. 4.411 Nature Areas**

- A. **Sinkholes, Sinkhole Buffers, Shallow Bedrock, and Highly Vulnerable Areas.** Nature trails, signage, and viewing platforms are permitted in these areas. The trail routes shall be marked with *flags* and the routes field inspected to ensure that they are designed to minimize impact on the stormwater flows and avoid *erosion*. The trails shall use steps, boardwalks, or erosion control techniques to avoid directing stormwater into areas that are most vulnerable. The surface of the trails shall be of materials that will best avoid erosion and minimize the impact of *construction*. A geotechnical engineer shall be required to sign the drawings. In some cases, construction may be required to be by hand to minimize the damage.
- B. **Steep Slopes.** Nature trails, signage, and viewing platforms are permitted in these areas. They shall avoid areas prone to slippage due to soil or subsurface conditions. They shall be designed in a manner to avoid concentrating *runoff*.

**Sec. 4.412 Nature Centers**

- A. **Riparian Buffer and Floodplain.** Nature centers in riparian buffers and floodplains shall be designed to avoid the cutting of any trees over six inches *diameter at breast height*. They shall intrude into these areas only when there is a reason for the center to have a close up view of one of these features or the water body for educational purposes that cannot be served by trail access.
- B. **Sinkhole Buffers.** A buffer of 75 feet shall be maintained around *sinkholes*. Nature centers shall only be built in *sinkhole buffer* area when the purpose of the nature center is interpretation of karst features where a view into an *open sinkhole* is the purpose for the location. A geotechnical study shall be required to determine the best location to minimize impact on the groundwater. In all other circumstances, viewing of sinkholes shall be by trail, rather than from the nature center.
- C. **Shallow Bedrock or Highly Vulnerable Areas.** No *construction* shall occur in areas where rock is exposed at the surface. A geotechnical study shall be required to determine the best location to minimize impact on the groundwater.
- D. **Wellhead Protection.** The building, parking, and other impervious areas shall be located not less than 50 feet from any wellhead.

**Sec. 4.413 Picnic Areas**

- A. **Sinkhole Buffers.** Picnic areas shall only be built a minimum of 75 feet from the sinkhole. A geotechnical study shall be required to determine the best location to minimize impact on the groundwater.
- B. **Shallow Bedrock or Highly Vulnerable Areas.** No *construction* shall occur in areas where rock is exposed at the surface. A geotechnical study shall be required to determine the best location to minimize impact on the groundwater.
- C. **Historic Sites.** No picnic shelters shall be built without a determination by the Historic Landmarks Commission that the shelters do not detract from the historic character of the site. Picnic areas with tables are permitted; the location of the area shall be approved by the Historic Landmarks Commission.
- D. **Wellhead Protection.** The area within 50 feet of the wellhead shall be maintained in grass.



- E. **Riparian Buffers.** No roads or paved surfaces accessory to picnic areas shall be located in the riparian buffer.

#### Sec. 4.414 Water Dependent Uses

- A. **Water Bodies, Floodplain, Floodway, and Riparian Buffers.** Water dependent uses are permitted, provided the plan demonstrates that the *access* has been chosen to minimize adverse impacts to the water body from *erosion* or pollutants. This use will also impact riparian buffers and, most likely, floodplains. The plan for the water dependent use shall demonstrate that the damage to these other resources is minimized through the design by locating facilities and structures away from the water or these resources. Any part of the structure to be in the water body or *floodway* shall have U.S. Army Corps of Engineers approval, when they have authority over such use, and shall be a structure that must be located in such areas to fulfill its function.
- B. **Highly Vulnerable Areas.** To be considered, it must first be determined that the use cannot reasonably be located outside the *highly vulnerable area*. This determination shall include investigation of alternative sites. A geotechnical study shall be required to determine that the location and *construction* is of a type that minimizes damage to ground and surface waters.
- C. **Historic Sites.** Except for navigation or similar structures and *flood* protection of the historic structure, no other water dependent uses should be permitted unless it can be demonstrated that such uses were on the site in the past and that their re-establishment is part of the best use on the site.

#### Sec. 4.415 Playing Courts

- A. **Floodplains and Riparian Buffers.** Playing courts shall be permitted in the floodplain only where the floodplain is less than six inches in depth. In designing the courts, additional stormwater storage shall be provided to lower the depth of water during the 100-year flood. The playing courts shall be designed and located so as not to trap debris resulting in floodwater backups. Parking areas shall be gravel or *pervious* paving blocks or grids. Paving shall not exceed five percent of the floodplain area. In *swales*, a clear flow channel shall be provided so that the playing courts do not interfere with the storm flows.
- B. **Highly Vulnerable Areas.** A geotechnical study shall be required to determine the best location to minimize impact on the groundwater.
- C. **Wellhead Protection.** All courts and other associated *impervious surfaces* shall be at least 50 feet from any wellhead.

#### Sec. 4.416 Trails

- A. **Wetlands.**
1. All trails in wetlands shall be elevated walkways.
  2. Such walkways are permitted only where the trail must cross the wetland for educational purpose or because it must cross the wetland to connect a trail system that cannot otherwise be connected.
  3. There shall be a minimum of 18 inches of clearance of the structure above the normal high water elevation.



4. The elevated walkways shall be installed using hand carried equipment to minimize damage to the wetland.
5. Any trail crossing the *floodway* shall be on a bridge structure that is at least one foot above the water and that will safely withstand *flood* events.

**B. Sinkholes.**

1. In open *sinkholes*, the trail shall be on elevated walkways that can be installed without motorized tracked or wheeled equipment. The structure is required so as to prevent concentrated *runoff* from reaching the sinkhole.
2. In closed sinkholes, the trails shall be designed to minimize water concentration or flows by traversing at an angle to the *slope* and using steps that slow *erosion* and water movement. *Drainage facilities* may be required to divert flows.

**C. Sinkhole Buffers, Shallow Bedrock, and Highly Vulnerable Areas.**

1. The trail routes shall be marked with *flags* and the routes field inspected to ensure that they are designed to minimize impact on the stormwater flows and avoid *erosion*.
2. The trails shall use steps, boardwalks, or *erosion* control techniques to avoid directing stormwater into areas that are most vulnerable.
3. The surface of the trails shall be of materials that will best avoid *erosion* and minimize the impact of *construction*.
4. In some cases, construction may be required to be by hand to minimize the damage.
5. A geotechnical engineer shall be required to sign the drawings.

- D. Steep Slopes.** Nature trails, signage, and viewing platforms are permitted in these areas. They shall avoid areas prone to slippage due to soil or subsurface conditions. They shall be designed in a manner to avoid concentrating *runoff*.

**Sec. 4.417 Public/Private Roads and Sewer/Water**

- A. General.** Protected resources shall not be disturbed with roadways or utility lines and *easements*. In general *open space*, the actual pavement is not counted as *open space*, but the unpaved *right-of-way* area is counted.
- B. Necessity to Cross Resource.** In some cases, it may be impossible or impractical to avoid crossing a resource; where this is true, the applicant must submit a study. Such study shall demonstrate:
1. **Alternative Study.** A study is conducted that demonstrates that no feasible alternative to crossing the *resource* exists, and that the route selected is the least disruptive based on a review of at least three crossings.
  2. **Mitigation.** That *mitigation* is undertaken to minimize problems associated with the crossing of the resource.
  3. **Sinkhole Buffers, Shallow Bedrock, and Highly Vulnerable Areas.** The alternative study shall include a geotechnical study. That study may require special *construction* or *mitigation* techniques to protect the groundwater.



4. **Historic Sites.** The study shall include evaluation of whether the construction will damage the structure and requires special construction or rehabilitation of the structure.

#### Sec. 4.418 Essential Access

- A. **General.** Essential *access* shall be permitted only upon finding that there is an area of buildable land on the property that must be accessed to avoid losing permitted *density*. The *permit* shall be denied if clustering can avoid the need for the *access* without a loss of density from that permitted by the site capacity calculation (Division 4.300).
- B. **Shared Access.** If several properties in the area suffer the same problem, then the essential access shall be designed to serve all properties, and *access easements* shall be provided. Staff shall make every effort to gain the cooperation of all *property owners*, including sharing of costs. If adjoining *property owners* do not cooperate, the land *owner* making the improvements may submit a certified billing on the cost of the *access*. Subsequent essential *access* requests in the area shall be denied. Instead, the land owners shall be required to use the initial *access* and pay for their share of the documented expenses based on the number of dwellings or lots served. In the review of developments, the County shall seek to identify areas of adjoining properties that might qualify and provide stub streets so as to eliminate the need for this type of *mitigation*.
- C. **Sinkhole Buffers, Shallow Bedrock, and Highly Vulnerable Areas.** The alternative study shall include a geotechnical study. That study may require special *construction* or mitigation techniques to protect the groundwater.
- D. **Historic Sites.** The study shall include evaluation of whether the construction will damage the structure and requires special construction or rehabilitation of the structure.

#### Sec. 4.419 Detention Ponds

- A. **Water Bodies.** Man-made ponds may be used for detention by increasing their size or the dam height. Any other water body use for detention is prohibited.
- B. **Floodplains.** Detention is permitted only as provided by the Jefferson County Floodplain Management Ordinance.
- C. **Sinkhole Buffers, Shallow Bedrock, and Highly Vulnerable Areas.** A geotechnical study is required to determine whether the soils can hold wet basin detention and prevent discharge to the groundwater. The County may require liners to protect the ground water.

#### Division 4.500 Additional Resource Standards

---

The following sections set forth additional standards that protect natural resources or permit *mitigation*.

##### Sec. 4.501 Floodplains - Existing Uses

Protection of Flood plains and standards for *development* in Floodplains, *Floodways*, and Flood-Prone areas shall be consistent the requirements and provisions of the Jefferson County Flood Plain Management Ordinance.

In addition, the following standards shall be met:

- A. **Standard Construction.** For residential or nonresidential construction in the 100-year floodplain that is subject to either a permit issued for repairing flood damage or a permit for non-



flood damage related work that amounts to 50 percent or more of the unit value, the following shall apply:

1. With a flood damage permit, the County shall work with the owner to relocate the use out of the floodplain; or
2. The building shall be floodproofed or elevated so the first floor is one foot above the base flood elevation.
3. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**B. Mobile Homes.** When such units are damaged or moved off their foundations, they shall not receive a building permit for repair as they are not certified by HUD and do not meet the manufactured home code. They shall be required to be replaced with a manufactured home that is either elevated one foot above the base flood elevation or replaced on a site outside the floodplain.

**C. Manufactured Homes.**

1. Manufactured homes that are replaced or substantially improved within Zone A, Zones A1-30, AH, and AE on the County's *FIRM* shall be:
  - a. Located where the difference in elevation between the site and street and the flood elevation is less than one foot; and
  - b. Elevated one foot above the base flood elevation.
2. Where a manufactured home has incurred damage that is equal to 20 percent of the unit's value as a result of a flood, it shall be either:
  - a. Moved to a site outside of the 100-year floodplain; or
  - b. Elevated on and anchored to a permanent foundation such that:
    - i. The lowest floor of the manufactured home is elevated to one foot above the base flood elevation; and
    - ii. The unit is securely anchored to a foundation system to resist flotation, collapse, and lateral movement.
3. When a manufactured or mobile home park or subdivision is flooded over 60 percent of its area to a depth that existing mobile homes are flooded in their interiors, that portion of the park shall be closed and the sites relocated outside of the 100-year floodplain.

**D. Recreational Vehicles.** Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's *FIRM* shall either:

1. Not be used as a place of residence, or
2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions. The park owner shall have keys to the vehicles so that when warned of an expected flood, the



vehicles can be moved to areas where the water depth during a base flood is less than six inches.

- E. **Accessory Structure.** Accessory structures may be located in the floodplain if all of the following are demonstrated:
1. The structure is of low value and representing a minimal investment.
  2. The structure does not exceed 600 square feet in size.
  3. The structure is unfinished on the interior.
  4. The structure is used only for parking and limited storage.
  5. The structure is not used for human habitation (including work, sleeping, living, cooking, or restroom areas).
  6. Service facilities, such as electrical and heating equipment, are elevated to or above the *base flood elevation* or floodproofed.
  7. The structure is designed to have low flood damage potential, i.e. constructed with flood resistant materials.
  8. The structure is firmly anchored to prevent flotation, collapse, and lateral movement.
  9. The structure is located so as not to cause damage to adjacent and nearby structures or block floodways in the event of a flood.

#### Sec. 4.502 Floodways

The following additional standards apply to structures built in the floodway:

- A. **Structures Permitted.** Only the following shall be permitted in the floodway:
1. Piers needed to support bridges;
  2. Temporary erosion control structures;
  3. Stormwater management facilities;
  4. Detention or retention areas not involving filling;
  5. Environmental mitigation projects;
  6. Dams for flood control or water supply; and
  7. Utility crossings.
- B. **No Practical Alternative.** In permitting the above structures, it shall be shown that it is not practical to avoid the particular component being located in the floodway.
- C. **Water Dependent Uses.** Water dependent uses and their essential structures shall be permitted only where the location is the best available from an environmental standpoint and approval granted is by all agencies having jurisdiction.
- D. **Anchors.** All structures and substantial improvements in the floodway shall be anchored to prevent flotation, collapse, or lateral movement of the structure.



- E. **Freeboard.** All horizontal structural members or anything hung or supported on the structure shall have a two-foot clearance above the base flood elevation or higher, as required by the Director of Public Works or designee, to prevent flow blockage from debris.
- F. **Structures Prohibited.** Structures designed for human habitation are prohibited in the floodway.

**Sec. 4.503 Floodplains - New Uses**

New development in 100-year floodplains (exclusive of the floodways) shall meet the requirements of this Section.

- A. **General.** Development in the 100-year floodplain is limited to the uses permitted in the floodplain by Division 4.400, *Open Space Regulations*, or a use that is authorized by Section 12.501, *et seq.*, regarding Beneficial Use. The provisions of this Section cover new construction, as permitted, and substantial improvements to existing structures. Other new construction must occur out of the floodplain under the provisions of Section 4.504, *Filling the Floodplain*.
- B. **Anchoring Permanent Structures.** All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure. Structures shall be certified by a licensed engineer to withstand velocities and likely debris loadings at that point in the floodplain.
- C. **Non-habitable Structures.** Only non-habitable open structures, shelters, or pole type structures (open on all sides with no walls), open fences, and outdoor recreation shall be permitted below the base flood elevation. Such structures shall have roofs whose horizontal members are located at least three feet above the 100-year flood elevation.
- D. **New Habitable Residential Structures.**
  - 1. Where they are permitted by Section 12.501, *et seq.*, habitable residential structures shall have habitable floors two feet above the base flood elevation.
  - 2. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and located at least two feet above the base flood elevation so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - 3. All such units shall be reached by public roads that are no more than one foot below the base flood elevation to permit unhindered emergency access.
- E. **New Habitable Nonresidential Structures.**
  - 1. Where they are permitted, these structures shall have occupied floors two feet above the base flood elevation.
  - 2. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and located at least two feet above the base floodplain so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - 3. Within the area of floodplain that is permitted to develop, nonresidential structures may be permitted provided new construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including



basement, elevated to one foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:

- a. Be floodproofed so that, below the base flood elevation, the structure is watertight, with walls substantially impermeable to the passage of water. Only storage of outdoor equipment, access facilities like stairs or elevators, and parking shall be permitted below the base flood elevation.
- b. Have structural components capable of resisting hydrostatic and hydrodynamic load and effects of buoyancy.
- c. Be certified by a registered professional engineer or architect that the standards of this Section are satisfied.

F. **Control of Flood Elevation.** Structures shall be constructed and placed on the *building* site so as to cause an increase of less than one one-hundredth feet in flood height off site and offer minimum obstruction to the flow of flood waters. All piers in the floodways should have two feet of clearance between flood elevation and any horizontal portions of the bridge or structure to avoid debris jams.

G. **Construction Materials and Methods.** All new construction and substantial improvements shall be constructed:

1. With materials and utility equipment resistant to flood damage.
2. Using methods and practices that minimize flood damage.

#### H. Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate the infiltration of flood waters into the systems and discharge from the systems into the flood waters; and
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

I. **Subdivisions.** All subdivisions shall have the floodplain within designated open space. The development shall be consistent with the need to minimize flood damage.

1. All subdivision proposals shall have public utility facilities (such as sewer, gas, electrical, and water systems) located and constructed to minimize flood damage if it is impractical to locate such facilities outside the floodplain.
2. Base flood elevation data shall be provided for subdivision proposals and other proposed development which is shown within the floodplain on the floodplain maps of the County or are, in the opinion of the Zoning Ordinance, close enough to warrant a survey.

### Sec. 4.504 Filling the Floodplain

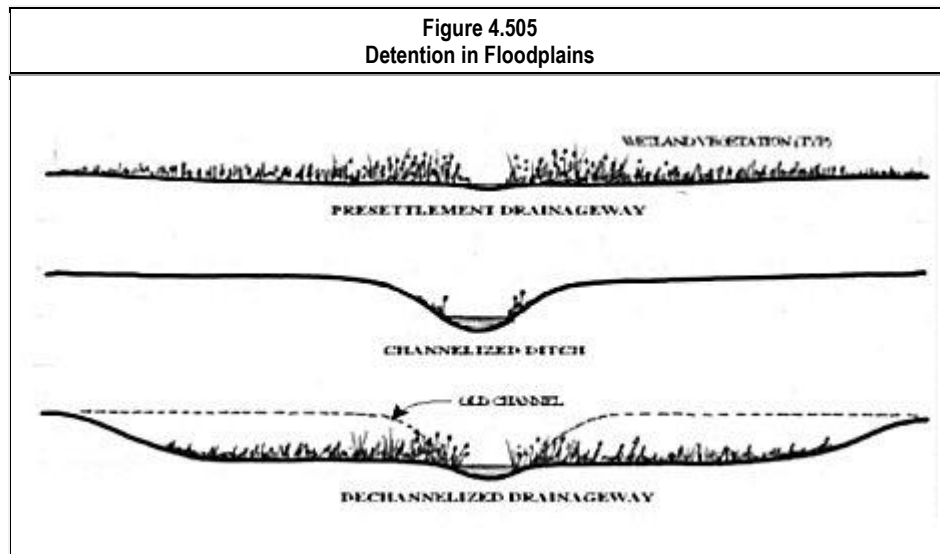
The filling of floodplains is limited to that needed for permitted uses. The following standards shall be met:



- A. **No Feasible Alternative.** Filling is the least desirable means of protecting structures permitted in the floodplain. Filling is allowed only if there is no feasible alternative and the natural grade of the area being filled is less than one foot below the base flood elevation.
- B. **Elevation of Structures.** Structures should be elevated or, for some utilities, buried.
- C. **Compensatory Storage Required.** Where filling is permitted, compensatory storage at a ratio of 1.25 acres of compensatory storage for every one acre of fill. The compensatory storage shall be adequate to ensure that there is no increase in the flood elevation as a result of the fill.
- D. **Amount of Fill; Permits.** Approval of the filling shall meet all the above requirements and the following requirements:
  - 1. Fill to a depth of one foot or less shall be permitted by the County Engineer on the basis of good engineering for such a structure.
  - 2. When the fill depth is greater than one foot, it may be permitted where essential to the structure or where elevation would involve substantially greater cost. The County Engineer shall require and review a study demonstrating that the flood elevation will not be increased on any other property as a result of the construction.

**Sec. 4.505 Detention in Floodplains**

There are some floodplains in the County planning area with very shallow (less than 18 inches), wide floodplains and/or artificial stream channels. The preferred method of stormwater management is to retain the area of floodplain as open space, but to dechannelize the stream so that the stream is given a more natural stream channel and floodplain. The net effect of this should be to greatly increase the storage capacity of the floodplain. This is the preferred method of stormwater detention wherever possible (see the Subdivision Ordinance, *Division 22.400, Drainage*). The net effect of this is intended to lower the flood elevation after accounting for all additional runoff as a result of the development (see Figure 4.505, *Detention in Floodplains*).





### Sec. 4.506 Standards for Beneficial Uses in Floodplains

No variations from the floodplain standards shall be permitted as the regulations provide for clustering and other flexible techniques that should allow developers to build on their land. If a developer or land owner wants changes, they shall apply for a zoning change or beneficial use appeal (Section 12.501, *Beneficial Use Appeal*).

### Sec. 4.507 Additional Approvals

Any approval shall be conditioned on receiving a permit from the West Virginia Department of Environmental Protection and the Corps of Engineers. Where *watershed* management plans exist, all approved development shall be consistent with such plans. Structures slated for acquisition under future flood hazard management projects shall not be repaired or replaced.

### Sec. 4.508 Parking in Floodplains

Parking in the floodplain shall be permitted under the following conditions:

- A. **Surface Parking.** Required parking may be located within the floodplain provided that the depth of water during a base flood does not exceed six inches, except as provided in B below.
- B. **Recreational Area Surface Parking.** Parking for recreational areas that may be closed to access during flooding and are closed to access on a nightly basis may be approved below six inches below the base flood elevation, provided the depth of water during a base flood does not exceed three feet.

### Sec. 4.509 Wetlands

- A. **General.** Few uses are permitted in wetlands. In residential districts, clustering provisions provide the ability to work around wetlands through good site planning.
- B. **Design Standards.** Where *permitted uses* or structures are to be built in a wetland, the structure shall be located on piles. Where needed, *access* shall be provided on structures such as boardwalks.
- C. **Mitigation.** It is recognized that there are some situations where it does not make sense to preserve isolated wetlands. Section 4.510, *Wetland Mitigation*, addresses *mitigation*.

### Sec. 4.510 Wetland Mitigation

Cases may exist where protection is not a reasonable alternative and mitigation is an acceptable solution. Following are the situations where *mitigation* is permitted and the standards that apply:

- A. **Mitigation Areas.** Areas where mitigation may be approved include the following:
  - 1. Augmentation of existing large wetlands or wetland complexes.
  - 2. Constructing wetlands within green infrastructure corridors.
- B. **Site Capacity Calculation.** The *mitigation* of a wetland shall not in any way effect the site capacity calculation, which shall be based on the existing condition. Mitigation shall not result in any increase in *development density* or *intensity*.
- C. **Corps of Engineers.** In all cases, *mitigation* shall require a Corps of Engineers permit. Obtaining a Corps of Engineers *permit* shall not override the standards of this Ordinance if the Ordinance does not permit mitigation.



- D. **Mitigation Standards.** In *mitigation*, any newly *constructed wetland* or reconfiguration of an existing wetland shall require the wetland to be free of invasive wetland species and to have a mix of plant types that would qualify it as a high-quality wetland.
- E. **On-site Mitigation.** If *mitigation* can be done on site, then it shall be done on site and the wetlands integrated into the development's stormwater system or used as buffers or *open space*.

#### Sec. 4.511 Riparian Buffers

The *riparian buffers* shall meet the following standards:

- A. **Planting.** The *buffer* shall be planted in a mix of indigenous grasses and forbs, shrubs, and trees (five *plant units* per acre, see Article 8, *Landscaping and Tree Protection*) to enhance the buffer's absorption and filtering potential. A list of acceptable species is available from the Planning Office.
- B. **Septic Systems.** No *septic systems* shall be allowed within the buffer.
- C. **Drainage.** *Drainage* shall not discharge directly, via pipe or ditch, to the water body through the buffer. The discharge shall be by sheet flow, maximum depth two inches in a grassed waterway, or via a *constructed wetland*. Prior to entering the water body, flows shall have been reduced by a detention facility.

#### Sec. 4.512 Water Bodies

Water bodies shall not be altered except as provided below:

- A. **Surface Area.** The surface area of a water body may not be reduced. Any alteration shall ensure that the surface area is retained.
- B. **Use of Fill.**
1. Only ponds or artificial lakes shall be altered using fill.
  2. Any alterations to natural lakes, streams, or rivers shall only be to increase their area by excavation.
  3. No alteration of perennial and ephemeral streams within the Elk Run and Elk Branch watersheds shall be permitted to increase their area by excavation.

#### Sec. 4.513 Mature Woodlands

The required area of all woodlands shall be preserved as *open space* in accordance with Division 4.200, *Resource Protection Standards*. In limited situations, less protection is permitted with *mitigation*. The following standards shall apply to protecting woodlands:

- A. **Disturbed area.** The area permitted to be disturbed shall be located to:
1. Maximize the size of the undisturbed habitat; or
  2. If the forest is linear, maximize preservation of the corridor for wildlife movement; and
  3. Disturb areas of lower woodland health and quality.
- B. **Protection of Individual Trees.** The protection is for a percentage of the forested area. Where *development* is to occur in the forest, as permitted, a tree survey shall be conducted to locate existing trees, their species, size, and condition. A tree is considered preserved when 90 percent of its canopy is within *open space*.



- C. **Protecting the Trees.** Silt fence and *construction* fencing shall be erected five feet outside the *open space* line to prevent construction activities within the protected area.
- D. **Mitigation.** *Mitigation* is generally discouraged. However, it can be addressed in the following situations:
1. Mitigation of mature core woodlands to permit a greater cutting of trees shall only be permitted as a condition of approval of a beneficial use *appeal* (see Section 12.501 *Beneficial Use Appeal*).
  2. Mitigation of other woodlands shall be permitted where there is greater preservation of a woodland that has a higher protection level. For example, protecting more of a mature woodland will permit greater cutting of a young core woodland.
  3. For mature or young woodlands, but not core woodlands, limited reduction is permitted where afforestation of *open space* in *old field* or *farm* field is to be done during the *development* process.
  4. Mitigation does not alter the *density* or *open space ratio* required of a development by Division 4.300, *Site Capacity Calculations*.
- E. **Mitigation to Standards.** Where there are several types of woodlands, the woodland type with the lowest protection level shall be mitigated, rather than woodlands of higher protection levels. In no case shall disturbance limits established in Table 4.200, *Resources Protection Standards*, be exceeded for Core Mature Woodlands or Core Young Woodlands.
- F. **Afforestation for Mitigation.** Afforestation is permitted only for *mature woodlands* or young woodlands where all *mitigation* occurs on site. It requires the planting of 20 *plant units* per acre (see Article 8, *Landscaping and Tree Protection*). The County staff shall approve species and type of plant unit. One of the plant units shall use one size larger trees. Three *plant units* shall use trees of standard size as indicated in Table 8.202, *Plant Unit Options*. Eight of the plant units shall be bag or pot grown trees in accordance with Section 8.203, *Plant Size Reductions*. The remaining plant units shall be bare root trees of 3/4-inch *caliper* and one-foot shrubs. The mitigation for mature woodlands shall be at one and one-half acres of afforestation for one acre of cutting. For young woodlands, the ratio is one and one-quarter acres for one acre of cutting. No more than twenty-five percent of the protected woodland may be mitigated; the remainder must be preserved.

#### Sec. 4.514 Sinkholes

The protection of *sinkholes* and *karst features* is intended to protect the County's groundwater from pollution. The protection takes two forms: preserving the sinkhole and karst feature as *open space* and mimicking pre-development stormwater quantity and quality flows to sinkholes and karst features. The following standards shall apply:

- A. **Sinkhole.** The area of sinkholes and karst features shall be preserved as open space since any disturbance can result in increasing the rate and quality of water reaching the aquifer. Some areas of *sinkholes* and karst features have been plugged by natural processes and a limited amount of *construction* could occur (see D below).
- B. **Stormwater.** *Stormwater management* shall be such that increased *runoff* due to buildings, roads, or other *impervious surfaces* are diverted out of the *sinkhole* and discharged to stream basins. Stormwater flows to sinkholes and *karst features* shall mimic pre-development volumes



and shall be of a quality no worse than if discharged towards the sinkhole and karst feature through a wooded buffer. If large-scale topography (depressions larger than the *sinkhole buffer*) prevents this, then all stormwater shall be treated in a wet *detention basin* or similar and all flows moved through grasses, swales, or *constructed wetlands* to provide maximum cleaning. If forested, all flows should be overland sheet flow through the forest.

- C. **Mitigation.** In no event shall open sinkholes or karst features be mitigated. *Mitigation* shall be permitted only after a geotechnical study indicates that:
1. The sinkhole or karst feature or group of sinkholes and/or karst features is fully plugged. The geotechnical study shall prove that the *sinkhole* or *karst feature* has been plugged for a substantial time so that plugging material is compacted and stable, and a layer of surface soil to a depth of one foot has been established over the area of the sinkhole and any depression associated with it that slows *infiltration*.
  2. The geotechnical study shall demonstrate that the proposed *development* in the sinkhole or over the karst feature is not going to lead to increased rates of recharge in both quantity and quality.
  3. In no event shall *mitigation* result in an increase in the permitted *development* of the property over that of Division 4.300, *Site Capacity Calculations*.

#### Sec. 4.515 Sinkhole Buffer

The protection of *sinkholes* and *karst features* is intended to protect the County's groundwater from pollution, and the *sinkhole buffer* furthers that objective. The protection takes two forms: locating *development* in the best manner to prevent stormwater from being directed to the sinkhole or *karst feature* area and managing stormwater. The following standards shall apply:

- A. **Location.** The permitted *development* in the buffer shall be located as far as possible from the sinkholes and karst features in a location where stormwater flows to the sinkhole or karst feature can best mimic pre-development quantity and quality flow conditions. If draining away is not feasible, then the location should be chosen to optimize the effectiveness of the *stormwater management* systems.
- B. **Open Sinkholes or other Karst Features.** If the *sinkhole* or other karst features is open, then the buffer shall be kept at an *open space ratio* of 1.00. The *density* of the site capacity calculation is not changed, but the *development* must be outside the buffer.
- C. **Stormwater Management.** That portion of the *sinkhole* buffer draining to the sinkhole or karst feature shall be either left undisturbed and in natural vegetation. If that is not possible, stormwater shall meet the requirement that there be no change in quantity or quality of water discharged towards the sinkhole or karst feature from what it would be in a wooded condition. Invasive or exotic species may be removed from within the buffer area with the prior approval of the Zoning Administrator.
- D. **Mitigation.** *Mitigation* is prohibited unless the geotechnical study in Section 4.516D, *Geotechnical Study*, indicates that an appropriate form of *mitigation* will ensure that the discharge rate and quality of stormwater will best mimic or enhance pre-development site conditions



## Sec. 4.516 Vulnerable Areas

- A. **General.** Vulnerable areas are defined as being highly vulnerable or moderately vulnerable. The combination of surface and subsurface conditions makes these areas vulnerable to groundwater pollution or contamination. These areas have been mapped at a large *scale* in the County, but actual on-site conditions may be more variable.
- B. **Highly Vulnerable Areas.** All *development* in *highly vulnerable areas* shall require a geotechnical study to determine if there are *sinkholes* that are not visible on the surface or bedrock conditions that need to be specifically avoided or protected. The study shall recommend corrective and *mitigation* techniques to be applied to pre-identified problem areas and to areas discovered during the *construction* process.
- C. **Moderately Vulnerable Areas.** All developments in *moderately vulnerable areas* shall require a preliminary geotechnical study to determine if there are areas of the site that are not moderately vulnerable or highly vulnerable.
- D. **Geotechnical Study.** The geotechnical study shall determine the relative vulnerability of different portions the site. It may also be used confirm or refute the existence of elements that lead to the designation as a *highly vulnerable area* or moderately vulnerable area. The geotechnical study shall:
1. Identify the presence of *sinkholes* or karst features and/or filled sinkholes or karst feature or provide a report stating that evidence of karst features was not found.
  2. Determine the relative vulnerability of different portions of the site as very highly vulnerable, highly vulnerable, or moderately vulnerable.
  3. Identify areas best suited to *development* and most in need of protection.
  4. Propose a geotechnical protection plan covering *mitigation* of existing problem areas and response to conditions that occur during *construction*.
  5. Propose a *stormwater management* and facilities plan that will meet the requirements of G below.
  6. Any tests requiring boreholes must grout the entire depth of the open boreholes upon completion to prevent any changes to hydrology, excepting caves and other natural voids where the natural flow of groundwater might be impeded. Grouting should be done with a mixture of 50% bentonite and 50% portland cement or other suitable mixture approved the Zoning Administrator.
  7. At the discretion of the Zoning Administrator, the study and plan may be simplified if the environmental constraint found to be present on the site is not impacted by the proposed site development.
- E. **Open Space.** Areas that are particularly vulnerable on the site shall be placed in the required *open space* as determined by the site capacity calculation (see Division 4.300, *Site Capacity Calculations*).
- F. **Open Connections.** All open connections to the groundwater shall be sealed or filled.
- G. **Drainage and Stormwater System.** A *drainage* and *stormwater management* system shall be developed that ensures that the rate and quality of stormwater recharging the aquifer is that of the



area in a natural state. The natural hydrologic function of the landscape to absorb and treat stormwater should be maintained or re-created. This can be achieved by maintaining existing *drainage* patterns, disconnecting *impervious surfaces*, increasing Time of Concentration, minimizing site disturbance to maintain natural soil properties, and controlling stormwater as close to the source as possible through multiple small-*scale* controls. Site *landscaping* and *natural area conservation* should be utilized to maximize the benefits of natural water filtration that vegetation provides. Site layout should be designed around the *stormwater management* system. The following are elements that may be required of such a system:

1. Storm sewers.
2. Open channels that are lined to prevent *infiltration*.
3. Plantings in channels or ditches that filter and purify water.
4. Wet *detention basins*.
5. Use of Low Impact Development techniques (see Section 4.604, *Minimization*).
6. Roof top storage.
7. Green roofs.
8. Debris and oil traps.
9. Additional landscape plantings.

#### **Sec. 4.517 Steep Slopes**

There are two levels of *steep slopes* that need protection -- those with slopes in excess of 25 percent and those with slopes of 15 to 25 percent.

- A. **Slopes Greater than 25 Percent.** A conditional use *permit* shall be required to disturb more than the allowed amount, and the following standards shall be met:
  1. Approval shall be granted only where needed to provide road *access* to a buildable area that cannot otherwise be accessed. If a *cluster plan* can achieve the permitted *density* without accessing the area, no *mitigation* shall be permitted.
  2. *Mitigation* shall take the form of protecting a similar acreage of *steep slopes* in the 15 to 25 percent category. Wooded slopes shall be given priority over non-wooded slopes so that the total protected area called for by the site capacity calculations (Division 4.300) is met.
- B. **Slopes of 15 to 25 Percent.** Mitigation shall only be permitted where it is to off-set greater protection of steep slopes of greater than 25 percent or areas of mature forest that are given protection above the amount required by Table 4.200, *Resource Protection Standards*. For each acre that is protected, an additional acre of these slopes may be disturbed.

#### **Sec. 4.518 Wellhead Protection**

*Wellhead* areas shall be protected by the following:

- A. **Drainage Direction.** All drainage shall be away from the well location.
- B. **Wellhead Protection Area.**



1. *Construction* shall be at least 50 feet from the well, except for the well house and its access.
2. No *septic tanks* shall be permitted within the wellhead protection area.
3. No underground storage tanks shall be permitted in the wellhead protection area.

#### Sec. 4.519 Mitigation and Site Capacity

Unless specifically authorized in Division 4.500, *Additional Resource Standards*, no *mitigation* shall result in a change in acreage of resources entered into the site capacity calculations (Division 4.300). The density achieved as a result of mitigation shall not change as a result of mitigation; nor shall mitigation result in the reduction of the *open space* required by the site capacity calculations.

### Division 4.600 Stormwater Management

---

#### Sec. 4.601 Stormwater Management

- A. **Avoidance Preference.** Avoidance techniques are preferred. The *cluster* and planned residential options, floodplain, drainageway, wetland *resource* protection standards, and positive surface *drainage* in natural channels are all avoidance techniques.
- B. **Community Stormwater Facilities.** Residential developments that do not use clustering or planned options shall be required to meet the requirements of this Division.

#### Sec. 4.602 Stormwater Standards

- A. **General.** All developments shall meet the following standards for the discharge of water so that they meet the standards of pre-development conditions:
- B. **Water Quantity.** All developments shall be designed so that the post-development discharge is equal to the pre-development discharge. Where the recharge structures are designed for a specific design storm volume, the facility will meet the standards contained in Appendix B, *Engineering Standards*, of the Jefferson County Subdivision Regulations. Water quantity modeling calculations should include the entire area draining to the site.

#### Sec. 4.603 Avoidance

The use of *cluster* and planned options and meeting of *resource* protection standards of Article 4, *Environmental Protection*, shall constitute avoidance. In figuring stormwater loads and pollution loads, the impact of these shall be taken into account in the sizing of any *mitigation* applications resulting in smaller stormwater treatment or detention facilities. In addition, the use of reduced street and alley pavement areas using narrower streets may be considered, where appropriate.

#### Sec. 4.604 Minimization

The following are techniques that can be used to minimize the impact of *impervious surfaces* by reducing connected impervious surfaces to a minimum, thereby reducing the area and cost of *mitigation* techniques.

- A. **Water Gardens.** Convey *drainage* from rooftops or drives to water gardens. The water garden shall be landscaped with natural vegetation that includes unmowed groundcovers and woody plants that can tolerate periodic inundation. When conveying the roof *runoff* to *open spaces* with



natural vegetation, care must be taken to assure sheet flow, not channelized flow, to prevent *erosion*.

- B. **Rain Barrels or Cisterns.** Rain barrels or cisterns can be designed into the buildings or yards so that roof *runoff* is directed to these storage facilities and used for beneficial purposes such as lawn watering, vehicle washing, or other non-potable purposes. A variety of commercial products are available for this purpose. Their installation must be assured by the subdivider's surety.
- C. **Pervious pavements.** *Driveway*, parking areas, or *sidewalks* may be constructed from *pervious* concrete to provide *infiltration* of *runoff* where soil conditions permit their use. Pervious concrete or asphalt is recommended for minor roads or heavily used parking areas. Concrete or other containment structures that hold gravel or turf are recommended for driveways or low use parking areas.
- D. **Vegetated swales.** These shall be used unless the subdivider can show they are impractical or that the slopes would result in *erosion*.
- E. **Swale Blocks.** The swale block is installed at intervals along a vegetated swale to allow the water to build up into a series of pools, slowing water flow and allowing the vegetation to assist in cleaning the water and settling out solids. The blocks shall be slotted to allow them to drain down and have a notch to permit maximum flows during the 50-year storm without overflowing the swale. Their use slows flows and decreases pollutant loading, and the detention facilities shall be sized to account for the reduction in flows.
- F. **Curb and Gutter.** Curb and gutter systems and their associated storm sewer systems are undesirable because they greatly increase peak discharge rate and prevent *infiltration* or treatment of stormwater. Curb and gutter systems shall be used only where needed to contain parking, when swales cannot safely convey the volume and peak discharge rate of stormwater without *erosion*, or where curbs are needed to contain parking on streets. When roads transverse *open space* areas, curbs shall be removed. Streets can be narrowed and parking provided in bays, allowing parking to be prohibited. This eliminates the need for curbs.
- G. **Curbs without Storm Sewers.** Where curbs are required for parking containment, they should be designed with slots or discharge sections to convey the stormwater to swales.
- H. **Green Roofs.** Large buildings, having over 20,000 square feet of roof cover or sites having very high impervious surface may have great difficulty meeting water quality, recharge, or stormwater requirements. The green roof is designed to be vegetated with grasses or other ground covers. These roof coverings shall be counted as part of the stormwater or aquifer recharge system. They have the advantage of a lower peak release rate of run-off and water that is higher quality when it reaches the ground. Because these benefits are achieved without a loss of buildable area to storm water management systems green roofs are to be encouraged.

Proposals for *development* or subdivision within the Elk Run or Elk Branch watersheds shall demonstrate how these techniques to minimize the impacts of *impervious surfaces* on groundwater recharge within these particular watersheds will be utilized.

#### Sec. 4.605 Mitigation

*Mitigation* is required prior to discharging stormwater into *perennial streams* or streams with a defined water course or channel, except where community *stormwater management* facilities intended to serve



the area of the *development* exist downstream. The extent to which the mitigation facilities are needed is dependent on the degree to which the avoidance and minimization techniques are used. In addition to calculating the reduced size of the detention facilities, the extent of the cleaning capacity shall be calculated. A 10 percent penalty in increased size shall be required when avoidance techniques are not used in residential development and a similar penalty shall be required for any development not using minimization techniques. The following are best management techniques:

- A. **Retention with Vegetative Uptake.** The preferred stormwater best management practice is initial retention and *infiltration* of *runoff* in depressed landscape or *natural areas*. This can also be accomplished within planted median areas of parking lots or roads or in specifically designed landscape areas. These areas should be shallow and vegetated with natural vegetation that can tolerate temporary ponding of water. All such facilities shall be designed to hold a three-inch storm. These, in conjunction with vegetative *swales*, if properly designed, may eliminate or sharply reduce the need for a settlement basin.
- B. **Wet Basin.** Wet basins are most effective in cleaning stormwater. The basin shall be at least a two-part basin, with an initial pool for settlement of solids that has a cleanout *access* point. The second part is the *detention basin* where water is detained long enough for additional treatment. All wet basins shall be designed with wetland buffers on the safety ledges, at the area that separates the settlement pool from the main basin, outlet, and inlet. The water retained in the basin between flow events is actively cleaned so that when stormwater comes in, the cleaner water is pushed out. Where feasible, these basins shall be used.
- C. **Wetland Basin.** These are similar to the wet basin in design, except that they are entirely planted in wetland vegetation that tolerates periods of dryness when the basin will be without water for an extended period of time. The design of the settlement basin needs to provide several compartments and a widening *swale* entrance that spreads the water out and prevents washing out solids with the inflow rates. The basin should be increased in size to provide for wetland treatment of the waters for the maximum period of time. Several treatment cells are recommended.
- D. **Dry Basin.** These basins are designed to drain out within 24 hours, and water quality treatment is negligible. They may require use in conjunction with avoidance techniques that address the majority of the water quality treatment or a combination of minimization and *mitigation* techniques.

## Division 4.700 General Environmental Standards

---

This Division contains the standards for noise, smoke, odor, and vibration. It shall be applied only to land uses operating within the County. Railroad trains, aircraft and Agricultural Uses are exempt from the provisions of this Division. All uses shall comply with the following standards for maximum noise, vibration, odor, and other emissions and for nonresidential uses that tend to generate excessive noise, vibration, odor, and other emissions, shall be certified by a licensed engineer with expertise in the appropriate area.

### Sec. 4.701 Noise

- A. **General.** All uses shall maintain a maximum *day-night noise level (DNL)* measured in decibels (*dBA*) as indicated in Table 4.701, *Noise Levels*, at:



1. The interior of any *bufferyard* required by Division 8.400, *Bufferyard Requirements*; or
2. At the *property line* where no bufferyard is required.

Adjoining Use or District	Maximum Noise Level
Residential Use or District permitting Residential (AG, CS, ES, RS, NC, TS)	55 DNL
Commercial (GC)	65 DNL
Industrial (BP)	75 DNL

- B. Different Adjoining Uses or Districts.** Where different uses adjoin the subject property, the most restrictive noise level standard shall apply. The standard must be met not only on *abutting* properties, but also where a district boundary is off site.
- C. Noise Reduction Barriers.** Where barriers or structures are used to meet noise reduction, they shall be certified by a registered acoustical engineer as meeting these standards pursuant to the Federal Highway Administration's Highway Traffic Noise Prediction Model (FHWA-RD-77-108, as amended). The actual elevation of noise sources on the property shall be used in the model.

**Sec. 4.702 Vibration**

- A. General.** The maximum vibration standard shall be maximum peak particle velocity. This standard is measured as the maximum displacement vector sums of three mutually perpendicular components, recorded simultaneously, multiplied by the frequency in cycles per second. Where these standards are not met five feet beyond the *building* walls or the generator, if it is located outside, then barriers, structures, or dampening measures shall be used to ensure that all uses meet these standards at the *property line*.
- B. Standards.** The standards of Table 4.702, *Vibration Standards*, shall be met, except as provided in B below.

Frequency in Cycles per second	Adjoining Zoning		Impact Vibration <sup>2</sup>
	AG, CS, ES, RS, TS, NC	GC, BP	
Less than 10 cps	0.0004	0.002	0.0098
10-19 cps	0.0002	0.0011	0.0055
20-29 cps	0.0001	0.0006	0.0028
30-39 cps	0.0001	0.0004	0.0018
40-49 cps	0.0001	0.0003	0.0013
50 or more cps	0.0001	0.0002	0.001

Notes:  
<sup>1</sup> Vibrations that do not exceed 60 per minute may be twice this value.  
<sup>2</sup> Vibrations occurring no more than eight times in a 24-hour period with a minimum separation of one minute.



C. **Exemptions.** The following are exempt from these standards:

1. Vibrations emanating from *construction* activities between the hours of 7:00 a.m. and 9:00 p.m. that are temporary in nature.
2. Transient vibrations of moving vehicles, such as trucks and automobiles or trains.

D. **Measurement.** An operator trained to measure vibrations shall make all such measurements and certify them to the County.

### Sec. 4.703 Emissions

This Section and Section 4.705, *Odorous Materials*, address standards for emissions.

- A. **Verification Required.** All industrial uses shall submit verification that their proposed smoke and particulate matter emissions meet Federal and State Air Quality Standards set forth by the U.S. Environmental Protection Agency (Code of Federal Regulations, Title 40) and the State of West Virginia.
- B. **State Permit Required.** No regulated emission source shall be constructed or operate without a valid *permit* from the West Virginia Department of Environmental Protection, Division of Air Quality.
- C. **Transfers that Increase Emission Levels.** Further, no transfer of pollution rights authorized by the State or Federal governments shall be permitted that would increase emission levels within the County as a result of the transfer.
- D. **Transfers out of the County.** Transfer of pollution rights out of Jefferson County are permitted and encouraged.

### Sec. 4.704 Toxics

- A. **General.** Manufacturing toxic matter, as listed in the U.S. Environmental Protection Agency Title III, List of Lists, most current version, is prohibited. Such matter may be used in processing or be generated as a by-product to the production of something else. All release of such material shall meet State and Federal standards.
- B. **Approval.** All uses utilizing such materials will be permitted or prohibited based on their performance level. All uses utilizing such materials or emitting carcinogenic toxics shall be treated as Conditional Uses. In approving the *Conditional Use*, the County shall evaluate the following studies, submitted and sealed by a licensed engineer specializing in toxic emissions:
  1. **Threat Level.** Submit an evaluation of how close the proposed emission is to the maximum permitted emission levels.
  2. **Dispersion.** The level of dispersion and mixing that occurs prior to leaving the property and before it crosses into a residential district or a property used by the public such as schools, *museums*, or other places of public gathering. The likely dispersion patterns in normal and worst case weather conditions shall be part of this submission.
  3. **Risk Management Plan.** In all cases of toxic emissions, a copy of any required Federal Risk Management Plan (RMP).

**Sec. 4.705 Odorous Materials**

No use shall store material or produce odors that exceed this Section's standards. For industrial uses or commercial uses likely to produce odors, engineers shall submit information of methods used to control or scrub such odors to meet the standards of this Section.

- A. **Standard.** Emissions that are a noticeable problem at any point beyond the *property line* shall be prohibited.
- B. **Panel Established.** A panel of five people selected by the County Commission shall be convened. The panel shall consist of one member of the Department of Planning or Zoning staff, two people from the business community, and two residents of nearby residential areas. One member of the business community and one nearby resident shall be from the district in which the use is located, but shall not include the *owner* of the site nor a complainant.
- C. **Determination of "Noticeable Problem."** A noticeable problem shall be determined during an on-site visit to the site or to a similar installation prior to *construction*. A noticeable problem is where the panel arrives at one of the following:
  - 1. All panel members detect the odor and one finds the odor to be unpleasant, irritating, or too intense even though a pleasing odor.
  - 2. The majority of the panel detects the odor and two members find it to be unpleasant, irritating, or too intense even though a pleasing odor.
  - 3. Any panel member experiences eye irritation or other allergic reaction.

**Sec. 4.706 Hazardous Materials**

- A. **General Standard.** All uses shall comply with State and Federal Standards. Any use that is required to submit a Federal Risk Management Plan (RMP) shall submit the same to the County at the time of land development plan approval. The County shall review the land development plan in light of minimizing risk to neighbors, the County, or the environment. The County may impose design conditions to maximize protection of health and safety.
- B. **Radiation Hazards.** No manufacture or processing of radioactive materials shall be permitted within the County. Where radioactive materials are to be used in the manufacture of other materials, they shall be a *conditional use*. Where radioactive materials are used in medical testing and imaging, industrial measurement, or quality control equipment, they may be permitted as a Limited Use. All Conditional or Limited uses shall meet the following:
  - 1. Radioactive materials shall be stored in sealed containers or rooms.
  - 2. All such areas where radioactive materials are used shall be clearly labeled.
  - 3. The fire department, emergency services, and police shall be given detailed plans of the areas involved in handling any radioactive materials.
  - 4. The use shall have proper permits for the use, storage, and disposal of radioactive materials.

**Sec. 4.707 Dust and Debris**

- A. **General.** Dust and particulate matter shall be controlled to prevent significant off-site deposition on adjoining lots or roads. The County shall determine whether the pattern of deposition is a



result of the regular operation of the industrial use or vehicular traffic on the site, not a short-term *landscaping* or *construction* activity that was impacted by severe winds. Long-term construction is expected to use *Best Management Practices* to reduce dust.

- B. **Clean Up.** Clean up of deposited material shall be the responsibility of the generator. If the County must do the clean up because of failure of the generator to take corrective action, the County may close the use until corrective action is taken.
- C. **Best Management Practices.** *Best Management Practices* include, but are not limited to, covering stored materials, wetting or otherwise stabilizing the material, paving, sweeping or vacuuming the materials, wind breaks or fences, filters, or other trapping mechanisms.

#### **Sec. 4.708 Lighting**

See Division 7.400, *Exterior Lighting Standards*



## Article 5 Incentives

### Division 5.100 Purpose

---

This Article is intended to provide incentives to achieve selected County goals pertaining to providing affordable housing, protecting *historic resources*, and preserving rural character.

### Division 5.200 Affordable Housing

---

The purpose of this Division is to provide regulations that make the long-term provision of affordable housing a part of the County's zoning requirements. The cost of land, cost of *construction*, and other elements of the housing market and regulatory system operate to prevent developers from providing affordable housing that is needed for many families in the local work force including municipal employees, school teachers, and many service employees. It has become difficult to produce affordable housing within the normal zoning standards. Nor is it certain that, even if densities were unlimited, developers would voluntarily build affordable housing. There are a number of provisions of this Ordinance that are intended to make affordable housing possible. The *planned development* as a *permitted use*, the average lot size, and *floor area ratios* are all designed to encourage the provision of more affordable housing by the private sector. Experience elsewhere in the United States, however, indicates that mandatory affordable housing provisions are also required to meet this need.

#### Sec. 5.201 Affordable Units

There are two types of *dwelling units* considered to be affordable. The first type, program assisted housing, is that built under specific state or federal programs for producing affordable housing through some form of direct or indirect aid or any housing built by private nonprofit groups with similar qualification standards. The second type, work force housing, is that built under the specific provisions of Section 5.203, *Work Force Housing*.

#### Sec. 5.202 Program-Assisted Housing

Where a *developer* is building affordable housing specifically funded in whole or in part by direct or indirect state, federal, or non-profit programs for affordable housing having similar income eligibility requirements, the following regulations shall apply:

- A. **Density.** The *density* for the *development* option chosen by the developer from those permitted in the district in Table 2.201A shall be increased a maximum of 15 percent over the *maximum gross* density number provided in Table 3.201A. If the mix exceeds the *development scale* in B, below, the percentage in excess shall reduce the bonus accordingly.
- B. **Development Scale.** The *scale* of program assisted affordable housing developments is important because creating mixed neighborhoods with a diverse population creates sound neighborhoods. All other units shall be market rate or work force housing.
  1. Eighty to 100 percent program-assisted. These developments shall be limited to no more than twenty-four *dwelling units*.
  2. Forty to 79 percent program-assisted. The maximum *scale* of these developments shall be 80 *dwelling units*.



3. Twenty to 39 percent program-assisted. The maximum *scale* shall be 160 *dwelling units*.
4. Less than 20 percent program-assisted. There are no limitations on *scale*.
5. Program-assisted housing shall not be permitted on adjoining properties as a means of avoiding provisions 1 through 4 above.

**Sec. 5.203 Work Force Housing**

A. **Purpose.** The purpose of this Section is to provide incentives for the production of work force housing. Work force and affordable housing is needed because many local workers can no longer afford housing in the County, including police, fire, school, and other service employees. To better provide for work force housing, a combination of incentives and requirements is used. These include the following:

1. The densities for each option in Table 3.201A, *Residential Use District Standards* are based on a *density* increase of 15 percent over what would have been permitted had no work force housing been required.
2. An incentive is provided by *planned development* being permitted by right, which includes the ability to average lot sizes. (See Section 3.304, *Averaged Lots*).
3. The Ordinance permits the *development* of small family housing units with a single bedroom for *elderly* or young singles or households with families consisting of two members. (See Section 5.207, *Small Family Units*).
4. The Ordinance permits *accessory dwelling units* and employee housing. See Section 5.205, *Additional Work Force Housing options*.

B. **Work Force Housing Requirement.** The number of work force housing units that is required in a proposed development is determined by what proportion of the maximum permitted *density* is used. In calculating the total number of work force housing units that is required, fractions shall be dropped.

Permitted Density Used	Minimum % of Units that Must be Work Force Housing
100%	15%
99%	14%
98%	13%
97%	12%
96%	11%
95% or less	10%

C. **Siting.** Work force housing units shall be mixed into the development and not segregated into a single section.

1. In single-family or *cluster* developments, the work force housing may be on smaller lots where lot averaging is required



2. In *planned developments* where multiple housing types are proposed, work force housing units shall not constitute more than 25 percent of any one housing type.
- D. **Quality.** Work force housing units shall not be obviously distinguishable from market rate units when viewed from the outside. The work force housing shall be comparable in appearance to other homes of the same housing type in the development. Single family work force housing units may be smaller than their market rate counterparts.
- E. **Reduced Cost.** Work force housing will cost less to produce because of reduced land and improvement costs and reduced house size.
1. **Land Cost.** Within a development, the price of land is allocated to the units that are market rate units. The Work Force Housing shall have no land costs allocated to it.
  2. **Improvement Costs.** There shall be no costs for streets, *sidewalks*, street trees, water, sewer, gas, or electric allocated to the work force housing units other than the connection costs of *driveway* curb cuts and utility hook-ups.
  3. **House Size.** The *developer* is encouraged to provide work force housing units with a more modest floor area than typical of market rate units. Thus, where lot averaging (Section 3.304, *Averaged Lots*) is available, the developer is encouraged to use smaller lots for work force housing units.

#### Sec. 5.204 Small Development Fee In Lieu Alternative

- A. **5 to 14 units.** Developments that include 5 to 14 units, which are not located in the Agricultural (AG) Zone District shall provide one workforce housing unit to satisfy the requirements of Section 5.203B, *Work Force Housing Requirement*, or may proffer an alternative means of satisfying this requirement that assures a pro-rata share contribution toward satisfying the work force housing requirements contained in Section 5.203B.
- B. **15 to 25 units.** Developers of residential projects on sites that provide for 15 or more units but less than 26 units shall provide two workforce housing units to satisfy the requirements of Section 5.203B, *Work Force Housing Requirement*, or may proffer an alternative means of satisfying this requirement that assures a pro-rata share contribution toward satisfying the work force housing requirements contained in Section 5.203B.
- C. **Multiple Plats** The County shall treat multiple plats of a single original holding as one development and subsequent developments shall be required to provide work force housing on a cumulative basis.
- D. **Use of Fee.** The fee shall be used for the *development* of work force housing elsewhere in the County, or for programs to provide home ownership assistance to very low, and low to moderate income families as defined by the U.S. Department of Housing and Urban Development (HUD).

#### Sec. 5.205 Additional Work Force Housing Options

- A. **Employee Housing.** In the Agricultural (AG) and Countryside (CS) districts, one employee housing unit may be provided for *farm* or stable employees, provided no new lots are created for such housing and the unit is served by an existing driveway or lane. No new *driveways* or entrances may be constructed to serve employee housing units.



- B. **Mix of Dwelling Unit Types.** The housing types for *planned developments* may be permitted in a conventional development when it is demonstrated that the *development* of single family work force housing units is impractical. The design of the other housing type must be integrated into the design of the development to make it an integral and compatible part of the development. For example, a *duplex*, *multiplex*, or *apartment* unit can be designed to look like a large, single-family house among single-family houses.

### Sec. 5.206 Accessory Dwelling Units

- A. **General.** *Accessory dwelling units* are small living units added to a principal *dwelling unit* under common ownership. Accessory units are a means of providing housing for a one or two person household. They provide a means of providing affordable housing for younger single persons or *elderly* single persons, both of which are in need of housing opportunities in Jefferson County. Accessory units could be considered part of a two-family unit, but, because of the need for affordable housing, this Ordinance does not count accessory units as dwelling units in calculating *density*.
- B. **New Subdivisions.** The following regulations govern accessory units in new developments:
1. **Size.** Accessory units shall be limited to no more than two bedrooms, except as provided in Section 5.205, *Additional Work Force Options*. The accessory unit shall constitute no more than 35 percent of the total floor area of the house, excluding the garage or 750 square feet, whichever is less.
  2. **Location.** The accessory unit may be located in the main structure as a separate level or as a wing of the house, over a garage, or as a freestanding building. The unit shall be subject to the *setback* requirements, but not the limitations of Section 2.301, *Residential Uses*.
  3. **Design.** The *developer* shall provide floor plans for homes showing the accessory units and plans for the *accessory building* if the accessory unit is not located in the *principal structure*. It is desired that the accessory units be available for *occupancy* concurrently with the occupancy of the principal structure. This ensures that there are not future *setback* or other problems with attempting to add an accessory unit later.
  4. **Parking.** There shall be one additional on-lot *parking space* provided for the accessory unit.
  5. **Subdivision designation.** All lots where accessory units are to be allowed shall specifically be identified on the plat. Individual lot surveys shall contain the identification of neighboring lots permitting accessory units if the lot does not permit an accessory unit.
  6. **Work Force Housing Agreement.** Where the accessory units are to be recognized as work force housing, they shall be rented out according to Section 5.208, *Regulation of Work Force and Program Assisted Housing*, and shall be part of the purchase of lots with accessory units that count as work force housing.
- C. **Existing Dwellings.** Accessory units may be permitted for existing dwellings provided all of the standards of this Section are met. As part of the application to build an accessory unit, the applicant shall be required to provide a copy of the covenants, conditions, and restrictions of the subdivision if the lot is subject to covenants, conditions, and restrictions. No application will be processed if the covenants contain a provision prohibiting accessory units.



1. **Size.** *Accessory dwelling units* added to existing dwellings shall meet the same requirements for size, location, design and parking as accessory units in new subdivisions. (See provision B above.)
2. **No Variances.** An application for *construction* of an accessory unit shall be denied if the construction of the unit requires a variance.
3. **Parking.** There shall be one additional on-lot *parking space* provide for the accessory unit.

**Sec. 5.207 Small Family Units**

A. **Unit Design.** There are three conceptual unit designs: single-family detached units of one or two stories and an attached atrium unit. Table 5.207, *Small Family Units*, and Figure 5.207, *Dimensional Standards for Small Family Units*, illustrate the units and provide the standards for each of these unit types. Two types of standards are provided -- the standard for the lot containing a unit and *parcel* standards that address the perimeter of the parcel upon which the unit is based.

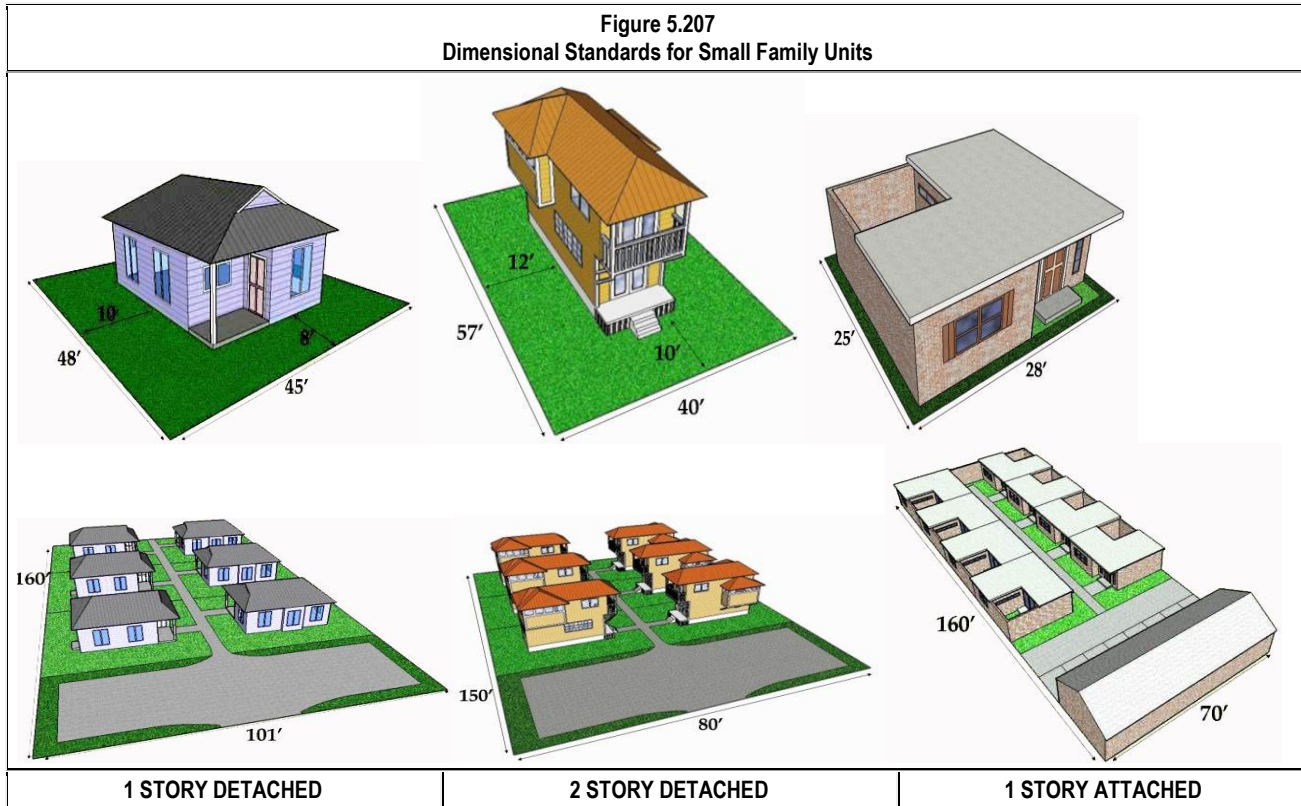
Table 5.207 Small Family Units			
	1-Story Detached	2-Story Detached	1-story Attached
<b>Individual Lot Standards</b>			
Minimum Lot Area per Unit in sq. ft.	2,000	2,000	800
Maximum Floor Area Ratio on Lot	0.4	0.4	0.8
Spacing (Minimum/Total) in ft.	6/16	7/18	Attached
Maximum Height in ft.	18	28	15
<b>Parcel Standards</b>			
Minimum Open Space Ratio	0.13	0.13	0.16
Maximum gross density	10.32	10.32	16.47
Street Setback in ft.	15	15	15
Side or Rear Yard in ft.	5	7	10
Parking setback in ft.	10	10	10

- B. **Location.** The small family units may be located on lots that meet at least one of following criteria.
1. Lots of less than one acre in the Townscape (TS) District or in the Residential (RS) District, where the *parcel* abuts another with General Commercial (GC) zoning; or
  2. Existing lots of less than 25,000 square feet in the Residential (RS) District, regardless of the zoning of *abutting parcels*; or
  3. Where the land adjoins and is under common ownership with a place of worship, a nonprofit housing organization, or social service provider that will manage the property.
  4. Small family units may also be located on lots in the Agricultural (AG), Countryside (CS), and Village Conservation (VC) districts provided they are located on lots meeting the standards for Cluster Single Family lots identified in Table 3.302B of this ordinance.
- C. **Distribution.** To ensure that the character of a neighborhood is not changed by the increase in *density*, the following minimum distribution shall be required:



1. In the Residential (RS) District, there shall be no more than 20 units within a 1,320-foot radius of each other.
2. In the Townscape (TS) District, there shall be no more than 40 units within a 1,320-foot radius of each other.

Figure 5.207  
Dimensional Standards for Small Family Units



**Sec. 5.208 Regulation of Work Force and Program Assisted Housing**

All work force housing and program assisted housing shall be regulated by a separate ordinance promulgated by the Jefferson County Commission that shall:

- A. Identify and establish an entity designated by the Commission to regulate the work force and program assisted housing units built under provisions of Division 5.200 of this ordinance.
- B. Establish an entity responsible for managing the use and distribution of funding provided through the collection of fee-in-lieu of providing work force housing under the provisions of Section 5.204, *Small Development Fee in Lieu Alternative*, of this ordinance.
- C. Establish the methods to be used to determine maximum unit price or rental cost, provide guidelines for income eligibility, and the length of the control period designed to assure work force units remain affordable over time.
- D. Determine alternative methods of providing work force housing, recapture of profits and/or establishing alternative means of providing work force housing through substitution by donation of cash equivalents.



- E. Establish provisions to guide any and all such other matters as may pertain to the maintenance of work force housing in the affordable housing inventory.

### Division 5.300 Historic Preservation

---

- A. **General.** Jefferson County has a rich historic heritage and desires to preserve that heritage in the face of increasing *development* pressure. A series of incentives are provided in this Division to provide ways that land owners can preserve and protect their *historic resources* for future generations. Incentives are needed for several reasons.
1. Historic buildings often need substantially more maintenance and upkeep than new *construction*, and may be much more expensive to heat and light.
  2. Many historic buildings do not meet building, plumbing, or electrical codes and need extensive improvements to make them marketable and safe.
  3. The zoning of a property may not support the use that could make preservation a fiscally responsible alternative to demolition.
  4. In other cases, the land needed to preserve the context of historic buildings is threatened by *development* pressures.
- B. **Incentives.** The incentives of this Division are provided to allow the County to encourage the preservation of buildings by addressing problems related to the above conditions. Section 5.301, *Classification of Historic Sites*, sets forth the classification of the Historic Sites and Structures. Section 5.302, *Levels of Protection*, is focused on the protection of the building's or site's context through the preservation of *open space*. Section 5.303, *Demolition*, requires a demolition *permit* be obtained before a historic structure is *demolished* or before any earth moving is done on site. Sections 5.304, *Incentives for Open Space*, and 5.305, *Renovation Incentives*, focus on incentives to preserve the structure(s).

### Sec. 5.301 Classification of Historic Sites

There is a wide range of historic and cultural resources in Jefferson County including structures, villages, battlefields, and places. There are several ways that these resources can be classified. The first is by their importance, as identified by the Jefferson County Historic Landmarks Commission. The Jefferson County Historic Landmarks Commission has identified all sites and structures that are category I thorough IV *historic resources* in Jefferson County (see provision A below). The list is available through the Historic Landmarks Commission or the Department of Planning. The second method of classification addresses either the larger context or the sites of the resources.

- A. **Importance.** The Jefferson County Historic Landmarks Commission has identified and classified all historic resources in the County. They are given four different levels of importance, which will be used in determining the level of protection afforded the resources. The listing of these resources and a map is available from the Jefferson County Historic Landmarks Commission. The levels are as follows:
1. Category I. The most important resources in the County, including contributing structure to National Register properties and Districts.
  2. Category II. These are resources classified as important.



3. Category III. These resources have moderate importance.
4. Category IV. These are resources that are at least 50 years old, have little or no significance, and are listed by the Historic Landmarks Commission.

B. **Types of Sites.** Resources that are classified by site are the resources that are part of a larger landscape which impact the manner and feasibility of protection. They have been divided into three classifications having different needs for protection. The classifications define the setting needed for historic preservation.

1. **Villages.** The villages are rural populations centers, crossroads, *hamlets*, or villages that, at one time, served a larger rural population (some still do). An important element of protecting a village is providing a rural green area around the village so it remains as a discreet freestanding community surrounded by rural land. That level of protection is not possible for all villages due to surrounding development. The critical element is preserving the villages in a rural context. The area surrounding freestanding villages are all typically zoned Agriculture or Countryside, so *cluster* development can occur adjacent to the Village and areas beyond the cluster can provide the needed greenbelt. Over time, these areas may become specific *historic districts* with specific design or other unique protection standards. None were ready for inclusion as of the effective date of this Ordinance.
2. **National Register Historic Districts, and Historic Sites and Structures.** These areas shall have a protection area that extends out from the boundary of the District, Site or Structure as indicated in Section 5.302, *Levels of Protection*.
3. **Historic Resources.** These include Historic Sites or Historic Structures as both terms are defined in this Ordinance. (See Article 14, *Definitions*).

### Sec. 5.302 Levels of Protection

The type of protection to be afforded is a combination of the importance of the site and the context in which it is found.

A. **Category I.** The following standards apply to these resources based on their context:

1. **Villages.** Freestanding villages are protected by a countryside or agricultural zoning surrounding the village for a distance of at least one-quarter mile (1,320 ft.).
2. **National Register Historic Districts, Contributing Historic Structures, and Historic Sites.** A 600-foot protection radius, as measured from the center of the site or structure(s), shall meet the *open space* protection level for Class I historic sites.
3. **Historic Sites.**
  - a. Residential development plans shall be reviewed by the Jefferson County Historic Landmarks Commission to make recommendations on the adequacy of the placement of *open space* to buffer the Historic site(s). In addition a minimum of a 0.5 *opacity* buffer shall be provided. The Planning Commission shall in the approval of the *plat* or land development plan, approve the open space and buffer.
  - b. Non residential *development*. All non-residential development shall have at least a 1.0 *opacity* buffer with a minimum width of 50 feet where it abuts the property. If



the non-residential use is across the street, the buffer shall be increased by an opacity of 0.5.

B. **Category II.** The following standards apply to these resources based on their context:

1. **Villages.** Freestanding villages are typically protected by countryside or agricultural zoning surrounding the village for a distance of at least one-quarter mile (1,320 ft.).
2. **Historic Building Sites.** A 400-foot protection radius, as measured from the center of the site or structure(s), shall meet the *open space* protection level for Class II historic sites.
3. **Historic Sites.**
  - a. Residential development plans shall be reviewed by the Jefferson County Historic Landmarks Commission to make recommendations on the adequacy of the placement of *open space* to buffer the historic sites. In addition a minimum of a 0.3 *opacity* buffer shall be provided. The Planning Commission shall in the approval of the *plat* or land development plan, approve the open space and buffer.
  - b. Non residential *development*. All non-residential development shall have at least a 0.7 *opacity* buffer with a minimum width of 50 feet where it abuts the property. If the non-residential use is across the street, the buffer shall be increased by an opacity of 0.3.

C. **Uses within the Protection Radius.** Within any area located inside a designated protection radius, non-residential structures, including barns, garages, shed, or workshops may be constructed.

D. **Historic Villages.** Historic villages afforded protection in Section 5.302, *Levels of Protection*, shall be defined as settlements with at least 20 historic sites or structures as identified by the Jefferson County Historic Landmarks Commission and which are zoned “Village Conservation” on the Official Zoning Map.

**Sec. 5.303 Demolition**

No *historic resource* of classes I through IV shall be *demolished* or disturbed without a permit. Doing so shall subject the person doing so to the penalties for destruction of historic resources in Article 13, *Enforcement and Legal Status*. Fees for demolition permits shall be established by the County Commission and may be periodically modified as they determine appropriate. There is an investigation period required before a demolition *permit* is issued. This period provides time to review with the *owner* all incentives available to preserve the *building* and/or time for the County to seek a purchaser of the property who will retain the property in its historic condition. The following are the requirements:

- A. **Investigation Period.** During the investigation period, the applicant shall be required to meet with the Historic Landmarks Commission. Every effort shall be made to find an alternative to demolition. The applicant may be required to submit a pro forma that demonstrates why the *building* cannot be saved, even provided the incentives offered by this Ordinance and the Historic Landmarks Commission. The period of investigation is as follows:
  1. Category I. The investigation period is 16 months.
  2. Category II. The investigation period is 12 months.



3. Category III. The investigation period is 4 months.
  4. Category IV. The investigation period is 1 month and only applies to those structures listed in the Historic Landmarks Commission's inventory.
- B. **Findings.** At any point in the investigation period, the Historic Landmarks Commission finds that it is impossible to save the *building*, even with all available incentives, and no alternative buyers are found to be available to avoid demolition, the Historic Landmarks Commission may notify the County Commission and, upon acceptance by the County Commission, issue a demolition permit. If the investigation concludes that the preservation is feasible, then the Historic Landmarks Commission may notify the County Commission who may require an additional six-month waiting period to continue negotiations and/or find a buyer who will preserve the building. If the land *owner* still wants to demolish the building after the waiting period, the Historic Landmarks Commission shall issue a permit.
- C. **Requirements of a Demolition Permit.** In order to receive a demolition permit, photographs, architectural drawings of the exterior and, if required, of the interior to a *scale* of one-quarter inch to the foot, and a video recording of the *building* and grounds shall be made by the Historic Landmarks Commission at the applicant's expense, and a *conservation easement* (see D below) provided.
- D. **Effect.** If a *building* were preserved, *open space* requirements are a condition of additional *development*. Receiving a demolition *permit* shall not alter the open space requirements on the site or any other property within the site area of the *resource* held in common by the applicant. This prohibits there being any gain in value of the property for development by demolishing the resource. To ensure this, a *conservation easement* shall be placed on the property to preserve the required open space. Such conservation easement shall be in favor of the County and the Historic Landmarks Commission. A demolition *permit* will relieve other *property owners* of any other historic preservation restrictions.
- E. **Demolition without a Permit** Lands containing a *historic resource* identified within classes I through IV which is *demolished* or disturbed without a permit, or is demolished or disturbed during the investigation period (see provision A above), shall be subject to a 20% reduction in the *density* permitted in the Zoning District in which it is located. Such reduction shall be applied to all remaining lands which are part of the same *parcel* on which the historic resource is located. To ensure this, a *conservation easement* shall be placed on the property to note such reduction concurrent with any future subdivision of lots on the subject property. The Planning Commission may establish the *density* reduction when so recommended by the Historic Landmarks Commission.
- F. **Public Health or Safety.** If a *building* scheduled to be *demolished* is found to be a severe public health and safety risk and cannot reasonably be secured by the County Building Official, at the *building official's* request, a demolition *permit* shall be issued subject to provisions C and D above.

### Sec. 5.304 Incentives for Open Space

This Ordinance already provides for incentives to *cluster* development and provides for common *open space* in the form of increased *density*. This should permit developers to meet the open space requirements of Division 4.200, *Resource Protection Standards*, as the *open space ratios* for most districts will be adequate. In the Townscape (TS), General Commercial (GC), or Business Park (BP)



districts, insufficient *open space* may be available to achieve the preservation of the protection area. The height limits on the *building* may be relaxed to allow taller buildings to ensure there is no loss of density. Currently, the protection level is lower in these districts in recognition of the greater difficulty in preserving the area.

### Sec. 5.305 Renovation Incentives

An *historic structure* may require significant and costly renovation or maintenance to preserve it and make it economically useful to the land *owner*. The County does not want to have to issue demolition permits because it is too costly for the land owner to maintain the structure. Upon recommendation of the Historic Landmarks Commission, a bonus shall be granted to provide *development* options that act as an incentive to a *developer* or land owner to preserve and maintain the historic structure. The following are the requirements for determining the bonus:

- A. **Pro Forma.** The *developer* shall provide a pro forma indicating the costs of renovation and annual maintenance versus the value of the property in the market.
- B. **Adjoining Properties.** Where the historic property has limited *development* potential so that a *density* bonus is limited to impractical, the County should encourage a Limited Liability Partnership (LLP) that would enable a larger *cluster* or *planned development* to be constructed on two properties. This incentive may be combined with the provisions of C if necessary.
- C. **Increase Density or Floor Area.** Upon recommendation of the Historic Landmarks Commission, the *Planning Commission* may approve a *density* increase above the permitted density as determined by the Site Capacity Calculation (Division 4.300, *Site Capacity Calculations*). This would also be accompanied by a modulation of the lot and bulk requirements of Division 3.300, *Bulk Regulations*. For nonresidential uses, the increase would be in floor area and lot and bulk modulation to make the incentive feasible on the lot.
- D. **Additional Uses.**
  1. For very large homes or barns, even if not permitted in the district by Table 2.201A or Table 2.201B, the *conversion* of the *building* for any of the following may be approved:
    - a. Up to six work force housing units (for sale or for rent);
    - b. Offices for professional or technical services and commercial uses limited to antique stores, dance studios, micro-breweries, and corporate and government back office operational facilities (see Section 2.445, *Corporate and Government Back Office Operational Facilities*); and
    - c. Schools.
  2. The residential uses permitted by D1a above shall not count against the *density* of the site, provided that the density increase on the site for any single-family, cluster, or planned option is not increased by more than 40 percent above that allowed by Division 4.300, *Site Capacity Calculations*.
- E. **Granting the Incentive.** The maximum incentive for residential adaptive re-use is a 10 percent increase in *density* (except for D above) or the amount needed to provide for the renovations and a fund for long-term maintenance, whichever is less.



- F. **Conservation Easement.** An appropriate *conservation easement* to protect the property shall be recorded on the property to ensure that the bonus is translated into preservation.

### Sec. 5.306 Adaptive Reuse

- A. **General.** Some uses are prohibited in every district. This can represent a problem, particularly for large *buildings* or buildings that originally were built for a different use. The intent of this Section is to provide rules for moderating regulations to permit an historic building to be used in a manner that protects neighbors while ensuring the protection of a *historic resource* that adds character to the community. The Historic Landmarks Commission shall make recommendations on the suitability of the use for the building seeking adaptive reuse. The following are the requirements that must be made before permitting the moderation of the use standards:
- B. **Historic Landmarks Commission Findings.** The Historic Landmarks Commission shall visit the property and review the proposed land development *plan* and use. Their recommendation to the Zoning Administrator shall include the following findings:
1. The suitability of the proposed use is compatible with the historic structure; and
  2. Any modifications to the *building* are consistent with and compatible with the building's architecture, style, and massing; and
  3. That proposed parking and other activities are suitably located so to preserve the character of the structure and its historical setting; and
  4. That *landscaping* is consistent with the *building* and accessory uses, such as parking, and provides continued views of the *historic structure* while masking parking, air conditioning, or other elements from general view, which would distract from the building and its setting; and
  5. If the *building* facade(s) was modified in the past in a manner out of character with the structure, that the *facade*(s) is restored to its historic condition.
- C. **General Standards.** The Zoning Administrator shall find that the following general standards are met:
1. That adequate off-street parking for the proposed use is provided; and
  2. That traffic generation will not create undue congestion. This means that no more than 10 percent of the adjacent *street* capacity may be used by the proposed use without approval of a conditional use permit; and
  3. That no use that poses a threat to the *building* or neighborhood is involved (for example, use of chemicals or explosive materials that might damage property or health).
- D. **Use for Retail Sales, Offices, or Service.** These shall be permitted within the limits of the historic village areas in the Agricultural (AG) and Countryside (CS) districts or in the Residential (RS) or Townscape (TS) districts, provided:
1. The *building* was originally designed for such uses; and
  2. That adequate parking can be provided on site with *limited use* of the adjoining street.
- E. **Reuse of Places of Worship.** Such buildings can be converted for residential *dwelling units*, offices, institutional uses, or bed and breakfasts in the AG, CS, ES, RS, and TS districts.



- F. **Zoning Administrator.** Upon receipt of a favorable recommendation from the Historic Landmarks Commission and ascertaining that the proposed *development* meets all the provisions of this Section, the Zoning Administrator shall issue a *permit* to approve the adaptive reuse.

## Division 5.400 Rural Preservation

---

Two districts, Agricultural (AG) and Countryside (CS), are created to protect and preserve the County's rural character. Incentives that reward developers who *cluster* development, if they must develop on rural land, are provided in the form of increased density. In addition, certain nonagricultural uses are permitted in these districts to ensure that farmers have more opportunities to make their *farmsteads* economically productive as they face economic pressure from nonagricultural development. The rural districts and Village Conservation (VC) district also protect historic villages within the County. This Division provides additional incentives for the preservation of this way of life and part of the County's heritage and economy.

### Sec. 5.401 Protection of Villages

The County's villages need a greenbelt around them so that they remain freestanding communities with a strong sense of place and unique identity within the larger County landscape. The following incentives are provided to ensure that rural land surrounds the villages to maintain their freestanding status:

#### A. Hamlet Option Required.

1. Where a *parcel* abuts or is within 300 feet of a village (see zoning maps) or is part in and part outside the village, the *hamlet* option (see Article 10, *Design and Modulation*) shall have a minimum acreage requirement of 25 acres. The lots shall all be adjacent to existing lots in the village with the outer *open space* creating a greenbelt around the village.
2. The *gross density* of the *hamlet* option shall be increased to 0.554 at the same 0.80 OSR.

B. **Transfer of Development Potential.** Where two or more noncontiguous properties are in common ownership within 2,500 feet of the village and one abuts or is within 300 feet of the village, the *hamlet* development shall treat the development as a single development and allow the concentration of all the *density* on the *parcel* that is closest to the village. A *deed restriction* or *covenant* shall be recorded over the more distant property that extinguishes the *development* rights that were transferred.

C. **Commercial Retail Uses.** Commercial retail use may be permitted within a Village provided the following are met:

1. The Planning Commission, based on a recommendation provided by the Historic Landmarks Commission, determines that the commercial use will not be detrimental to any structure designated as a Class I or Class II historic resource.
2. The use shall front on a collector or arterial *highway* or on a road capable of handling the traffic from a commercial use without disrupting a residential area.
3. The use is in conformance with any future village land use plan.
4. The commercial uses and associated parking occupy less than ten percent of the land area of the hamlet.



### Sec. 5.402 Protection of Farmsteads

The protection of *farms* is provided for by density incentives for clustering so that, when a farm must be sold or land must be sold for *development*, every effort will be made to maximize the concentration of development and minimize the interface between farmland and development.

- A. **Separate Parcels Under Common Ownership.** Where a *farm* is in separate *parcels*, but common ownership, it shall be treated as a single property for the purpose of calculating the permitted number of *dwelling units* and minimum *open space* provided the following are met:
1. All the development shall be on one *parcel* or multiple *abutting parcels*.
  2. At no point shall the minimum *open space* on the parcel being developed fall below 0.45 unless all boundaries of the *parcel* are located at least 300 feet from public streets and *property lines* of property that is under separate ownership.
  3. *Development* shall be buffered from streets and neighboring property by buffers that are at least 100 feet in width.
  4. All *parcels* used as *open space*, if separate from the developed parcel, shall be in agricultural use at the time of application and shall be 20 acres or more in land area.
- B. **Cluster Development.** The intent of the *cluster* is to preserve the best agricultural land in production. This can come into conflict with the environmental protection standards of Article 4, *Environmental Protection*. As an incentive, the following modifications to the standards of Article 4, *Environmental Protection* are available as an incentive.
1. **Low-Quality Woodlands.** These may be mitigated at one acre of *low-quality woodland* for one acre of class one or two agricultural soils preserved. All land in this *resource* may be mitigated.
  2. **Young Woodlands.** These may be mitigated at one acre of young woodland for 1.25 acre of class one or two agricultural soils preserved. The maximum *mitigation* shall leave 40 percent of the young woodland intact.
  3. **Mature Woodlands.** These may be mitigated at one acre of mature woodland for 1.5 acre of class one or two agricultural soils preserved. The maximum *mitigation* shall leave 60 percent of the young woodland intact.
  4. **Shallow Bedrock.** These areas may be mitigated, provided that no mass *grading* of these areas shall be permitted and *buildings* shall have stepped foundations to ensure they disturb as little as possible. Plans shall be submitted that delineate where lawns or groundcover will be used to minimize the disruption of the area.
  5. **Steep Slopes.** *Steep slopes* may be mitigated where cutting or *filling* for foundations is limited to four feet. *Mitigation* shall be 1.25 acres of class one or two agricultural soils for every acre of slopes 15 to 25 percent and two acres of class one or two agricultural soils for every acre of slopes mitigated over 25 percent slope. The *developer* shall submit plans for building on the *slope* that allows minimal disturbance including stepped foundations and building on piles or columns so as to minimize disruption. In slopes of 15 to 25 percent, the maximum mitigation shall leave 50 percent of the *resource* undisturbed.



6. **Historic Sites.** An agriculturally used land that is part of an historic site that is preserved as agriculture meets the protection level.
- C. **Relationship of Farmstead to Density Calculation.** The *farmstead* house shall not count as a *dwelling unit*, even where it is on a noncontiguous *parcel* when the farmstead is developed.

### **Division 5.500 Pollution Mitigation (Reserved)**

---

***Reserved.***

*This Division of the ordinance is reserved should the County create a system for purchase of credits for surface water pollution from upstream or downstream **property owners** who are engaged in uses that pollute less than they are permitted. Such a system would provide **conservation easements** on properties from which pollution credits were sold. This system may be put in place at such time as the best available science from the Chesapeake Bay Program may support its **development**.*





## Article 6 Nonconformities

### Division 6.100 Nonconformities

---

- A. **Types.** There are five types of nonconformities within this Ordinance.
1. **Nonconforming Uses.** Uses that are not listed in Tables 2.201A and 2.201B as permitted, limited uses, or conditional uses in the district in which they are located are nonconforming unless a *conditional use* has been granted according to the standards of Division 6.300, *Mitigation of Nonconforming Uses*.
  2. **Nonconforming Buildings or Structures.** Buildings or structures are nonconforming if they fail to meet the floor area, *density*, setback, bufferyard, height, parking, or bulk requirements of this Ordinance.
  3. **Nonconforming Lots.** A lot not held in common with any other lot that does not meet the area or other dimensional standards of this Ordinance is nonconforming. Lots held in common, but which do not meet *lot area* or dimensional standards, are curable nonconformities. Where a land *owner* owns several *nonconforming lots* that abut, they must be combined to create conforming lots, or lots that are more conforming with respect to the deficiency that creates the nonconforming status. If the consolidation of lots does not make the *parcel* more conforming in any respect, then the consolidation is not required.
  4. **Nonconforming Signs.** Signs that do not comply with the applicable standards of Article 9, *Sign Regulations*, are nonconforming.
  5. **Nonconforming Floodplain Location.** A *building* or use that is nonconforming due to its location or elevation within the floodplain or floodway.
- B. **Legal Nonconformity and Illegality Distinguished.** A use, building, structure, *sign* or lot that was in conformance with all laws in place at that time it was built or created is a "legal nonconformity." Any other *nonconforming use*, structure, sign, or lot is illegal and a nuisance.
- C. **Special Rule for Agricultural, Industrial, and Manufacturing Uses.** This Ordinance cannot prohibit alterations or additions to or replacement of *buildings* or structures owned by any *farm*, industry or manufacturer, or the use of land presently owned by any farm, industry or manufacturer but not used for agricultural, industrial or manufacturing purposes, or the use or acquisition of additional land which may be required for the protection, continuing *development* or expansion of any agricultural, industrial or manufacturing operation of any present or future satellite agricultural, industrial or manufacturing use on the basis of nonconformity unless the use is abandoned.

### Division 6.200 General Regulations

---

#### Sec. 6.201 Change or Conversion of Land Use or Signage

- A. **Land Use.** A nonconforming use shall not be changed to any other *nonconforming use* unless mitigated in accordance with Division 6.300, *Mitigation of Nonconforming Uses*.



- B. **Signage.** No *nonconforming sign* may be replaced with another nonconforming sign.

**Sec. 6.202 Abandonment or Discontinuance**

- A. **Presumption of Abandonment.** If a use of a property that does not conform to the zoning ordinance has ceased and the property has been vacant for one year, *abandonment* will be presumed unless the *owner* of the property can show that the property has not been abandoned; provided that neither the absence of natural resources extraction or harvesting nor the absence of any particular agricultural, industrial or manufacturing process may be construed as abandonment of the use.
- B. **Future Use.** If the property is shown to be abandoned, then any future use of the land, *buildings* or structures must conform with the provisions of the zoning ordinance regulating the use where the land, buildings or structures are located, unless the property is a duly designated historic landmark, historic site or historic district.

**Sec. 6.203 Abandonment of Telecommunications Towers**

**A. When Removal Required.**

- 1. Defective or unsafe commercial wireless telecommunication towers and antennas or wireless telecommunication facilities are to be repaired or removed within six months at the owner's or operator's expense. If the facilities are not operated for a continuous period of 24 months, they shall be considered abandoned and must be removed within 90 days of their official determination as abandoned. If not removed, the County may seek court action to remove all towers, antennas, or facilities at the expense of the *owner* or operator.
- 2. The *owner* or occupant of property within the County shall not permit, leave, or cause to be left on said property any wireless telecommunication facility that has been abandoned. The provider shall remove its facility within 90 days of the official date by which the facility was deemed abandoned. If the facility is not removed within the required time, the facility shall be deemed to be abandoned, and the County shall have authority to enter the premises and remove the abandoned facilities. All costs of removal shall be collected from the owner or occupant in the manner provided for summary abatement of nuisances. This requirement shall apply to co-located facilities unless the co-location agreement provides for the removal of abandoned facilities by the tower operator.

**B. Continuation of Nonconforming Use.**

- 1. Preexisting telecommunication facilities that do not comply with the regulations of this Ordinance may continue. Routine maintenance and replacement of antennas shall be permitted on such facilities. Any work that would add to the height of the structure or alter its supports or structure shall require a conditional use permit. Existing towers that are damaged or destroyed in an amount equal to or greater than 30 percent of their value, as determined by the County, must comply with this subsection. Tower expansions or replacements require compliance with the requirements of this subsection.
- 2. An existing tower may be replaced, repaired, rebuilt, and/or expanded to accommodate co-located antennas or facilities or to upgrade the facilities to current engineering, technological, or communications standards by obtaining a conditional use permit.

**Sec. 6.204 Alternation, Enlargement, or Extension****A. Repairs and Alterations.**

1. Normal maintenance of a nonconforming *building* or structure, or of a conforming building or structure containing a *nonconforming use*, is permitted, including necessary repairs and incidental *alterations* which do not extend or intensify the nonconforming use or the life of the nonconforming structure.
2. No structural alteration shall be made in any structure containing a *nonconforming use*, except in the following situations:
  - a. The alteration is required by law;
  - b. The alteration will result in eliminating the *nonconforming use* or structure; or
  - c. A *building* that is located in a residential district and which contains residential *nonconforming uses* may be *altered* in any way to improve livability, provided no structural alteration shall be made which would increase the number of *dwelling units* or the bulk of the building.

**B. Nonconforming Use.**

1. No structure containing a nonconforming use shall be enlarged.
2. No *nonconforming use* may be enlarged or extended in such a way as to occupy any required usable *open space*, *landscaped surface ratio*, or any land beyond the boundaries of the property or lot as it existed on the effective date of this Ordinance. Nor shall it be expanded to displace any conforming uses in the same *building* or on the same parcel.

**C. Nonconforming Lot.** A lot which is nonconforming with respect to area, *lot width*, or *frontage* may be built upon if:

1. The use is permitted in that district;
2. The lot has *street frontage*; and
3. All yards or height standards shall be complied with, except that the Zoning Administrator may authorize a reduction in yards of up to 10 percent of the minimum. Less than 10 percent may be ordered if the Zoning Administrator finds that the *building* would be larger than could be built on a conforming lot.

**D. Nonconforming Building or Structure.** *Nonconforming buildings* or structures shall not be *altered* or expanded in any manner unless building coverage and floor area remain within the limits permitted by this Ordinance. Further, no expansion shall increase the degree of nonconformity. For example, if a building is set back five feet from a *property line* and the Ordinance requires eight feet, then no portion of an addition could come closer to the property line than the minimum required eight feet. Lots located in the Business Park (BP) or General Commercial (GC) districts that were platted and recorded prior to the effective date of this ordinance, shall not be subject to the Class I and Class II historic sites buffer requirements contained in Article 5 of this Ordinance.**E. Mobile Manufactured Home.**



1. Existing *mobile manufactured homes* established prior to the effective date of this ordinance may be repaired or replaced and shall be considered conforming uses regardless of the zone district in which they may be located. Additions may be constructed or mobile manufactured home units may be replaced provided the replacement or addition shall satisfy the yard requirements of the zone district in which they are located.
2. Existing mobile manufactured homes located in a *mobile manufactured home park* and/or subdivision developed prior to the effective date of this ordinance shall be deemed *permitted uses* and shall be governed by the lot standards, bulk requirements and yard requirement which were in force and effect at the time of their approval.

## Division 6.300 Mitigation of Nonconforming Uses

---

### Sec. 6.301 Purpose

Many *nonconforming uses* have existed for a period of time, some of which may have only recently become nonconforming. In some instances, a nonconforming use is an integral part of a neighborhood's character and function. One of the purposes of zoning regulations is to protect neighborhoods. Therefore, if the community is comfortable with a particular use or structure, the classification "nonconformity" and restriction on investment may not be what the community desires. Under such conditions, the use may be mitigated and made conforming to remove any stigma that might be associated with the designation as a nonconformity. The provisions of this Division establish procedures for bringing a nonconformity into conformance.

### Sec. 6.302 Procedure

An *owner* of a *nonconforming use, building*, or structure may apply to the *Board of Zoning Appeals* for a conditional use *permit* for *mitigation*. This procedure does not apply to *nonconforming lots* other than those permitted under Section 6.304, *Criteria for Approval*.

### Sec. 6.303 Adaptive Reuse

See Section 5.306, *Adaptive Reuse*.

### Sec. 6.304 Criteria for Approval

In addition to the criteria for approval of a conditional use permit, the *applicant* shall meet the following requirements:

- A. **Integration.** The use, as conducted and managed, shall have minimal nonconformities and be integrated into the neighborhood's function. Evaluation criteria include:
  1. The neighborhood residents regularly patronize or are employed at said use (for nonresidential uses).
  2. Management practices eliminate nuisances such as noise, light, waste materials, congested on-street parking, or similar conflicts.
  3. A history of complaints is justification for denying the conditional use *permit* unless the conditions of such will eliminate the nuisances.
  4. The use has been maintained in good condition or its classification as a nonconformity represents a disincentive for such maintenance.



- B. **Conditions.** The Board of Zoning Appeals shall review the conditional use *permit* application and recommend, in writing, any conditions relative to the expansion of *bufferyards*, *landscaping*, or other site design provisions. The review may also contain use limitations necessary to address any concerns that, as a conforming use, it may become a nuisance.
- C. **Incorporation of Nonconformities.** The Board of Zoning Appeals shall list all the property's nonconforming conditions and incorporate them into the conditional use *permit* as permitted conditions.
- D. **Findings.** The Board of Zoning Appeals shall determine that the use is generally integrated into the neighborhood and has minimal adverse impacts. Upon that finding, the Board may attach conditions, as it deems necessary, to protect the health, safety, and general welfare of the public and surrounding *property owners*. Such conditions may relate to the lot, *buildings*, structures, or operation of the use.

**Sec. 6.305 Effect**

Upon granting a conditional use *permit* and compliance with any conditions placed on it, the Zoning Ordinance shall have a notation placed on the Official *Zoning Map* stating that the property has a conditional use *permit* and the application case number and date thereof. Granting a conditional use permit makes the use, *building*, or structure conform to the specifics of the conditional approval, thereby eliminating the nonconformity.





## Article 7 Parking, Loading, Access, and Lighting

### Division 7.100 Parking and Loading

---

#### Sec. 7.101 Off-Street Parking Requirements

All uses shall be required to meet the off-street parking standards set forth in Table 7.104, *Parking and Loading Minimum Requirements*. The following general requirements shall govern off-street parking provisions and maintenance:

- A. **Change of Use.** Should a lot or *building owner* or occupant change the use of said lot or building, the new use shall conform with this Ordinance's off-street parking provisions. Centers with shared parking shall conform to the standards for centers, rather than the individual uses within them.
- B. **Storage Prohibited.** Required off-street *parking spaces* shall be available for operable passenger automobiles of the residents, customers, patrons, and employees of the use to which they are associated. Storing materials or inoperable vehicles or parking trucks or trailers is prohibited in off-street parking areas unless special areas are set aside for such parking and not counted towards the number of required parking spaces.
- C. **Vehicle Work Prohibited.** No major vehicle work of any kind or nature shall be permitted within off-street parking facilities.
- D. **Sales of Goods in Parking Areas.** The sale of goods in the parking lot is prohibited, except when meeting the requirements of Section 2.302G, *Outdoor Display of Merchandise*, Section 2.501, *Commercial Outdoor Sales*, or Section 2.509, *Truck Load Sales*.

#### Sec. 7.102 Off-Street Parking Area Surfaces

- A. **Paved Parking.** Off-street parking areas that are required to have more than three *parking spaces* shall be graded and surfaced with asphalt, concrete, bituminous surface treatment, or other material that will provide equivalent protection against potholes, *erosion*, and dust. Such parking surfaces shall not, however, be required for off-street parking facilities serving athletic fields or public or private parks or agricultural uses.
- B. **Pervious Pavement.** All developments with paved parking shall be encouraged to use *pervious* pavements. In low-impact parking areas where vehicles are anticipated to be used for less than a few hours per week on average, various grid systems that permit grass to be grown within the grid shall be considered paved pursuant to A above.
- C. **Unpaved Parking.** Off-street parking areas that are not required to provide the type of surface specified in A above shall be graded and surfaced with crushed stone, gravel, or other suitable material to provide a surface that is stable and that will help to reduce dust and *erosion*. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever such a parking area abuts a paved street, the *driveway* approach shall be paved with asphalt, concrete or bituminous surface treatment for a distance of 25 feet back from the edge of the paved *street* to prevent gravel from being deposited on the paved public street.



D. **Maintenance.** Off-street parking surfaces shall be kept in good condition and *parking space* lines or markings shall be kept clearly visible and distinct.

**Sec. 7.103 Loading Requirements**

All uses shall be required to meet the off-street loading standards in Table 7.104, *Parking and Loading Minimum Requirements*. Such loading spaces shall not be used for long-term storage of trailers, but shall be available for normal servicing of the use by delivery vehicles. Off-street loading standards are specified in Section 7.204, *Off-Street Loading*.

**Sec. 7.104 Parking and Loading Requirements Table**

All uses shall be required to meet the off-street parking standards set forth in Table 7.104, *Parking and Loading Minimum Requirements*.

Table 7.104 Parking and Loading Minimum Requirements		
Land Use	Parking	Loading
<i>Agricultural Uses</i>		
Agriculture	2 / du	none
Farmstead	3 / du	none
Intensive Agriculture	3 / du	none
Clearing	none	none
* Nursery	1/250 SF (sales space only)	1 / 2 ac.
Commercial stables	1/333 SF + 1 per 3 stalls	1 / 40 stalls
<i>Residential Uses</i>		
Single-family detached	2 / du	none
Single-family attached	2 / du	none
Multi-Family, work force, and elderly	1.5 / du	none
Manufactured home park/subdivision	2 / du	none
Small single-family	1/ du	none
Group residential home or facility	3 / du	none
<i>Home Uses</i>		
Home child care	4 / du	none
Home occupation	3 / du	none
Home business	3 / du + number of unrelated employees	none
Home - workplace	3 / du + number of unrelated employees	none
Home industry	3 / du + number of unrelated employees + .5 spaces / off site employee	1



Table 7.104 (cont'd) Parking and Loading Minimum Requirements		
<i>Institutional Uses</i>		
Places of public assembly		
General	1 / 3seats	1 / 40,000 SF
Place of worship	0.3 / seat	< 75,000 SF, none; >= 75,000 SF, 1
^ Hospital	6 / Bed	1 / 20,000 SF
Utilities, neighborhood	1 / 1000 SF	1 / 2000 SF
Library	3.5 / 1000 SF + bus spaces + auditorium: 0.75 / 1000 SF	1
* Museum	special study	1
Police station	4.0 / 1000 SF	1
Post office	15 / 1000 SF of public area	1 / 10,000 SF
Clubs & Associations (no food service)	8 / 1000 SF	1
Fire station	4 / vehicle bay	1
Institutional Residential		
Nursing homes	1.5 / 1000 SF	1
Protective care	special study	special study
Monasteries & Convents	0.5 / room	2 / 30,000 SF
Public service facility	1 / employee + 1 / stored vehicle	1 / loading bay
Schools		
Elementary & Jr. High	0.28 vehicles / student	1 / 40,000 SF
High school	0.25 / person	1 / 40,000 SF
Trade school	0.21 vehicles / school population	1 / 40,000 SF
Private College or University	0.30 vehicles / school population	1 / 40,000 SF



Table 7.104 (cont'd) Parking and Loading Minimum Requirements		
<b>Commercial Uses</b>		
General	4.0 / 1000 SF	1 / 33,000 SF
Mixed use	See section G	
<b>Lodging</b>		
General	1.3 / room	1 / 20,000 SF
Bed and breakfast	1 / room + 2	none
Convention center	1.2 / guest room + 10 / 1000 SF meeting space	1 / 20,000 SF
Boarding / Rooming Houses	1.5 / lodger	none
<b>Retail / restaurant</b>		
Restaurant (sit down, high turnover)	21.2 / 1000 SF + 5 stacking spaces / window	1 / 25,000 SF
Quality restaurant	19.4 spaces / 1000 SF + 5 Stacking spaces / window	1 / 25,000 SF
Shopping center	4.5 / 1000 SF	1 / 25,000 SF
Commercial retail	4.0 / 1000 SF	1 / 25,000 SF
Food Market	6.7 / 1000 SF + 0.9 / 1000 employees	1 / 15,000 SF
Liquor	4.0 / 1000 SF	1 / 5000 SF
<b>Office</b>		
Bank / Finance, telemarketing	4.5 / 1000 SF	1 / 33,000 SF
Medical / dental office	3.9 / 1000 SF	1 / 33,000 SF
Medical clinic	5.5 / 1000 SF	1 / 33,000 SF
<b>Light automobile service</b>		
General	1.5 or 4 / bay, whichever is greater	1 / 20,000 SF
Carwash, single car, auto bay	2.0 + 6 stacking spaces/bay + 1 drying	1 / 20,000 SF
Carwash, multiple car, auto bay	4.0 + 12 stacking spaces/bay + 2 drying	1 / 20,000 SF
Carwash, self wash bay	3 / bay	1 / 20,000 SF
Gas station	1 / pump station	1 / 20,000 SF
<b>Heavy retail and service</b>		
General	1 / 400 SF	1 / 10,000 SF
Home improvement super center	4.9 / 1000 SF	1 / 10,000 SF
Building materials	1.5 / 1000 SF	1 / 10,000 SF
<b>Services</b>		
Barber shop	4.0 / 1000 SF	1 / 33,000 SF
Beauty shop	5.0 / 1000 SF	1 / 33,000 SF
Dry cleaners	3.0 / 1000 SF	1 / 33,000 SF
Funeral homes	6.0 / 1000 SF	1 / 33,000 SF
Laundry	0.8 / washer-dryer	1 / 33,000 SF
All other services	2.5 / 1000 SF + 1 / employee + 1 / company vehicle	1 / 33,000 SF
Daycare	0.24 vehicles / student	
<b>Vehicular sales, rental, and service</b>		
General	1 / 1000 SF + 1 / 15 lot spaces	1 / 15,000 SF
<b>Agriculture Support and service</b>		
General	1 / 250 SF	1.5 / bay
<b>Drive-in facility</b>		
General	5.0 / 1000 SF + 3 stacking spaces / window	1 / 25,000 SF
Restaurants	14 / 1000 SF + 5 stacking spaces / window	1 / 25,000 SF
Banking	3.5 / 1000 SF + 5 stacking spaces / window	1 / 25,000 SF
Pharmacy	2 / 1000 SF + 3 stacking spaces / window	1 / 25,000 SF



Table 7.104 (cont'd) Parking and Loading Minimum Requirements		
<i>Recreation and Amusement Uses</i>		
Adult uses	1 / 1.25 seats	1
Commercial amusement, indoor		
General	6 / 1000 SF	1
Amusement parks	special study	1
Bowling alley / pool rooms	5 / lane, 3 / pool or billiard table	1
Indoor arenas	1 / 3 seats or 1 / 30 SF floor area used for seating or 1 / 6' bench	1
Roller skating and Ice skating rinks	5.8 / 1000 SF, 3.4 / 1000 SF respectively	1
Theaters / assembly rooms	1 / 3 seats	1
Commercial amusement, outdoor		
General	6 / 1000 SF	1 / 2 acres
Outdoor arenas	1 / 3 seats or 1 / 6' of bench	1 / 2 acres
Campgrounds	1 / space + 3 / 50 spaces at office	
Recreation, indoor		
General	4.5 / 1000 SF	1
Swimming pool	1 / 100 SF of pool	1
Tennis / Racquetball / Handball	3.56 / court	1
Community recreation center	5.19 / 1000 SF	1
Recreation, outdoor		
Camps, day or youth	1 / employee + bus	1
Golf courses	8.68 vehicles / hole	1
Golf driving range / Rifle range	1.25 / station	1
Parks, Playgrounds	5.1 / acre	1
Equestrian facilities	1/4 stalls + 1 / 2000 SF riding area	1
Swimming pool	1 / 100 SF of pool	1
Tennis courts	3.2 / court	1
Athletic fields	1 / 4' bleacher area or 30 / field, which ever is greater	1
All other active recreation	1 / 1000 SF	1
All other passive recreation	1 / acre + 1 / three acres over 50	1
Campgrounds and RV parks	1 / space + 3 / 50 spaces at office	
<i>Industrial Uses</i>		
Light industry	1.1 / 1000 SF + 1.3 / employee	1 / 20,000 SF or 1 / bay
Warehousing and transportation	.5 / 1000 SF + 1 / employee	1.5 / bay
Extraction	1 / vehicle + accessory	1 / vehicle
Waste disposal and recycling		
Recycling/salvage facility	2 / 1000 SF	1.25 / bay
Disposal	1 / vehicle	1 / vehicle
Heavy industry		
General	2.5 / 1000 SF + 1 / vehicle	1 / 15,000 SF or 1.25 / bay
Trucking (no loading or warehousing)	3.0 / 1000 SF + vehicle operated from site	1 / 15,000 SF or 1.25 / bay
Junkyard	1 / 2000 SF storage + 1 / vehicle	1 / 15,000 SF or 1.25 / bay
Utilities, Regional and Community		
Utilities, community	1 / 1000 SF	special study
Utilities, regional	1 / 1000 SF	special study



Table 7.104 (cont'd) Parking and Loading Minimum Requirements		
<i>Special Uses</i>		
Airports	.6 vehicles / daily emplanement	special study
Commercial communications towers	2 / tower	1
<i>Temporary Uses</i>		
Construction Office	5 / office	none
Commercial outdoor sales	none	none
Public interest events/special events	As required for expected customers	none
Model homes/Project sales office	3 / model home	none
Farm stand	8 spaces	none
Sidewalk sale and farmer's market	none	none
Concrete/asphalt batch plant	Per city or DOT specs	none
Garage or Yard sale	none	none
Truck load sale	None	none
Notes du = dwelling unit; na = not applicable; SF = square feet; * = Limited data provided; ^ = Dramatic change		

**Sec. 7.105 Off-Street Parking Standards**

- A. **Parking Setbacks.** Parking shall be set back behind any required *bufferyard* or as specified in Division 8.400, *Bufferyard Requirements*. All *parking spaces*, aisles, and turning areas shall be located entirely within the served property's lot lines and shall not encroach upon or overhang any road, *driveway*, or other public right-of-way.
- B. **Calculating Parking Required.** Table 7.104, *Parking and Loading Minimum Requirements*, specifies the minimum number of *parking spaces* required for each use. When the number of required off-street parking spaces results in a fractional space, the fractional space shall be rounded up to the next highest whole number. If several uses occupy a single *parcel* or *building*, the off-street parking and loading requirements shall be the additive total for all uses. Uses not listed shall have their parking requirements determined by the Zoning Administrator based on most similar use(s) or parking studies of similar uses.
- C. **Overflow or Common Parking.** Parking or overflow parking may be located off-site or in common parking areas subject to the following rules:
  - 1. Single-family homes shall have all parking other than overflow parking on lot, except townhouses and *atrium homes* may opt to use off-site parking.
  - 2. *Multi-family dwelling units* shall have all off-street parking located within 180 feet of the *building* being served. This provision also applies to townhouses or atrium homes that choose to use off-site parking.
  - 3. Those uses that provide valet parking shall provide such parking within 600 feet of the use being served.
  - 4. For all other uses, all off-street parking shall be located within 600 feet of the building being served.



### Sec. 7.106 Special Study

- A. **General.** Where Table 7.104, *Parking and Loading Minimum Requirements*, indicates, or where a land *owner* opts to prove that less parking than required is actually necessary, a special study shall be submitted.
- B. **Contents of Study.** The special study shall be conducted by a transportation planner or engineer that provides a peak parking analysis of at least five similar uses. The similarity of the uses shall be documented in detail, including location of the uses, size, transportation, use restrictions, or other factors that could affect the parking demand. The study shall be submitted at the land owner's expense.
- C. **Findings and Conditions.** The County may substitute or rely on the special study for that specific property. The Planning Commission may require space be reserved or land banked for additional parking if it finds that there is a high probability the use could change, thus, requiring the number of *parking spaces* in Table 7.104, *Parking and Loading Minimum Requirements*.

### Sec. 7.107 Mixed Uses and Shared Parking

Where a *building* is a *mixed use* structure or a *shopping center*, or where a combination of uses is such that there are very different parking requirements in the same complex or are designed to share parking areas, the off-street parking requirements shall be calculated individually. However, it is understood that the uses may have very different hours of operation and peak parking demand hours. The County desires to encourage the sharing of parking and reduced *impervious surfaces*. Thus, where a reduced parking need exists, the County may reduce the number of spaces required. A special study shall document the parking required for mixed uses by reviewing peak parking demand times for uses during a 24-hour day and designing for the peak hour demand.

- A. **Parking Study.** The study shall provide data on the following:
  1. The recommended parking needs of the project.
  2. The sensitivity of the proposed uses to change. For example, a center with no restaurant could have significant changes in parking if a restaurant was added.
  3. Similar mixes of uses in other areas of the community.
  4. Degree of variability of parking for individual uses (average, range, and standard deviation).
- B. **Reserved Space.** The Zoning Administrator may require a reserved open area if it is felt that the risk of parking needs changing over time warrants reserved parking. Once the project is occupied and well established, if there is a surplus of parking, the applicant may *petition* for additional *development* capacity and parking using the reserved area.
- C. **Multiple Ownership.** When the reduction is to be applied to uses on several lots under different ownership, the following shall be met:
  1. A *plan* that provides for interconnected lots; and
  2. Places cross *easements* on the parking areas and connections that permit parking by the different uses anywhere in the connected properties.



3. A pedestrian circulation system that connects uses and parking areas making it easy and convenient to move between uses.

**Sec. 7.108 On-Street Parking Credit**

- A. **General.** In the Townscape (TS) or Residential (RS) Districts, or in historic villages or hamlets, or in a development that is approved as a traditional development having streets designed for on-street parking, the land *owner* must comply with all of Section 7.101, *Off-Street Parking Requirements*, but shall receive credit for the parking provided within the development on-street.
- B. **Calculation of Credit.** The number of on-street *parking spaces* shall be determined by counting marked spaces that meet the size specifications of Section 7.201, *Parking Space Standards*. As long as the total of on- and off-street spaces are equal to or greater than the off-street parking requirement, the numerical parking requirement is satisfied. Where the *developer* provides common shared parking areas, these spaces shall be accounted for as off-street parking even though the spaces are shared by several properties.
- C. **Design Preference.** Where streets are designed for this, particularly in commercial areas, perpendicular or angled parking is recommended to increase the number of on-street *parking spaces*.

**Division 7.200 Parking and Loading Design**

**Sec. 7.201 Parking Space Standards**

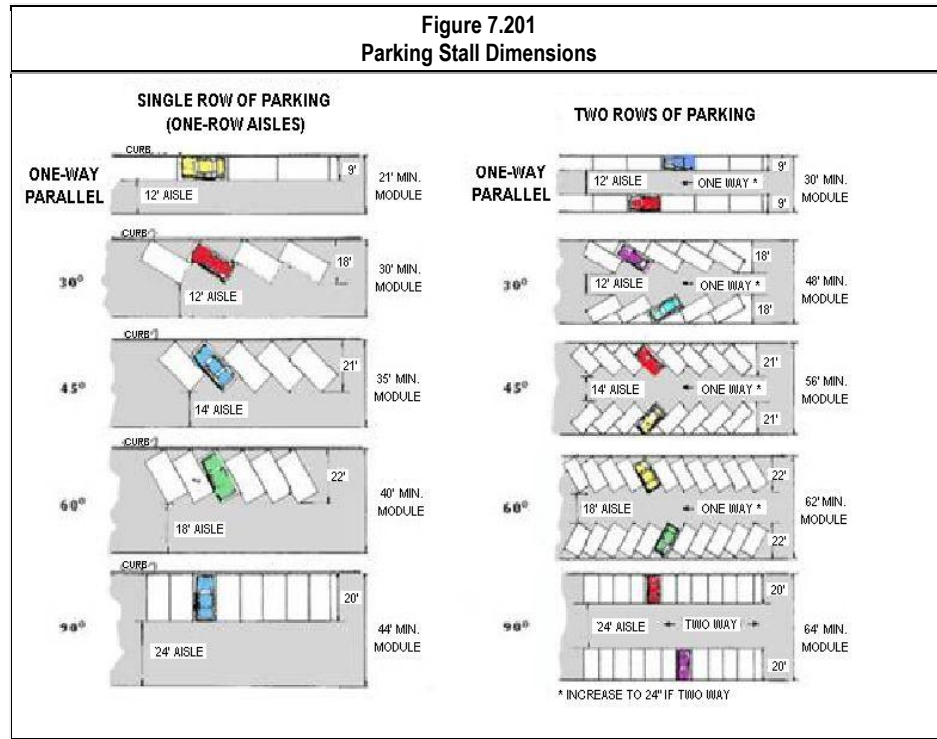
- A. **General.** Table 7.201, *Minimum Horizontal Parking Widths for Standard Automobiles*, specifies the minimum horizontal widths for standard parking rows, aisles, and modules (also see Figure 7.201, *Parking Stall Dimensions*).

Table 7.201 Minimum Horizontal Parking Widths for Standard Automobiles					
Dimension	One-Way	Space Angle (degrees)			
	Parallel	30	45	60	90
<b>Single Row of Parking</b>					
Parking aisle	9'	18'	21'	22'	20'
Driving aisle	12'	12'	14'	18'	24'
Minimum width of module (row & aisle)	21'	30'	35'	40'	44'
<b>Two Rows of Parking</b>					
Parking aisle	18'	36'	42'	44'	40'
Driving aisle	12'	12'	14'	18'	24'
Minimum width of module (row & aisle)	30'	48'	56'	62'	64'

- B. **Minimum Area.** The standard *parking space* is nine feet by 20 feet (also see Section 7.202, *Accessible Parking*) unless parallel where the standard space is 9' x 22'.
- C. **Area Reduction.** Parking space length can be reduced to 18 feet, including wheel stop, if additional space of two feet in length is provided for the car's front overhang. The unpaved area shall be planted in groundcover, but shall not count toward the required parking lot *landscaping*.
- D. **Vertical Clearance.** All *parking spaces* shall have a vertical clearance of at least eight feet. Some larger vans, sport utility vehicles, and light trucks may need more clearance. The applicant



shall note the maximum vehicle size to be accommodated. Any parking garage entrance shall have a bar to alert oversized vehicles before they enter the structure.



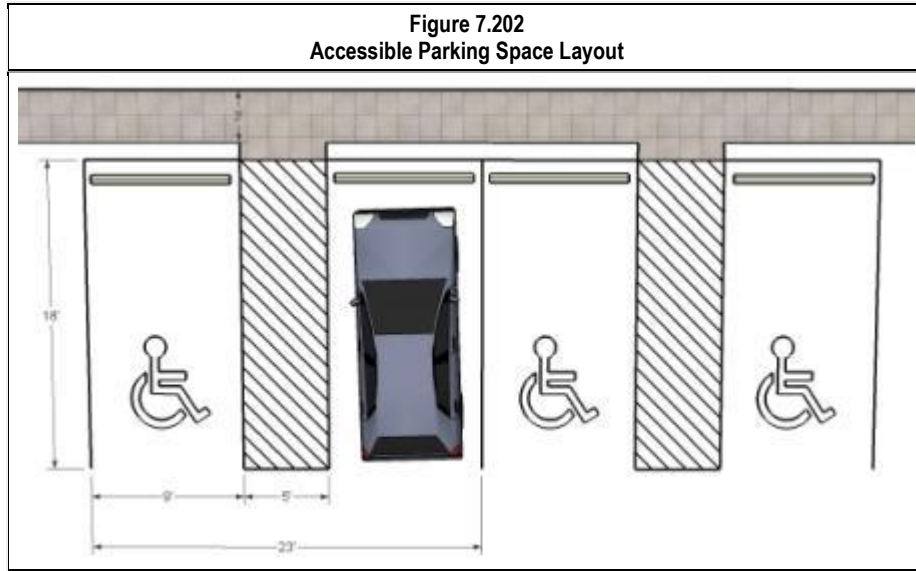
**Sec. 7.202 Accessible Parking**

All uses, other than residential served by on-lot parking, shall provide *parking spaces* for motor vehicles that transport disabled persons requiring accessible parking in accordance with the standards of this Section.

A. **Number Required.** The number of accessible spaces shall be in accordance with Table 7.202A, *Required Number of Off-Street Accessible Parking Spaces*.

Number of Parking Spaces Provided	Number of Accessible Spaces Required
Up to 25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2% of total number
Over 1,000	20 plus 1 for each 100 additional spaces over 1,000

- B. **Dimensions.** Accessible *parking spaces* shall be a minimum of 14 feet wide by 18 feet long, including a five-foot wide striped area.



- C. **Location.** Accessible *parking spaces* shall be located as close as possible to an entrance, which allows such persons to enter and leave the parking area and *building* without assistance. If possible, the spaces shall be located so that the accessible route from the accessible spaces to the accessible entrance should not cross a driving aisle or road.
- D. **Signage.** Accessible parking spaces shall be posted and marked with both a ground-mounted *sign* and pavement marking that includes the international accessibility symbol, the text "Reserved Parking" and text indicating the maximum fine allowed by law.
- E. **Residential Uses.** Multi-family residential units designed for *occupancy* by disabled persons shall provide one accessible parking space for each *dwelling unit* designed for such occupancy.
- F. **Relationship to Required Parking.** Off-street parking spaces required for the disabled by this Article shall count toward fulfilling the total off-street parking requirements.
- G. **Federal Law.** Compliance for accessibility to public facilities shall be in accordance with regulations issued by Federal agencies, including the United States Department of Justice, under the Americans with Disabilities Act of 1990. More specifically, these regulations include 28 CFR Part 36 "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Final Rule," as amended.
- H. **Exception for Valet Lots.** No accessible spaces are required in valet parking lots.

**Sec. 7.203 Driveway Parking for Single Family Dwellings on Lots Under 10,000 Square Feet in Size and Two-Family Dwellings**

- A. **Driveway location.** No *driveway*, including curb cuts or curb returns, shall be located within two feet of an adjoining *property line*.



- B. **Intrusion into Rights-of-way.** Parking shall be restricted to small motor vehicles and motor vehicles such that no vehicle extends into the *right-of-way* or blocks the sidewalk.
- C. **Residential Parking.** All small motor vehicles shall be parked on paved *driveways* or parking areas relating to a garage or carport. In areas where there are no garages or carports, small motor vehicles may be parked on paved driveways constructed perpendicular to the street. No parking shall be allowed within the driveway approach or across public *sidewalks*.
- D. **Street Islands.** In the Townscape (TS) or Residential (RS) Districts, guest parking in excess of the minimum parking requirements may be permitted in platted guest parking islands within enlarged cul-de-sacs or islands that are part of the *street* layout. In no case shall the required parking be located within the guest parking islands. Guest parking islands shall be maintained in the same manner as other public streets. In no case shall boats, campers, *recreational vehicles*, trucks, or inoperable vehicles be parked or stored in any guest parking island.

### Sec. 7.204 Off-Street Loading

All uses shall provide off-street loading as required by Table 7.104, *Parking and Loading Minimum Requirements*. Loading spaces shall be designed in accordance with the following:

#### A. Dimensions.

1. Each outdoor loading bay area's minimum dimension shall be 12 feet wide. For semi-trailers, the space shall be 40 feet long; all other spaces, 25 feet long. At no time shall any part of a truck or van be allowed to extend into a public *right-of-way* while the truck or van is being loaded or unloaded. If the outdoor loading area is covered, but not totally enclosed, the minimum height of the outdoor loading bay area shall be 14 feet.
2. A use that seeks to have no spaces suitable for semi-trailers shall provide evidence that the use does not require *access* by such vehicles. Where the Zoning Administrator finds that the use could change, space may be required to be land-banked for loading for semi-trailers.

B. **Maneuvering Space.** Adequate off-street truck maneuvering space shall be provided on lot and not within any public *street right-of-way* or other public lands so that trucks can maneuver to the docking area.

C. **Location.** All loading areas are required to be located on the same lot as the *building* or lot served by the loading area.

D. **Blocking Access.** Blocking loading spaces or *parking spaces* is prohibited. Loading spaces or parking spaces shall not be designed or located so that their use blocks access. Permanent or moveable structures of any type, including trash receptacles or compactors, shall not be placed so that they interfere with the use of parking, loading, or access areas.

E. **Fire Exit or Emergency Access.** Off-street loading facilities shall be designed so as not to interfere with any fire exits or emergency vehicle access to either a *building* or site.

### Sec. 7.205 Vehicle Stacking Requirements

- A. **Minimum Area.** Uses that have drive-through window services, unless otherwise provided below, shall provide a minimum distance for a stacking lane of 160 feet, of which 80 feet shall be provided to the menu board, exclusive of any parking aisle or parking space.

B. **Number of Vehicles.** All drive-in and drive-through facilities shall provide vehicle stacking in accordance with the Table 7.205, *Vehicle Stacking Requirements*.

Table 7.205 Vehicle Stacking Requirements	
Type of Operation	Minimum Number of Vehicles
Financial Institution, with drive-up tellers	4 Vehicles per Window/Kiosk
Financial Institution, with drive-up ATM	2 Vehicles per Window/Kiosk
Car Wash, Self-Service	4 Vehicles per bay at entrance 1 Vehicle per bay at exit
Car Wash, Automatic	300 feet per bay at entrance 2 Vehicles per bay at exit
Restaurant, Fast Food	4 Vehicles behind menu board 4 Vehicles behind first window
Photo Processing	2 Vehicles per window
Dry Cleaning	2 Vehicles per window
Gasoline Stations	2 Vehicles per pump
Gated Parking Lot Entrance	2 Vehicles per gate
Public Uses	2 Vehicles per Window/Kiosk

C. **Traffic Study and Minor Deviations.** These minimum vehicle storage requirements shall remain in force unless an applicant presents a traffic study from a licensed engineer that provides verifiable evidence to allow the reduction of these minimum stacking lengths. Minor deviations from these requirements may be approved by the Jefferson County Planning Commission.

D. **Design Standards.** Stacking for all uses shall conform to the following design standards:

1. No stacking space may occupy any portion of a public right-of-way.
2. The minimum pavement lane width shall be 12 feet.
3. Stacking spaces shall not be used to satisfy any of the off-street parking or *loading space* requirements.
4. Stacking lanes shall not interfere with *parking spaces*, parking aisles, loading spaces, internal site circulation, or points of ingress and egress.
5. A 12-foot bypass lane is required adjacent to the stacking lane to allow vehicles to circumvent the drive-through lane.

### Division 7.300 Access and Circulation

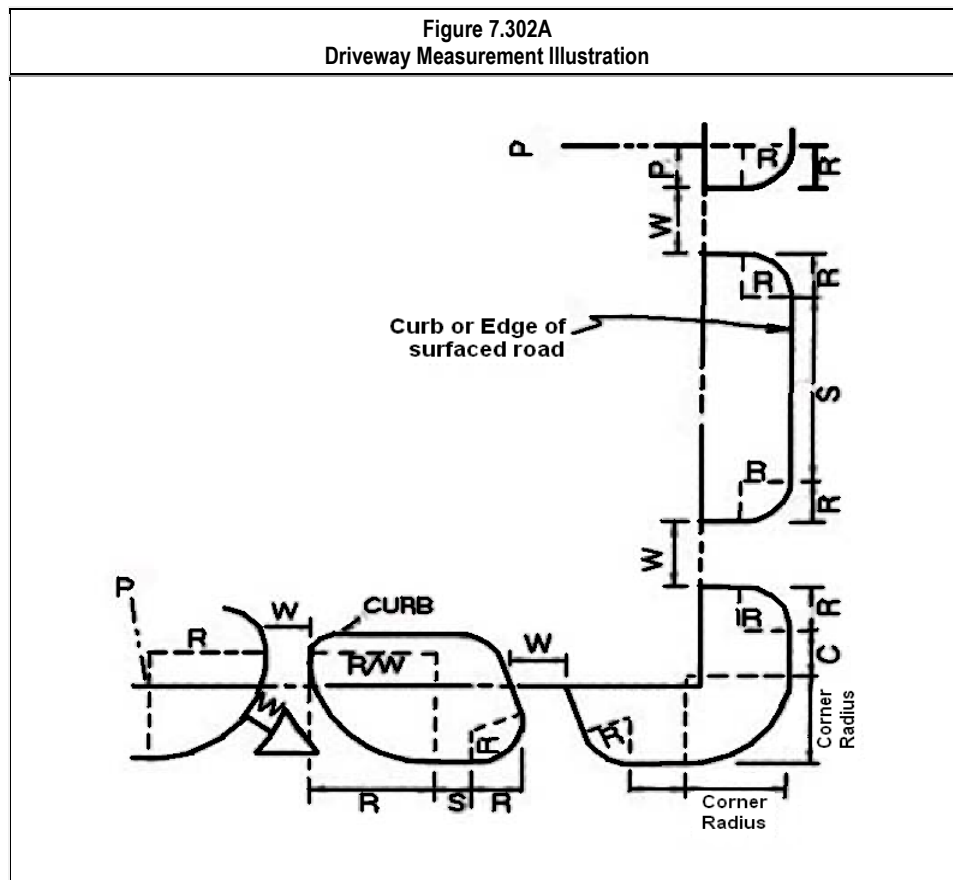
The purpose of *access* management is to ensure that site *development* will be consistent with acceptable engineering standards and design criteria to promote and maintain traffic safety and efficient traffic flow. In order to minimize accidents, mitigate congestion, improve mobility, and maximize use of the *roadway* network, it is necessary to regulate access for vehicles entering and exiting property *abutting* public *street* rights-of-way and private *street easements* or *access easements*.

**Sec. 7.301 Access to Collectors and Arterials**

- A. **General.** Developments, residential and nonresidential, shall have restricted *access* to collector or *arterial roads*. Every effort shall be made to ensure developments along these roads share common access point to maintain the capacity of the road by restricting turning movements.
- B. **Side Street Access.** Where *street* intersections are less than 400 feet apart, uses should take access from the side streets and provide a common cross *access easement* to adjoining properties (see Section 7.304, *Common Access and Internal Cross Access*).
- C. **Temporary Access.** Temporary access permits may be granted where there is practical difficulty in gaining access. The County may require existing land uses to make cross-access available, where practical, when redevelopment is considered.
- D. **Access to Arterials.** Access points to arterials should be a minimum of 300 feet apart, 500 feet where the posted speed limit is greater than 50 mph. Exceptions to this requirement shall be approved by the Planning Commission after the review of a Traffic Impact Analysis (TIA) to assess the safety, efficiency and warrant for additional access points.

**Sec. 7.302 Dimensional Standards of Access Points**

- A. **Driveways.** The *driveway* measurement illustration below identifies the required widths, radii, *property line* clearance, corner clearance, and spacing of *access* points by general land use type. The dimension references in Figure 7.302A are shown in parentheses behind the applicable design parameters.





B. **Width of Access (W).** The width of access shall be measured parallel to the center line of the *street* at the *property line* and shall not exceed the widths displayed in Table 7.302B, *Width of Access (W)*.

Table 7.302B Width of Access (W)		
Use Classification	Standard	Access Width
Single-Family Residential	One-car garage	12 feet
	Two-car garage	22 feet
	Three-car garage	25 feet
Two-Family Residential	Two, one-car garages	24 feet
	Two, two-car garages	40 feet
Commercial (two-way drive)	Recommended	30 feet
	Minimum	25 feet
	Maximum (up to 175' frontage)	35 feet
	Maximum (greater than 175' frontage) <sup>1</sup>	52 feet
Commercial (one-way drive)	Recommended (Ingress)	18 feet
	Recommended (Egress)	16 feet
	Minimum	15 feet
	Maximum	20 feet
Industrial (two-way drive)	Minimum	30 feet
	Maximum (<175' frontage)	35 feet
	Maximum (> 175' frontage)	40 feet
Industrial (one-way drive)	Minimum	20 feet
	Maximum	25 feet

<sup>1</sup> Requires a raised median with a minimum width of four feet between ingress/egress lanes.

C. **Property Line Clearance (P).** There shall be a minimum clearance between the near edge of the nearest access point and the *property line*. A minimum tangent length of five feet shall be required between the curb return and the property line extended and shall not interfere with fire hydrants, storm inlets, or other curb *frontage* improvements. The minimum clearances are displayed in Table 7.302C, *Property Line Clearance (P)*.

Table 7.302C Property Line Clearance (P)			
Use Classification	Local Street	Collector Street	Arterial Street
Residential	10 feet	15 feet	Access Restricted
Commercial	15 feet	15 feet	37.5 feet
Industrial	20 feet	20 feet	37.5 feet



D. **Curb Return Radii (R).** The width of the *street right-of-way* shall not be a determining factor in selecting the appropriate curb return radii. Curb returns shall extend onto private property, if necessary. Curb return radii shall not exceed the requirements displayed in Table 7.302D, *Curb Return Radii (R)*.

Use Classification	Standard	Curb Radii
Residential	Required	15 feet
Commercial (one- and two-way drives)	Recommended	20 feet
	Minimum	15 feet
	Maximum	30 feet
Industrial (one- and two-way drives)	Recommended	30 feet
	Minimum	15 feet
	Maximum	35 feet

Note: When a driveway is constructed to serve trucks with longer wheel bases, the County Engineer or a designee may require a greater minimum curb return radii.

E. **Corner Clearance (C).** For corner lots, there shall be a minimum clearance between the near edge of the nearest access point and the property corner at *street* intersections. A minimum tangent length of five feet shall be required between the curb return and the *property line* extended and shall not interfere with fire hydrants, storm inlets, or other curb *frontage* improvements. The minimum clearances are displayed in Table 7.302E, *Corner Clearance (C)*.

Street Classification	Intersecting Street Classification	Minimum Corner Clearance	
		Street	Intersecting Street
<b>Residential Driveways</b>			
Local	Local	20 feet	20 feet
Local	Collector	30 feet	30 feet
Collector	Collector	30 feet	30 feet
Arterial	Local	Restricted	75 feet
Arterial	Collector	Restricted	75 feet
Arterial	Arterial	Restricted	Restricted
<b>Commercial and Industrial Driveways</b>			
Local	Local	30 feet	30 feet
Local	Collector	30 feet	30 feet
Collector	Collector	75 feet	75 feet
Arterial	Local	125 feet <sup>1</sup>	75 feet
Arterial	Collector	125 feet <sup>1</sup>	75 feet
Arterial	Arterial	125 feet <sup>1</sup>	125 feet <sup>1</sup>

<sup>1</sup> A variance is required for corner lots with arterial street frontage where the required corner clearance cannot be met as a result of its lot width.



F. **Access Spacing (S).** There shall be a minimum spacing between the near edges of adjacent access points as displayed in Table 7.302F, *Access Spacing (S)*.

Table 7.302F Access Spacing (S)	
Street Classification of Abutting Lot Frontage	Minimum Spacing
<b>Residential Driveways</b>	
Local Street	30 feet
Collector Street	30 feet
Arterial Street	Restricted
<b>Commercial Driveways</b>	
Local Street	30 feet
Collector Street	75 feet
Arterial Street	75 feet
<b>Industrial Driveways</b>	
Local Street	40 feet
Collector Street	75 feet
Arterial Street	75 feet

**Sec. 7.303 Offset of Access Points**

Either the center line of opposing commercial and industrial *access* points shall be directly aligned or they shall be offset no less than 55 feet for commercial uses and 70 feet for industrial uses. This condition shall not apply where a permanent raised median exists in the *street* without a break for these access points.

**Sec. 7.304 Common Access and Internal Cross Access**

A. **General.** The use of common *access* and cross access between properties with compatible land uses is highly encouraged to minimize direct access from public streets, resulting in improved *street* capacity and reduced traffic conflicts. In cases where access control is especially critical to the safe and efficient flow of traffic, such as mixed-use developments, the Planning Commission may require common or cross access as a contingency of land development *plan* approval. A cross access requirement may include one or more of the following:

1. A continuous drive extending the entire length of each block it serves or at least 1,000 feet of linear *frontage* along a thoroughfare, whichever is less.
2. Sufficient width to accommodate a two-way access between properties, designed to accommodate automobiles and service and loading vehicles.
3. Stub-outs and other design features to allow *abutting* properties to be tied in to provide future cross access.
4. Linkage to other cross access drives in the area.

B. **Easement.** Access that is shared by adjacent properties, whether under single or separate ownership, requires that an *access easement* and agreement between *property owners* be approved by the County Attorney and recorded. The recorded book and page number shall be denoted on any subsequent subdivision plats of the property.

### Division 7.400 Exterior Lighting Standards

Exterior lighting is regulated to eliminate light spillover and glare on motor vehicle operators, pedestrians, and land uses within the light source's proximity. Safety considerations are the basis of the regulations, especially with respect to motor vehicles. In other cases, the regulations protect against both nuisance and hazard aspects of glare or excess light.

#### Sec. 7.401 Applicability

This Division shall apply to all uses except as follows:

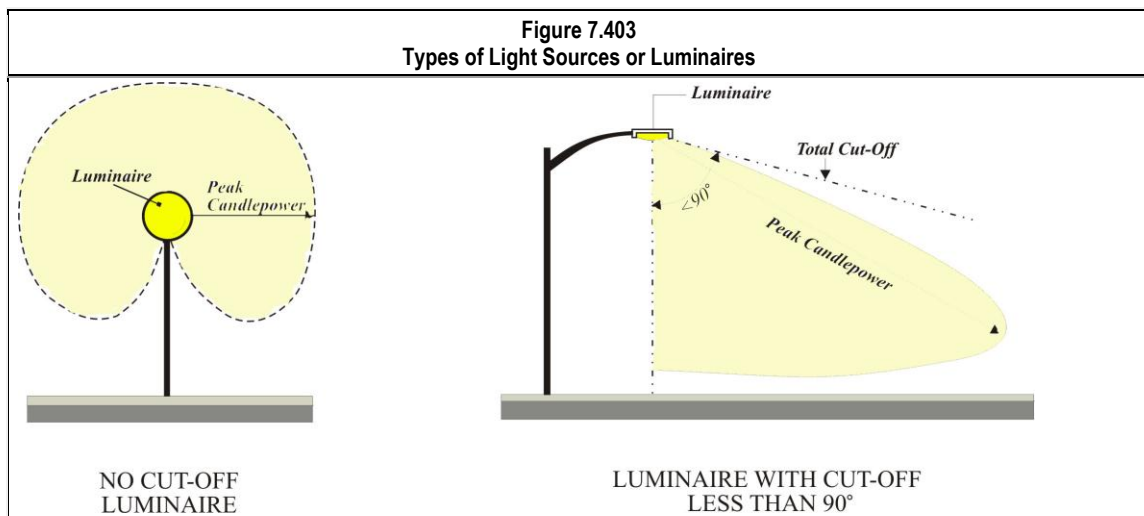
- A. **Public Street Lighting.** Public *street* lighting shall conform to standards set by the County or the West Virginia Division of Highways, if along a State or Federal *roadway*.
- B. **Residential Lighting.** Exterior lighting on residential uses or *farmsteads* are not regulated, except that no spotlights or floodlights shall be permitted that create a glare condition for neighboring *property owners* or vehicular traffic on adjacent streets.
- C. **Holiday Lighting.** Holiday lighting is not regulated.

#### Sec. 7.402 Exterior Lighting Plan

Any time exterior lighting is installed or substantially modified and whenever a Zoning Permit is sought, an exterior lighting plan shall be submitted to the Zoning Administrator to determine whether this Division's requirements have been met and that adjoining property will not be adversely impacted by the proposed lighting. The lighting plan shall indicate the types and heights of luminaires to be used and shall include illumination level plan showing the illumination at 10-foot intervals.

#### Sec. 7.403 Nonresidential Lighting Standards

Two types of light sources or luminaires are available (Figure 7.403, *Types of Light Sources or Luminaires*). One is a fixture having no *cut-off*, directing the light to limit view of the light source or luminaire. The second is a cut-off fixture, shielding the light source from view. The *maximum permitted illumination* and the maximum permitted *luminaire* height shall conform with this Section. All nonresidential property shall meet the following lighting standards:





- A. **Cut-off Fixtures.** All fixtures shall be *cut-off* fixtures that limit lighting that is visible or measurable at the *property line*. "No-cut-off" fixtures may only be used for decorative purposes and shall have luminaires that have incandescent sources of 100 watts or less, with a maximum height of eight feet. No-*cut-off* fixtures are prohibited in the AG and CS districts.
- B. **Illumination at Property Line.** The maximum illumination at a *property line abutting* or across the *street* from residential zoning shall not exceed 0.2 *footcandles*. On abutting nonresidential properties or public streets, the maximum illumination at the property line shall not exceed five footcandles.
- C. **Maximum Illumination.** Maximum illumination at any point on the property shall not exceed 60 *footcandles*. For automobile dealers or others who believe they need more illumination, they shall provide structures for nighttime examination of cars.
- D. **Canopy Lighting.** *Canopy* lighting for uses that have sheltered outside work or service areas, such as gas stations, shall meet the maximum *intensity* of C above. The luminaires shall be recessed into the canopy so they cannot be viewed from off site from an eye height of four feet to protect automobile drivers from glare.
- E. **Lighting Needing Special Approval.** Any lighting fixture or *luminaire* that exceeds 25 feet in height, or proposes more than 400 watts (incandescent equivalent) or more than three luminaires per pole, shall be approved as a *Conditional Use* and reviewed for impact on all surrounding uses.

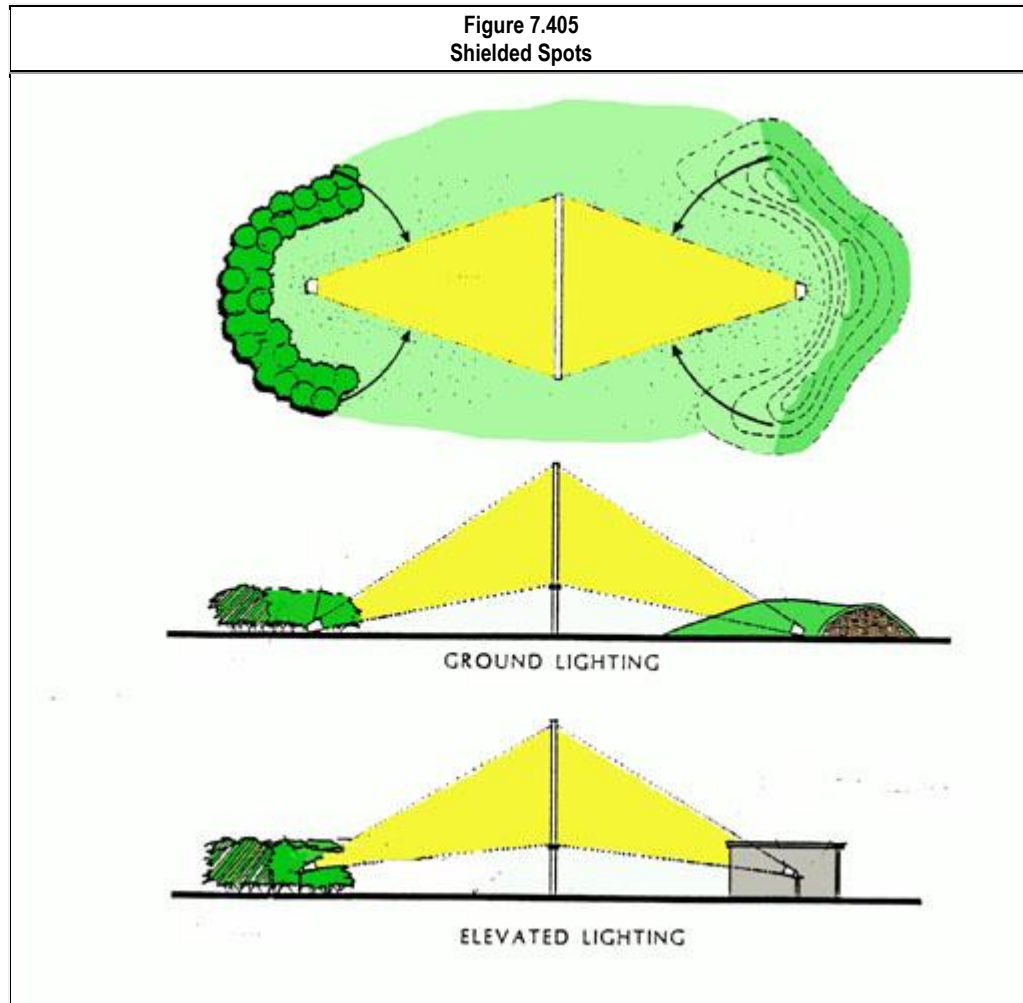
#### Sec. 7.404 Exterior Lighting for Outdoor Amusement and Recreational Use

Ball diamonds, playing fields, driving ranges, tennis courts, and similar amusement or recreation uses have unique requirements for nighttime visibility and generally have limited hours of operation. These uses may meet the following *Limited use* standards for approval of lighting in excess of the exterior lighting standards (Section 7.403, *Nonresidential Lighting Standards*) provided:

- A. **Land Development Plan.** The land development *plan* meets all other Ordinance requirements and, to the maximum extent possible, lighting is located to avoid shining at residential uses.
- B. **Post Height.** Exterior light sources do not exceed a post height of 80 feet.
- C. **Fixture Type.** The light source or *luminaire* shall be *cut-off*. The luminaire may have a cut-off angle that extends beyond the property boundaries only if:
  - 1. A landscaped *bufferyard* is provided to prevent light and glare spill-over to adjacent residential property. The Zoning Ordinance may require denser bufferyards than those in Divison 8.400, *Bufferyard Requirements*, to achieve this objective.
  - 2. The *maximum permitted illumination* shall not exceed one *footcandle* at the residential *property line* or the *street* curb, whichever is closer to the light source. If the *development* is within 300 feet of a residential district, the lights shall be turned off by 11:00 p.m.

#### Sec. 7.405 Sign Lighting, Shielded Spotlights

Shielded spots shall be screened by evergreen *landscaping*, walls, berms, or *cut-off* shielding so the light source is not visible off site. In most cases, a combination of cut-off shielding and a landscape or other feature will be needed to provide the necessary screening. Figure 7.405, *Shielded Spots*, provides an example of how this objective is to be accomplished.



### Sec. 7.406 Public Safety and Public Nuisance

The County may require the modification or removal or limited operation of lighting fixtures found to be a public hazard or public nuisance according to the following criteria:

A. **Hazards.** Criteria for finding illumination to be a public hazard are as follows:

1. Light trespass or glare which is sufficiently intense or contrasts excessively with surrounding illumination, regardless of the *intensity* of the surrounding illumination, in a manner to cause impairment of visual performance or to distract from or impair the safe operation of a vehicle.
2. Light trespass or glare that impairs a person's visual performance or ability to avoid obstacles in their path.

B. **Nuisances.** Criteria for finding illumination to be a public nuisance are as follows:



1. Light trespass or glare that deprives an *owner* or occupant of usual and reasonable use and enjoyment of a property.
2. A high frequency and/or duration of periods when light trespass or glare is sufficient to interrupt or interfere with usual and reasonable use and enjoyment of a property.
3. Light trespass or glare that causes visual discomfort or impairment of visual performance in a manner that deprives any person from the usual and reasonable enjoyment of the public streets and properties of the County.



## Article 8 Landscaping and Tree Protection

### Division 8.100 Purpose

---

- A. **General.** The *landscaping* and tree protection standards are intended to improve, protect, and preserve the appearance and character of the community, to increase the compatibility of adjacent uses, and to minimize the effects on the surrounding environment due to noise, dust, debris, artificial light intrusions, and other impacts of an adjoining or nearby use. It is also intended to reduce heat island effects on the local micro-climate, prevent soil *erosion*, and improve the quality of stormwater *runoff*.
- B. **Plant Units.** This Article provides the detailed *landscaping* standards for all *development* including landscaping for *street* trees, yards, *open space*, parking lots, and bufferyards. It also contains standards for installing and maintaining landscaping materials. It is based on a system of landscaping that provides many planting options using a "plant unit" that provides a full range of plant material (see Section 8.202, *Plant Units*).

### Division 8.200 General Requirements

---

#### Sec. 8.201 General Landscaping Standards

*Landscaping* is required as indicated in Table 8.201, *Landscaping Standards*. Additionally, *bufferyards* are required as per Division 8.400, *Bufferyard Requirements*, along zoning district lines and roads.

- A. **District and Use.** The first column shows the zoning districts and specific uses in those districts.
- B. **Lots, Open Spaces, and Parking Lots.** Columns 2, 3, and 4 indicate the standard for that portion of a lot not covered by *buildings* or parking, *open space* areas, and parking lots. These standards are specified in *plant units* (see Section 8.202, *Plant Units*).
- C. **Street Trees.** Column 5 specifies the spacing for *canopy trees* to be planted in the public right-of-way.



Table 8.201 Landscaping Standards				
Zoning District & Development Type	Landscaping Plant Units per (See Section B)			Street Tree Spacing
	Lot (acre or unit)	Acre of Open Space	Parking Spaces	Feet
<b>Agricultural (AG)</b>				
Farmstead	N/A	N/A	N/A	N/A
Equestrian, <i>Cluster</i>	5/ac	6	1/6 spaces	50
Planned	3/du	6	1/12 spaces	50
Hamlet	1.5/du	6	1/12 spaces	50
All Other Uses	6/ac	6	1/10 spaces	50
<b>Countryside (CS)</b>				
Farmstead	N/A	N/A	N/A	N/A
Equestrian, Single-Family Detached, <i>Cluster</i>	5/ac	6	1/6 spaces	50
Planned	3/du	6	1/12 spaces	50
Hamlet	1.5/du	6	1/12 spaces	50
All Other Uses	5/ac	6	1/10 spaces	50
<b>Estate (ES)</b>				
Single-Family Detached	5/ac	2	1/6 spaces	1.5/100 <sup>1</sup>
<i>Cluster</i>	2.5/du	6	1/6 spaces	1.5/100 <sup>1</sup>
Planned	2/du	6	1/12 spaces	1.5/100 <sup>1</sup>
All Other Uses	12 /ac.	8	1/12 spaces	1.5/100 <sup>1</sup>
<b>Residential (RS)</b>				
Single-Family	2.5./du	4	1/6 spaces	50
Cluster	2/du	4	1/12 spaces	50
Planned	1/du	4	1/12 spaces	50
All Other Uses	6/ac	5	1/10 spaces	50
<b>Village Conservation (VC)</b>				
VC 1A and larger lots	5/ac	8	1/10 spaces	40
VC20 , VC15	3/du	8	1/10 spaces	40
VC 10	1.5/du	8	1/10 spaces	40
<b>Townscape (TS)</b>				
Single-Family	1/du	4	1/16 spaces	40
Attached Single-Family	5/du	8	1/16 spaces	40
Multi-Family	0.3/du.	8	1/16 spaces	40
All other uses	5 ac.	5	1/16 spaces	40
<b>General Commercial (GC)</b>				
Retail, Service	16/ac	16	1/16 spaces	30
Office	10/ac	16	1/16 spaces	30
Mixed Uses	12/ac.	16	1/12 spaces	30
All Other Uses	10/ac.	16	1/16 spaces	30
<b>Business Park (BP)</b>				
Office & Lodging	10/ac.	5	1/18 spaces	50 <sup>2</sup>
Industrial	6/ac.	5	1/18 spaces	50 <sup>2</sup>
All other uses	12/ac.	5	1/18 spaces	50 <sup>2</sup>

<sup>1</sup> Plant Units per 100 feet. This is a hedge row planting.

<sup>2</sup> For exterior streets, increase to 25 feet and stagger.



## Sec. 8.202 Plant Units

*Landscaping* for yards, *open space*, parking, and *bufferyards* is specified in *plant units*. The plant unit is designed to provide three layers of plant material: *canopy trees* at the upper layer, understory or ornamental trees at the intermediate level, and shrubs at the ground level. Both evergreen and deciduous trees are specified in the plant unit options. The plant units are specified in Table 8.202, *Plant Unit Options*.

- A. **Standard Plant Unit A.** Plant Unit A is the standard plant unit recommended for any condition.
- B. **Alternate Plant Unit B.** Plant Unit B may be used to buffer the *street* frontages of lots containing commercial uses in instances where, due to site constraints, the use of other *plant units* would severely impact the visibility of approved on-site signage.
- C. **Alternate Plant Units C and D.** Plant Units C and D are recommended where year-round protection is essential and *canopy trees* are not required. Upon site *plan* review, the Planning Commission may require use of either, in whole or in part, to provide greater year-round screening.
- D. **Alternate Plant Unit E.** Plant Unit E may be required in parking lots to provide visibility and may also be used where better visibility is desired for security purposes where a wall or fence is used. It may serve the same function as shrubs or understory.
- E. **Alternate Plant Unit F.** Plant Unit F shall be used only with permission of the Planning Commission. It shall only be used where they find an overhead power line *right-of-way* is to be used as *landscaped area* or bufferyard or where introduced in a portion of the bufferyard to provide more flowering trees, provided the portion is limited and not intended solely to make a *building* more visible. It shall also only be used where they find its use desirable to make a building more visible for security purposes, such as for a public facility, provided the portion is limited, and where they find the design requires visibility that cannot be achieved with the Standard Plant Unit or the other Alternates.
- F. **Planting Requirements.** The standards in Table 8.201, *Landscaping Standards*, are used to determine the number of *plant units* required per acre, *dwelling unit*, or *parking spaces*. The plant units shall be calculated to two decimal places. For example, if there are 3.25 acres of land with three plant units, the number of plant units shall be calculated to two decimal places -- 9.75. Then, 9.75 would be the multiplier for each tree type (canopy, evergreen, etc.) to determine the number of trees required.
- G. **Rounding.** When calculating the quantity of *plant units* and plant material required, the number shall be rounded up to the next whole number. For example, 3.12 *canopy trees* are rounded up to four canopy trees.



Table 8.202 Plant Unit Options		
Plant Unit Options	Quantity, Size, & Type of Plants	Illustration
Standard Unit A	1 - 3" caliper Canopy Tree	
	1 - 1-1/2" cal./6' high Understory	
	1 - 8' high Evergreen	
	11 - 3' high Shrubs	
Alternative Unit B	1 - 3" caliper Canopy Tree	
	2 - 1-1/2" cal./6' high Understory	
	17 - 3' high Shrubs	
Alternative Unit C	1 - 1-1/2" cal./6' high Understory	
	3 - 8' high Evergreens	
	13 - 3' high Shrubs	
Alternative Unit D	4 - 8' high Evergreens	
	8 - 3' high Shrubs	
Alternative Unit E	2 - 3" caliper Canopy Trees	
	4 - 3' high Shrubs	
Alternative Unit F	5 -- 1-1/2" caliper/6' high Understory	
	16 -- 3' high Shrubs	



### Sec. 8.203 Plant Size Reductions

The plant size in Table 8.202, *Plant Unit Options* may, in some cases, be reduced in the following conditions:

- A. **Bufferyards.** Where there is a development that will extend over a period of years and the *developer* agrees to plant all buffers in the first year of the *development*, the County may approve the use of bag or pot grown trees, which do not suffer the shock of planting like balled and burlapped trees. The approval is based on the early planting being more effective than bigger trees planted over multi years.
- B. **Growth Considerations.** Because bag or pot grown trees suffer less shock and, thus, grow more vigorously, the County may request the use of these trees in areas where staff determines that this will produce a better impact over a five-year period.
- C. **Percent Reduction.** No more than 60 percent of the trees shall be of the reduced size. For *canopy trees* and evergreens, at least 10 percent of these trees shall be the next larger size.
- D. **Plant Size Reductions.** The reduced sizes are as follows:
  1. *Canopy trees* -- 1-3/4 inch from the three-inch standard.
  2. Evergreens -- five feet in height
  3. *Understory* -- one inch DBH or four feet in height.

### Sec. 8.204 Landscape Plans

*Landscape plans* for all subdivisions and site plans requiring a landscape plan shall show all plant material and provide tables indicating the planting of each type required by this Article. Plans prepared by a *Landscape Architect* meeting minimum standards shall be approved. However, in reviewing the plans, adjustments in the location of plants or the plant unit types used may be required where the County finds such alterations would better serve the purposes for which they are intended. In addition to the landscape planting plan, the following additional material shall be required:

- A. **Initial Maintenance Plan.** When landscape is initially done, regular maintenance and watering are particularly important to the survival of the plant material. The project Landscape Architect shall prepare an initial maintenance plan which identifies a regular maintenance schedule and methods for mowing, watering, and control of invasive plant material. Periodic inspections shall also be required to ensure plants that are stressed or diseased are identified and/or replaced. The inspection shall be made twice in the May through September months.
- B. **Long-Term Maintenance Plan.** This plan is intended to provide a guide for the long-term maintenance and inspection of the condition of plantings after the *developer* has turned the land over to *homeowners* and/or homeowners' associations. It should be prepared by the *developer* for the association to provide for general annual care, care of areas subject to damage from invasive plants, care of areas left in a natural state, and maintenance of recreation facilities, including trails on the property. There is no requirement for long-term maintenance plan provisions for on-lot *landscaping* unless the development's homeowner's or condominium association is to maintain the landscaping on individual lots.
- C. **Maintenance Responsibility.** The *landscape plan* shall designate the areas that are to be the responsibility of the *property owner* versus the responsibility of the homeowner's association.



- D. **Budget.** For both plans, annual budgets shall be established that indicate the maintenance costs that may be anticipated by the *developer* and those who will be responsible for the long-term maintenance.
- E. **Surety.** The County may require a bond and performance agreement from the *developer* to ensure that healthy plants are in place and have adapted to their new location prior to maintenance responsibility being turned over to others.

### Sec. 8.205 Ownership and Maintenance of Open Space

- A. **General.** This Ordinance requires *open space* in the district standards for many *development* types (Table 3.201A, *Residential Use District Standards*, and Table 3.201B, *Nonresidential Use District Standards*) and in order to protect natural resources (Table 4.200, *Resource Protection Standards*).
- B. **Ownership.** Except as provided in Section 8.205C all such open space required to satisfy the requirements of Table 3.201A and Table 3.201B shall be protected by restricting development in a deed restriction/covenant that runs to Jefferson County or all land owners in the development. The following provisions shall be met for ownership:
  - 1. As common land by homeowners', condominium, or land owners' associations; or
  - 2. Dedicated to a public agency, provided the public agency shall have the final decision to accept and the right to refuse such offers; or
  - 3. By a County-approved, private, nonprofit, *open space* organization capable of managing the open space with a *deed restriction/covenant* and who will not eliminate the deed restriction/covenant; or
  - 4. By individual land *owner* on whose lot the protected area exists. In general, this is the least desirable method and should be used only where the development is so small that common ownership is not likely to be a practical management solution.
- C. **Agricultural (AG) and Countryside (CS) Districts.** Open space as required by Table 3.201A, *Residential Use District Standards*, that is provided as part of a cluster development or planned development, and which is located in the Agricultural (AG) or Countryside (CS) district, may be retained by a landowner or farmer. Continued agricultural use of the open space land shall be encouraged. In such cases, there shall be no *deed restrictions/covenants*. However, such land shall be designated “reserved lands” (see Section 14.300, *Other Definitions*) to demonstrate compliance with the requirements for open space at such time as portions of the property may be subdivided or developed.
- D. **Maintenance Responsibility.** Under any arrangement, the *deed restriction/covenant* shall require the maintenance of such areas as indicated on the approved *plat* or land development plan. The County shall have the right under such deed restrictions/covenants to maintain the area and place a lien on the property to recover its costs.

### Sec. 8.206 Replacement

All plant materials that die within two years from the date of installation shall be replaced by the *developer*. If the developer fails to replace the plant materials, the County may use the developer's performance bond to replace dead plant materials. For all required residential *landscaping*, the *developer*



shall convey a two-year warranty to the purchaser at the time of closing for each lot/unit. The warranty shall cover the cost of remediation of soil or other conditions determined to have caused the failure of the initial planting. If loss is due to wildlife browsing, appropriate protections or alternate plants should be used. Alternate plants must receive prior approval from the Department of Planning.

### Sec. 8.207 Planting Locations

The exact placement of required plants and structures shall be the decision of each user, except for the following requirements that shall be met:

- A. **Conifers.** Evergreens and evergreen shrubs shall be planted with a 15-foot spacing to maximize their chance for survival unless other spacing for a specific plant species or variety is approved by the Department of Planning.
- B. **Location.** No street or *canopy trees* shall be planted under or within 10 lateral feet of any overhead utility wire or over or within five lateral feet of any underground water line, sewer line, transmission line, or other utility. The distance from the curb and *sidewalk* shall be determined by the Department of Planning based upon specific planting conditions and species of trees.

## Division 8.300 Development Landscaping

---

### Sec. 8.301 Street Trees

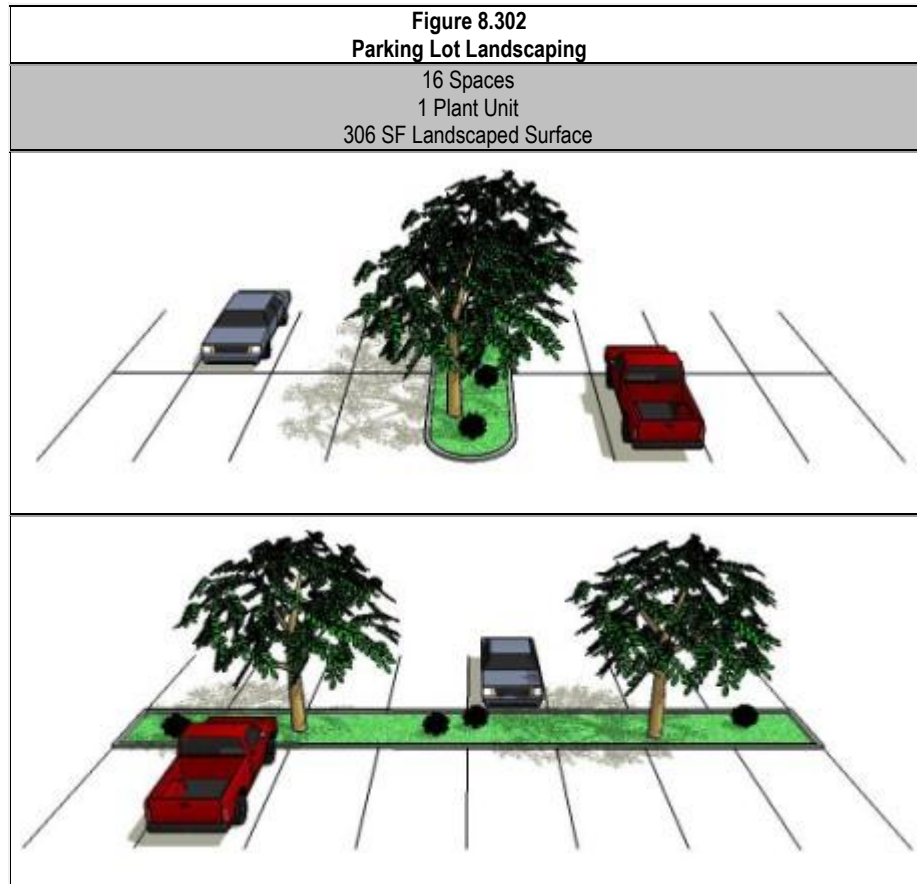
- A. **General.** Except for B and F below, trees shall be planted in the public *right-of-way* or private road easement, spaced as per column 5 of Table 8.201, *Landscaping Standards*.
- B. **Boulevards.** Center *boulevards* shall have a minimum width of 16 feet and shall have one tree planted per 40 feet within the parkway. Parkway having a width greater than 20 feet shall plant one and one-half tree per 40 feet or portion thereof.
- C. **Tree Quality and Size.**
  - 1. All trees planted within parkways shall have single-stemmed trunks and be branched no lower than six feet above the ground for visibility purposes. No tree selected for planting shall be less than three inches *caliper*. The Department of Planning may authorize the use of bag or pot grown trees of lesser diameter where they find such plant will survive and grow better. A 10 percent increase in plant material may be required with this option.
  - 2. For trees that are to be used to fulfill the street tree requirement in a *right-of-way* with overhead wires, the required *canopy trees* shall be substituted with understory trees that mature below the height of the lowest wire.
- D. **Minimum Spacing.** No trees may be planted closer than 25 feet on center, except that special plantings may be clustered as approved in the *landscape plan* of the *plat* or land *development* or as specified in E below.
- E. **Location within Right-of-Way.** Except as provided in G below, street trees shall be located in the road *right-of-way* between the curb or pavement edge and the sidewalk. The planting shall be coordinated with the placement of utilities to reduce difficulties in utility repair damaging or killing trees.



- F. **Estate (ES) District.** The street tree planting requirement in the Estate (ES) District is stated in *plant units* per 100 feet. It is intended to provide a hedgerow that provides privacy and screens views of the homes. If the road has a ditch serving as stormwater *drainage*, the street trees may be planted in the *right-of-way* and the front of the lot. The *landscape plan* shall determine the area for this, consistent with maintaining unobstructed flows in the ditches and a hedgerow *density* planting.
- G. **Roads of Other Jurisdictions.** When determined by the Zoning Administrator, street trees may be located on lots for streets owned by the County or State where those agencies require the trees to be located outside the right-of-way.

### Sec. 8.302 Parking Lot Landscaping

- A. **General.** Parking lot *landscaping* shall be one plant unit per number of *parking spaces* specified in column 4 of Table 8.201, *Landscaping Standards*.
- B. **Location.**
1. Each plant unit shall be planted in a planting island or space with a minimum total area of 306 square feet.
  2. The plant unit may be distributed between two *landscaping* islands or in larger continuous islands. If two smaller islands are selected, each shall contain a minimum of 153 square feet in area.
  3. In interior parking lots with fewer than 15 spaces, the island(s) may be the lot's corners.
  4. The parking lot landscaping shall be located within interior parking lot islands or within islands in entrance and circulation drives.
  5. In parking lots requiring less than three *plant units*, the landscaping may be on the perimeter of the parking lot.
  6. Figure 8.302, *Parking Lot Landscaping*, illustrates one plant unit per 16 *parking spaces*.



**Sec. 8.303 Open Space Landscaping**

- A. **General.** All *open spaces* shall be landscaped in accordance with the *plant units* per acre indicated in Column 3 of Table 8.201, *Landscaping Standards*, which sets forth the total landscape material required for the open space. This would require too much *landscaping* if portions of the open space are used for specific uses, where the plant units would be inappropriate. The following shall replace the per acre minimum on an acre-by-acre basis:
- B. **Active Recreation.** Courts, pools, play fields and ball fields shall be left free of trees. The perimeter of *active recreation* areas adjoining residential uses shall be planted to provide a screen or *bufferyard* having a 0.3 *opacity* if they are unlighted and a 0.6 opacity where they are lighted at night. Trees shall be planted to provide shade for stands, refreshment, or restroom facilities. As long as these two conditions are met, the active recreation area may be deleted from the total *open space* for which *plant units* are required.
- C. **Wetlands.** Wetlands shall be maintained as wetland environments, and, under normal circumstances, these areas may be credited toward meeting the *open space landscaping* requirements. Where the quality of the wetland is low, enhancement of the wetland vegetation shall be required. Trees planted in the area adjoining the wetland shall be those species adapted to high water table conditions. Where it is determined that the wetland should be a swamp (a wooded wetland) for water quality purposes, the deduction shall not be made.



- D. **Detention Basins.** *Detention basins*, to the normal maximum pool elevation (not the overflow conditions), is exempted from tree planting. However, when the basin is located on the border of the property, the area within 20 feet of the basin shall be planted at 1.4 times the normal per-acre *open space landscaping* requirement.

### Sec. 8.304 On-Lot Landscaping

- A. **General.** On-lot *landscaping* is required as described in column 2 of Table 8.201, *Landscaping Standards*.
- B. **Distribution.** In general, on-lot *landscaping* shall be distributed around the lot with emphasis given to the front yard. Front yards are particularly important for preserving community character. Therefore, landscaping shall be arranged such that trees shade the principal *building* and break up the building mass as viewed from the street. The *landscape plan* shall not frame a residential unit in a way that causes its bulk to dominate the streetscape.
- C. **Shrubs.** Shrubs may be used as foundation plantings, as hedges, or planted in groups.

### Sec. 8.305 Special Residential

Additional *landscaping* shall be required where there is not alley *access* to garages on single family housing types. The following additional landscaping over that required by Section 8.201, *General Landscaping Standards*, shall be required:

- A. **Front-Load Garages.** Where more than 20 percent of the units in a development have garages facing and taking access to the street, the *driveway* shall be narrowed to no more than 12 feet near the front *property line*. For each lot, an additional 0.5 plant unit of Alternatives C or D shall be required on either side of the drive nearest the street.
- B. **Side-Load Front Garages.** Where a side-load front garage is closer than 10 feet to the front *property line*, then an additional 0.5 plant unit shall be planted between the *street* and the garage.
- C. **Side-Load Garages.** Where more than two garage spaces are used in a side-load configuration, one plant unit shall be planted to screen the garage from the neighboring property and the doors from the street. Either plant unit Alternatives C or D shall be used.
- D. **Townhouses.** Where townhouses are used without alley access to garages, street trees shall be planted at 25 feet on center. This could require wider townhouse lots.

### Sec. 8.306 Clear Sight Triangle Visibility

Where *landscaping* is in parkways of roads, at road intersections, or in parking lots, the vegetation shall not block or screen street signage or views of cross traffic. For this reason, only Plant Unit E (see Section 8.202, *Plant Units*) should be used. The shrubs may be moved to where they do not block vision. A clear-sight triangle shall be required at intersections that provide adequate sight distances to see moving traffic. The triangle shall be measured from the centerline of the two intersecting roads.

### Division 8.400 Bufferyard Requirements

*Bufferyards* are required between districts, along major roads or railroads, and, in some cases, between individual developments. All bufferyard requirements are specified in terms of opacity -- the degree to which one can see an adjoining use. An opacity of 0.10 screens 10 percent of an object; an *opacity* of 1.0



fully screens the object during summer months. Bufferyards are required for district boundaries (see Section 8.401, *Bufferyard Standards*) and along streets (see Section 8.402, *Street Bufferyards*), for parking lots (see Section 8.403, *Parking Bufferyards*), and for storage or loading areas (see Division 7.200, *Parking and Loading Design*).

**Sec. 8.401 Bufferyard Standards**

- A. **General.** The *bufferyard* standards in Table 8.401, *Bufferyard Opacity Standards*, address the *opacity* of the bufferyard that is required between zoning districts. The table is a matrix in which all districts are shown -- the columns being the zoning of the adjoining land; the rows being the zoning of the proposed use. The grey cells are where both properties are identically zoned. Two numbers are shown for each cell (for example, 0.1/0.3 for Residential next to Townscape). The bufferyard required for the use in the Residential (RS) District (0.1) is listed first. The second number (0.3) is the buffer for the adjoining use in the Townscape (TS) District when it develops. The total required bufferyard is the sum of the two numbers; thus, 0.1/0.3 means a total *opacity* of 0.4. If the adjoining property was built without a buffer or a lesser buffer than required, the total buffer opacity shall be provided by the development.
- B. **Increased Opacity Requirements.** Some Limited or Conditional Uses may have more stringent required bufferyards, as specified by Division 2.400, *Limited and Conditional Use Standards*. Also, within the district where 0/0 is shown, there may be buffers required for parking lots (see Section 8.403, *Parking Bufferyards*). In addition, there are separate standards for clusters of development (see Section 8.407, *Buffers for Cluster or Planned Developments*).

Zoning of Proposed Development	Adjoining District							
	AG	CS	ES	RS	VC	TS	GC	BP
Agricultural (AG)	0/0	0/0	0/0.2	0/0.2	0/0	0/0.3	0/0.3	0/0.3
Countryside (CS)	0/0	0/0	0/0.2	0/0.2	0.1/0	0.1/0.4	0/0.3	0/0.3
Estate (ES)	0.2/0	0.2/0	0/0	0/0.3	0.1/0	0.1/0.5	0.1/0.6	0.2/0.8
Residential (RS)	0.2/0	0.2/0	0.3/0	0/0	0.2/0	0.1/0.3	0.1/0.6	0.2/0.8
Village Conservation (VC)	0/0	0/0.1	0/0.1	0.2/0	0/0	0/0.4	0.1/0.6	0.1/0.9
Townscape (TS)	0.3/0	0.4/0	0.5/0.1	0.3/0.1	0.4/0	0/0	0.1/0.5	0.3/0.7
Commercial General (CG)	0.3/0	0.3/0	0.6/0.1	0.6/0.1	0.6/0.1	0.5/0.1	0/0	0.1/0.1
Business Park (BP)	0.3/0	0.3/0	0.8/0.2	0.8/0.2	0.9/0.1	0.7/0.3	0.1/0.1	0/0

**Sec. 8.402 Street Bufferyards**

The *bufferyard* standards in Table 8.402, *Bufferyard Opacity Roads and Railroads*, address the *opacity* of the bufferyard that is required along arterial, collector, and *local streets* or railroads. The standards are in addition to the street tree requirements in Section 8.301, *Street Trees*. Some Limited or Conditional Uses may have more stringent required bufferyards, as specified by Division 2.400, *Limited and Conditional Use Standards*.



Zoning of Proposed Development	Adjoining Road or Railroad			
	Arterial	Collector	Perimeter Local	Railroad
Agricultural (AG)	0.5 <sup>1</sup>	0.5 <sup>1</sup>	0.4 <sup>1</sup>	0.8 <sup>1</sup>
Countryside (CS)	0.5 <sup>1</sup>	0.5 <sup>1</sup>	0.4 <sup>1</sup>	0.8 <sup>1</sup>
Estate (ES)	0.4	0.3	0.1	0.8
Residential (RS)	0.3	0.3	0.1	0.8
Village Conservation (VC)	0.4	0.2	0.2	0.0
Townscape (TS)	0.2	0.2	0.2	0.4
Commercial General (CG)	0.2	0.2	0.1	0.2 <sup>2</sup>
Business Park (BP)	0.2	0.2	0.4	0.0 <sup>2</sup>

<sup>1</sup> This applies to residential development, not agricultural, uses when the residential lots are within 300 feet of the road or railroad. Where they are more than 300 feet away, use 50 percent of the above buffer.  
<sup>2</sup> Where there is unbuffered residential on the other side of the railroad, add a 0.2 buffer to value for proposed use.

**Sec. 8.403 Parking Bufferyards**

Where a parking lot within a residential district abuts a *property line* that is not a zoning district boundary, a parking *bufferyard* shall be required per Table 8.404, *Standard Bufferyards*. If a barrier of at least three feet in height is not provided, the *opacity* of a parking buffer shall be raised to 0.3.

**Sec. 8.404 Standard Bufferyard Landscaping**

- A. **General.** This section identifies the standard planting for a *bufferyard* of any *opacity* in Table 8.404A, *Standard Bufferyards*. The table shows the minimum width, planting, and structure types of a *bufferyard* meeting the minimum opacity. Flexibility in *bufferyard landscaping* is encouraged to create variety and interest. A *bufferyard* may be designed to meet the opacity standards using a variety of widths, plant materials, berms, or walls.
- B. **Standard Minimum Bufferyard.** This *bufferyard* may be used to meet the standards of the proposed *opacity* for any unconstrained site.
- C. **Constrained Sites.** It is understood that *bufferyards* take up a portion of the site. Thus, Table 8.404A, *Standard Bufferyards*, provides standards for constrained sites. The standards are for each 100 linear feet of *bufferyard*, measured at the *bufferyard's* centerline. The Department of Planning shall determine if a site qualifies as constrained based on the following:
  - 1. It can be shown a *bufferyard* of the standard width would occupy more than 10 percent of the *base site area* of the site; or
  - 2. There are physical constraints on the placement of *buildings* or structures that force a land development *plan* that requires a narrower *bufferyard*.
- D. **Retrofitting Bufferyards.** In retrofitting *bufferyards*, the original use was established without a *bufferyard*. Thus, it is highly likely that there will be minimal land available for buffering. If there is not room for even a constrained *bufferyard*, then the Department shall approve the maximum feasible *bufferyard*. The Department may require fences or walls up to 8 feet in height for the maximum feasible *bufferyard*. Some *landscaping* is desired and should be required whenever there is room.



Table 8.404A Standard Bufferyards				
Opacity	Bufferyard Width (ft.)	Number of Plant Units	Plant Unit Type	Type of Structure Required
<b>Standard Bufferyard</b>				
Parking Buffer (0.25 opacity)	10	1.15	5	4' masonry wall; 4' evergreen hedge; 4' shadowbox fence; or 4' berm
0.1	10	0.95	1	none
0.2	10	1.85	1	none
0.3	16	2.60	1	none
0.4	20	2.40	1	3 ft. berm
0.5	30	2.80	1	3 ft. berm
0.6	40	2.50	1	5 ft. berm
0.7	45	2.70	1	6 ft. berm
0.8	50	2.85	1	7 ft. berm
0.9	60	3.00	1	7 ft. berm
1.0	60	3.30	1	8 ft. berm
<b>Constrained Site Bufferyard</b>				
Parking Buffer (0.2 opacity)	5	1.20	5	4' masonry wall
0.1	5	1.00	1	none
0.2	5	1.55	1	4 ft. fence - 40% opaque
0.3	5	1.40	5	5 ft. fence - 100% opaque
0.4	5	1.30	5	8 ft. fence - 100% opaque
0.5	15	2.15	5	8 ft. fence - 100% opaque
0.6	20	2.85	5	8 ft. fence - 100% opaque
0.7	25	3.65	1	4 ft. berm with 3 ft deciduous hedge on top
0.8	30	3.85	1	5 ft. berm with 3 ft. deciduous hedge on top
0.9	35	4.85	1	5 ft. berm with 2 ft. deciduous hedge on top
1.0	40	4.85	1	6 ft. berm

E. **Calculating the Bufferyard.** Table 8.404B, *Bufferyard Sample Calculation*, provides the required plant material for 100 feet of bufferyard. To calculate a required bufferyard, take the actual length of the bufferyard and divide by 100. Then multiply the result by the number of *plant units* required by Table 8.404A. A sample calculation is shown below.

Table 8.404B Bufferyard Sample Calculation												
Total Linear Feet			Hundreds of Linear Feet		Plant Units Per 100'		Total Plant Units		Standard Plant Unit	Plant Type	=	Total Plants Required
315	Divide by 100	=	3.15	x	1.85	=	5.83	x	1	Canopy Tree	=	(5.83) 6
									1	Understory	=	(5.83) 6
									1	Evergreen	=	(5.83) 6
									11	Shrub	=	(64.13) 64

**Sec. 8.405 Bufferyard Alternatives or Options**

The standards in Section 8.404, *Standard Bufferyard Landscaping*, are acceptable, but variety and creativity are desired by the County to provide a more attractive and diverse landscape and streetscape.



Bufferyards that meet the desired *opacity* and minimum widths shall be approved provided they meet the following:

- A. **Opacity.** The *opacity* shall meet or exceed that required by Table 8.404A, *Standard Bufferyards*.
- B. **Walls and Fences.** The use of walls and fences is limited. The County prohibits the creation of walled or gated communities. The use of walls or fences results in narrower buffers and less *landscaping*, which runs counter to the rural character of the County. The following shall control the approval of bufferyards using walls or fences.
  1. **Historic Properties.** If a wall exists or is to be rebuilt on a property designated as having an *historic resource* to restore the historic character of the site, the wall may be included in the bufferyard calculation. However, the Jefferson County Historic Landmarks Commission shall be empowered to require additional *landscaping* if they find that the lack of buffer landscaping detracts from the historic character. The fence or wall shall be certified by the Jefferson County Historic Landmarks Commission as being historic in character.
  2. **Fences and Walls; Generally.**
    - a. On unconstrained sites, fences with opacities of greater than 50 percent shall be permitted to satisfy  $\frac{1}{2}$  the required buffer planting. Fences having an *opacity* of 20 to 49 percent, shall be permitted to satisfy  $\frac{1}{3}$  the required buffer planting. Decorative fences which are less than 20 percent opaque may be used at will but shall not substitute for *plant units* required in Table 8.404B.
    - b. On unconstrained sites, walls shall be permitted to satisfy  $\frac{1}{2}$  the required buffer planting.
- C. **Maximum Feasible Bufferyard.** The maximum feasible buffer may be approved with a narrower buffer. In that case, the planning *department*, based on available land, determines the *landscaping* that can be used and grown in the area available.

### Sec. 8.406 Bufferyard Berms

Berms may be used in bufferyards where they increase *opacity* by screening and raising the level of *landscaping*, providing a greater initial impact. The berms should be designed with a maximum *slope* of one foot of height for three feet of horizontal distance (a 33 percent slope). Berms shall be undulating; that is, the top should not be a constant elevation. The height of the berm is the average. The undulation should be 20 percent above and below the average. The following options to the standard berm design are permitted:

- A. **Berm Walls.** A berm wall is a berm built up against a wall that provides a normal berm appearance on one side and a *retaining wall* appearance on the other side. This option may be used where space is scarce. In general, a berm wall takes only 50 to 60 percent of the space that a berm takes. Up to four feet in height, no undulation is required for the top of the berm. Above four feet, undulation of 10 percent is required, which will require a larger width. Engineering is required for the *construction* of a berm wall to ensure that it is stable. The wall side should be towards the use installing the berm wall.



- B. **Steeper Slopes.** In general, steeper slopes are undesirable because they tend to have difficulty establishing a good groundcover, and that leads to *erosion*. However, there are circumstances where a steeper *slope* is desired; in particular, where a berm is needed along a road. In this case, the berm is most effective in screening when the crest of the berm is closest to the road. A steeper slope may be permitted provided the following are met:
1. The berm must be sodded, or groundcover- and seed-protected by material that holds seed and plant material in place until it provides a well-rooted cover.
  2. The width of land consumed by the berm shall be used with the berm undulating both horizontally and vertically to provide better interest.
  3. The steeper slopes shall be used where they are most needed for screening. The design shall be such that it appears like a cut through existing topography.

### Sec. 8.407 Buffers for Cluster or Planned Developments

Where *cluster* or *planned development* options, including equestrian developments, are used, a bufferyard is required even though the developments may be in the same district with no buffer required by Section 8.401, *Bufferyard Standards*. The buffer is to protect a neighboring property from having *cluster* development with much smaller lots located with the dwellings pushed up against it. The following rules apply:

- A. **Buffer Width.** The minimum width of a buffer shall be equal to or greater than the *rear yard setback* for single-family on the adjoining property with an *opacity* of 0.3, or a reduced buffer having an opacity of 0.5. Where the *cluster* is more than twice the distance of the *rear yard setback* of the adjoining residential, no minimum *opacity* is required. However, *open space landscaping* should be placed to provide some screening.
- B. **Buffer Length.** The buffer does not have to extend the length of the *property line*, but needs to be placed to provide screening where the *cluster* is closest to the neighboring development.
- C. **Structures.**
1. Walls are only permitted in the Townscape (TS) District.
  2. Berms are permitted in all other districts, but not the Townscape (TS) District.

## Division 8.500 Landscape Material Standards

---

### Sec. 8.501 Tree Quality

All trees used must be of good stock and free of disease and parasites. These trees usually come from a nursery and also must fit in with the local flora and be able to support local fauna. A high-quality tree has the following characteristics:

- A. **Root Balls.** Root balls shall have enough sound roots to support healthy growth with a minimum size related to the size of the plant. Bare root, container, or bag grown trees are also acceptable. The standards for plant size and ball or other container shall be as specified by American Standard for Nursery Stock (ANSI Z60.1-2004).
- B. **Trunk.** The trunk shall be free of mechanical wounds and wounds from incorrect pruning.



C. **Form.** Form shall be strong, with well-spaced, firmly-attached branches.

**Sec. 8.502 Plant Species**

- A. **Native Varieties.** At least 75 percent of the trees and 50 percent of the shrubs used to fulfill these requirements must be species that are native to the mid-Atlantic states of WV, MD, VA, PA, DE, NJ and available from commercially licensed growers. For a list of natives commonly available in the region see Native Plants for Wildlife and Conservation *Landscaping Chesapeake Bay Watershed* published by the U.S. Fish & Wildlife Service and search the online website USDA Plants Database of natives for Jefferson County, West Virginia. It is strongly recommended that plants be selected from those lists or supplemental lists available at the Department of Planning.
- B. **Variety.** Variety is important because of the threat of disease or infestation. The number of varieties of species is related to the total planting requirement. Table 8.502, *Minimum Number of Species Required*, shall be used to determine the minimum number of species that must be provided. When there are *canopy trees*, evergreens, and understory tree, they shall be calculated separately. Forty-one (41) or more total plants, no less than 3% and no more than 30% of any single species can be used to meet the minimum number of species requirement. Less than 3% of a species may be used once the minimum number of species required has been met.

Total Number of Plants	Required Number of Species
1-10	1
11-25	3
26-40	5
41-70	7
71-120	9
121-200	11
201-400	13
401-800	15
801-1,500	17
more than 1,500	19

C. **Invasives or Exotics.** An invasive species is one that is non-native to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health. An exotic species is one that is and was non-native and was introduced into an area where it does not occur naturally, although over time it may become considered naturalized to the area. Most exotic species are not invasive.

These requirements are primarily focused on woody plant materials and will only pertain to herbaceous plants where an invasion is highly localized and where eradication is achievable and deemed cost effective by the Department of Planning. Development plans must include methods for removal of all exotic plants in areas designated to be maintained in a naturalistic state and all exotics to remain or proposed as new plantings. Development plans must also include methods to remove and control invasive plants.



Developers must especially focus on eradicating plants identified under the West Virginia Plant Pest Act (W.Va. Code 19-12-1, et seq.) and the West Virginia Department of Agriculture Rules, Title 61, Legislative Rules, Series 14 West Virginia Plant Pest Act Rule and Series 14A Rules Dealing with Noxious Weeds and Title 61 Legislative Rules, Series 9, West Virginia Seed Law. An additional reference is the list contained within the book entitled *Invasive Plant Species of West Virginia* published by the West Virginia Native Plant Society. This list also includes some exotics commonly used legally in the West Virginia landscape industry which can become invasives in natural ecosystems when they escape into naturalized areas. Any plant may potentially be considered a weed, a pest, or an invasive when it appears in an inappropriate location. Legal exotics used in landscape planting designs designed by a *Landscape Architect* will not be shown that the species has begun to act invasively and cause harm. An additional list of invasive and/or exotic plant species may be placed on file in the offices of the Department of Planning.

A statement must be included on the *landscape plans* and in initial and long-term maintenance plans as well as homeowners association documents or deed restrictions/covenants that the *development* area will be maintained free from invasive plants throughout and free from exotic plants in naturalized areas.

- D. **Ash Trees.** These trees may be planted, but only half shall count towards the requirements of this Article due to the threat of Emerald Ash Borer.

### Sec. 8.503 Soil Preparation

Any soil disturbed should be kept to the minimum needed for planting. Loss of topsoil should be kept to a minimum, and any *landscaping* where bare soil is exposed should be covered with some form of mulch. Where trees are to be planted in disturbed or compacted areas, the area shall be tilled to a depth of 12 inches immediately prior to planting so as to prepare for planting and managing *erosion* potential. All *construction* debris shall be removed from soil.

- A. **Seedbed Preparation.** Areas to be vegetated shall have soil conditions capable of supporting vegetation. Over lot *grading* will oftentimes bring to the surface subsoil's that have low nutrient value, little organic matter content, few soil microorganisms, and conditions less conducive to *infiltration* of precipitation. Under certain condition, soil amendments and treatment may be necessary to provide an adequate growth medium to sustain vegetation.
- B. **Re-Use of Topsoil.** Whenever possible, topsoil shall be salvaged for respreading on areas to be revegetated. The depth of the soil stripping is determined by the depth of available topsoil. At a minimum, the six inches of topsoil should be stripped and stockpiled, and respread to a thicker depth on surfaces not planned for *buildings* or impervious areas. This may not be possible due to bedrock in many areas.
- C. **Preparation.** If the surface is compacted during *construction*, ripping of compacted area prior to applying topsoil is recommended. Scarification will assist in placement of a stable topsoil layer on steeper slopes, and allow percolation and root penetration to greater depth.
- D. **Fertilizer.** No fertilizer associated with plantings, required in new subdivisions or required as a condition of site plan approval, shall be added as it would have a high probability of leaching into the ground water unless it can be demonstrated to the Department of Planning through relevant research literature that the fertilizer product proposed for use can be safely used without



endangering ground water, notes added to the plans and specifications stating that the manufacturer's recommended rates of application will be followed.



## Article 9 Sign Regulations

### Division 9.100 Purpose

---

- A. The purpose of this Article is to regulate all exterior signs and interior signs placed for exterior observance so as to protect property values and the character of the County. Any *sign* placed on land or on a *building* for the purposes of *identification* or for advertising a use conducted therein or thereon shall be deemed to be accessory and incidental to such land, building or use.
- B. It is intended that the placement of a particular *sign* will be appropriate to the land, *building*, or use to which they are appurtenant and be adequate, but not excessive, for the intended purpose of *identification* or advertisement. It is also intended that in areas proposed for new *development*, that signs placed will be harmonious in color, form and proportions to its surroundings.

### Division 9.200 General Provisions

---

- A. **Compliance Required.** No *sign* shall be erected, hung, or placed in any district except as provided in this Ordinance. No sign erected before the enactment of this Ordinance shall be structurally altered or moved except in accordance with this Ordinance.
- B. **Permit Exemption for Maintenance.** No zoning *permit* shall be required for the repainting or repairing of a sign.
- C. **Prohibited Signs and Prohibited Sign Locations.**
  - 1. No signs, other than subdivision signs approved by the Planning Commission, shall be located in the *right-of-way* of any road or on any *slope* or *drainage* easement for such road.
  - 2. No *sign* shall be permitted that is an imitation of or which resembles an official traffic control device, railroad sign or signal, or that hides from view or interferes with the effectiveness of an official traffic control device or any railroad sign, signal, or traffic sight lines. *Illuminated signs* shall be so constructed as to avoid glare or reflection of any portion of an adjacent *highway* or residential *building*.
  - 3. No *sign* that implies the need or requirement of stopping or the presence of danger shall be displayed.
  - 4. No *sign* shall be placed on rocks, trees, or on *poles* maintained by public utilities.
  - 5. No *sign* shall be permitted that becomes unsafe or endangers the safety of the *building*, premises, or persons and unless maintained in a good general condition.
  - 6. No *sign* shall be permitted that contains statements, words or pictures of an obscene, indecent, or immoral character.
  - 7. No animated signs are allowed.



## Division 9.300 Permitted Signs

---

### Sec. 9.301 Signs Permitted Without Zoning Permit

A. **Signs Permitted.** The following signs are permitted without a zoning permit:

1. Signs posted upon property relating to private parking or warning the public against trespassing or against dangers of animals.
2. Municipal, County, State and Federal signs, including necessary traffic signs.
3. Historical markers, *monuments*, or signs erected by a public authority.
4. Plates on residential structures or premises giving the name or address of the occupant, mailboxes, newspaper tubes, and similar uses customarily associated with residential uses.
5. A *sign* indicating the name and/or premises or accessory use of a home for a *home occupation* or professional purpose, not exceeding one square foot in area.
6. A *sign* not exceeding twenty-five (25) square feet on a *farm*, advertising farm products primarily grown on the premises.
7. Directional or informational signs of a public or quasi-public nature, such as those containing the meeting date of a community or civic club, or the advertising of a public event.
8. A temporary *real estate sign* designating the zoning classification of the parcel, not exceeding twenty (20) square feet and being located on the subject property for sale or lease.
9. Building contractors', subdivision and/or professional persons' *temporary signs* on *buildings* or land under *construction* but not to exceed fifty (50) square feet.
10. Election signs, provided that unsuccessful candidate shall remove signs within 15 *days* after a primary or special election. All signs shall be removed within 15 *days* after the general election. Signs shall not interfere with traffic visibility.

B. **Removal of Temporary Signs.** All *temporary signs* shall be removed thirty (30) *days* after the event, unless otherwise specified in Article 9.

### Sec. 9.302 Signs Permitted With Zoning Certificate

A. **General.** Business and outdoor *advertising signs* in all zoning districts shall require a zoning certificate before placement on any property or *building*.

B. **Zoning Permit Review for Conditional Uses.** All signs accessory to conditional uses shall be proposed within the conditional use application and assessed at the approval hearing. Such signs shall be maintained at least 1,000 feet between signs. Consideration of the placement of such signs with less than 1,000 foot intervals shall be determined by the commercial or residential uses adjacent to the subject site. Commercial uses adjacent to the subject site may allow spacing intervals of 300 feet.



C. **Permitted Sign Area.** Any exterior *sign* or signs pertaining to the use conducted on the premises, and which is either integral with or attached to the principal *building*, shall have a sum total area of no more than two square feet for each foot in length of the *frontage* of the building. No sign shall be attached to the side of the building that faces an adjoining residence. All signs placed on a property that contains a *conditional use* are subject to provision B above.

D. **Freestanding Signs.**

1. Individual business or industrial establishments may erect a freestanding *business sign*, provided that:
  - a. The lot *frontage* is at least 40 feet;
  - b. The freestanding *sign* is set back from *street* rights-of-way as follows:
    - i. Sign structure: 25 feet; and
    - ii. All other sign parts: five feet;
  - c. The total *sign area* on one supporting structure shall not exceed 300 square feet; and
  - d. The total *height* of the *sign structure* does not exceed 35 feet.
2. Businesses or industries having a *frontage* on more than one *street* may have an additional freestanding *sign* for each *street frontage*, provided that:
  - a. The total *sign area* for all freestanding signs does not exceed 600 square feet.
  - b. No more than one side is installed on each *frontage*.
3. Where the lot adjoins a residence and a freestanding *sign* is on the side of the business lot adjoining the residential lot, the sign shall not face the adjoining residence.
4. Structures which have more than one use shall be required to use a pylon sign.
5. Signs accessory to Conditional Uses are subject to B above.

E. **Outdoor Advertising Signs (Off-Premises Signs).**

1. All outdoor *advertising signs* shall be spaced from each other as follows:
  - a. In the Business Park (BP) District there is a minimum of 300 feet between signs.
  - b. In the Agricultural (AG) District, where permitted, there is a minimum of 1,000 feet between signs. This shall be subject to B above.
2. No outdoor advertising sign shall be placed closer than 300 feet to an intersection on a dual or proposed dual highway; or within one hundred feet of any other intersection; provided, however, that such signs may be affixed to or located adjacent to a *building* at such intersections in such a manner as not to materially cause any greater obstruction of vision than caused by the building itself.
3. No *business sign* shall be so located to obstruct the vision of traffic using entrance ways, *driveways*, or any public road intersection.



4. All outdoor advertising, excluding *billboards* subject to Paragraph F below, shall comply with front yard *setback* provisions in the districts in which they are permitted.

**F. Billboards (Large Off-Premises Signs).** *Billboards* may only be located as follows:

1. No billboard shall be closer to any public *highway right-of-way* than 300 feet.
2. Placement of a billboard must be in a location that is within 800 feet of an existing business.
3. There shall be a minimum of 1,000 feet between *billboards*.
4. A *billboard* shall be no closer than 500 feet from a church, school, or cemetery.

**Sec. 9.303 Conditional Uses (Requiring Board of Zoning Appeals Authorization after Public Hearing)**

Outdoor *advertising signs* including *billboards* may be approved by the Board of Zoning Appeals if it conforms to existing State law and does not have a negative affect on the neighborhood or intent of this Ordinance.

**Division 9.400 Zoning Certificate**

---

All zoning certificate applications for signs may be approved by the Zoning Administrator or designated zoning department staff if in conformance with the regulations.



## *Article 10 Design and Modulation*

### **Division 10.100 Purpose**

---

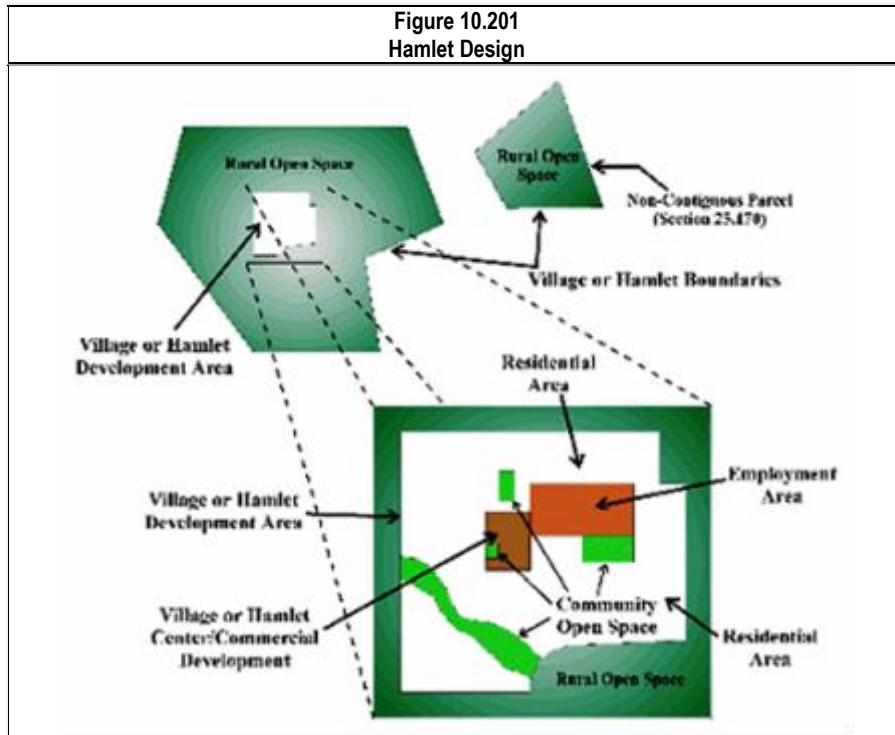
- A. **General.** This first part of this Article addresses the design of *hamlets*, which is a form of *planned development* that seeks to create a community that has residential and nonresidential components. The second part addresses modulation.
- B. **Purpose of Hamlets.** The purpose of the Hamlet provisions of this Article is to allow for the *development* of mixed-use *hamlets* that are compatible with and supportive of the County's rural environment.
- C. **Purpose of Modulation.** Modulation is intended to provide for more flexibility and creative design. In other cases, uncommon, yet predictable, situations in which the standard will create unnecessary problems for the *developer* have been anticipated. Specific conditions are identified in this Article and rules provided permit greater flexibility when all the conditions are met. Modulation is intended to provide an alternative method of meeting the intent of this Ordinance with a substitute set of standards. It focuses on enhancing design or avoiding a need for a land *owner* to seek a variance.

### **Division 10.200 Hamlet Design**

---

#### **Sec. 10.201 Hamlet Composition**

- A. *Hamlets* are rural communities surrounded by large areas of *open space* that are a part of the development. Each hamlet shall be composed of a hamlet development area and common hamlet *open space* (see Figure 10.201, *Hamlet Design*). Hamlets may also include a hamlet center that includes vertically mixed-use development. Procedurally, hamlets are approved in the same way as planned *development*. The hamlet *plan* shall meet the following standards for each of the components.



- B. **Hamlet Development Area.** The *hamlet development* area contains all the development that is permitted by Article 2, *Land Uses*, and Article 3, *District and Bulk Standards*. The hamlet development area may be subdivided into two components: residential areas and an optional hamlet center. The rest of the site is set aside as common hamlet or hamlet rural *open space*. Table 3.201A, *Residential Use District Standards*, indicates the total amount of required open space.
- C. **Hamlet Center.** The *plan* may contain a *hamlet* center. The following uses, if included in the hamlet, must be located in the hamlet center:
  1. Commercial uses;
  2. Home work space, home business, or home industry; and
  3. Institutional uses may also locate in the *hamlet* center.
- D. **Residential Areas.** All the residential uses except *farmsteads* shall be located in the *hamlet* development area. Institutional uses may also be located in the residential area or in the hamlet center.
- E. **Common Hamlet Open Space.** Within or immediately surrounding the residential area and hamlet center, there shall be *open space* that is used by *hamlet* residents and owned and maintained by them. This open space shall represent a minimum of 20 percent of the total *open space* required in Table 3.201A and may be in the form of village greens, parkways, parks, natural *resource* corridors, buffers, garden plots, or connectors.



1. **Greens.** Greens are areas having a minimum of 20,000 square feet and minimum average width of 90 feet. These areas shall be for *passive recreation*, unstructured play, walking, and sitting. They shall be landscaped accordingly and shall have no more than one-fifth of their perimeter adjoining the rural *open space*. They are surrounded by roads separating them from other areas.
  2. **Parkways.** Parkways are surrounded by roads and shall be at least 40 feet in width and have a minimum of 6,000 square feet of area.
  3. **Parks.** These are *active recreation* areas for *hamlet* residents. They may have a ball field or fields, but shall not be for regional recreation programs. Courts, tot lots, or other *active recreation* is permitted. Picnic areas are permitted, but shall be for the hamlet's citizen needs.
  4. **Natural Resource Areas or Corridors.** Where the resources are in the *hamlet* development area, they shall be part of the hamlet *open space*.
  5. **Buffers.** Some common *open space* may be permitted on the edge of the developed areas for trails, amenity, or buffer purpose. This area can also be used to provide areas of garden plots for *hamlet* residents.
  6. **Garden Plots.** A portion of the buffer area or *park* can be used for garden plots.
  7. **Connectors.** Areas of common *open space* may link the *hamlet* development area to pedestrian, bicycle, or equestrian corridors. These can extend along County greenway corridors or to provide bicycle and/or pedestrian *access* along roads.
- F. **Hamlet Rural Open Space.** All the *open space* that is not used as common hamlet open space shall be rural used for agriculture or left as *natural areas*. If there is a farmland *owner* managing or owning the rural open space and the residence would qualify as a *farmstead* it shall all be counted as hamlet rural open space. Further, the *dwelling unit* of the farmstead shall not count towards the properties *density*. Agricultural use may also occupy up to 50 percent of the required common hamlet open space and need not be owned by the hamlet residents provided such land shall be subject to a covenant which will limit any future residential *development*.

### Sec. 10.202 Permitted Uses

A hamlet is permitted to have residential, commercial, and institutional uses provided that they meet the standards of this Section.

#### A. Percent Nonresidential.

1. No more than ten percent of the hamlet's *development* area may be developed as commercial uses.
2. Institutional uses may constitute no more than ten percent of the *development* area.
3. Recreation is permitted on community *open space* in the hamlet development area.

- B. **Commercial Uses.** All the commercial uses listed in Table 2.201B, *Permitted Commercial, Recreational, Industrial, Special, and Temporary Uses*, shall be permitted except drive-in facilities, heavy retail and service, *shopping centers*, vehicular sales and service, and agricultural support.



- C. **Institutional Uses.** All the institutional uses listed in Table 2.201A, *Permitted Agricultural, Residential, and Institutional Uses*, shall be permitted except *sheltered care*, protective care facilities, and hospitals.
- D. **Outdoor Recreational Uses.** These are permitted in the common hamlet *open space*, Section 10.201, Hamlet Composition. Trails are permitted in the rural open space.
- E. **Agriculture.** Agriculture as permitted in Table 2.201A, *Permitted Agricultural, Residential, and Institutional Uses*, is the use of the rural *open space*. Garden plots may be part of the common hamlet open space.

### Sec. 10.203 Location of Hamlet Development Area

- A. **Arterial Setback and Buffering.** The hamlet *development* area shall be buffered from the nearby arterials. A *setback* of 1,000 feet shall be required for any hamlet that does not have a commercial hamlet center. A similar separation is generally desired for all hamlet development areas, but this may be permitted to take one of the following alternative forms:
  - 1. **Forested Buffer.** A forested buffer of 150 feet.
  - 2. **Hedgerow Buffer 1.** A buffer with an *opacity* of 1.0 that is 40 feet wide with the hamlet development area set back 300 feet behind the buffer.
  - 3. **Hedgerow Buffer 2.** A buffer with an opacity of 0.7 that is 30 feet wide with the hamlet development area set back 500 feet behind the buffer.
  - 4. **No Setback.** A hamlet may be developed along an arterial only if the hamlet include at least 100 *dwelling units* and the Planning Commission recommends that an arterial location is desirable because the hamlet:
    - a. Provides commercial services to an agricultural and countryside population that is poorly served by existing uses; and
    - b. Is at least three miles from commercial zoning in the County or any incorporated area; and
    - c. The layout of the *plan* does not expose the residential area to heavy traffic noise; and
    - d. The layout of the plan includes buffers between residential uses and the arterial that have an *opacity* of 1.0; and
    - e. The Jefferson County Historic Landmark Commission has submitted a finding that:
      - i. The location of the edge of the hamlet development center is 1,000 feet from any Class I *resource* and 600 feet from any Class II resource; or
      - ii. The design of the hamlet is such that it incorporates an existing *cluster* of historic *buildings* or village in a manner that recreates an historic center, with architectural controls approved as enhancing the architectural character and heritage of that area. In this case, the Jefferson County Historic Landmark Commission also must find that the proposed



*development* makes it financially feasible to restore and maintain the historic structures into the future.

- B. Adjacent Property Setback and Buffering.** The hamlet development area shall be set back from adjacent property that is used for or zoned for agricultural or silvicultural uses as follows:
- 1. Hedgerow Buffer 1.** A buffer with an *opacity* of 1.0 that is 40 feet wide and includes a 5-foot fence, with the hamlet development area set back 150 feet behind the buffer.
  - 2. Hedgerow Buffer 2.** A buffer with an opacity of 0.7 that is 30 feet wide with the hamlet development area set back 250 feet behind the buffer.
- C. Notation on Plat.** The extents of the hamlet development area shall be indicated on the *plat* of the hamlet.

## Division 10.300 Modulation of Standards

---

### Sec. 10.301 Modulation Approval

The Zoning Administrator shall review all requests for modulation of standards against this Article and the intent of interpretations. A note indicating the modulation approval shall be placed on file and indicated by a note on the approved *final plat* or land *development* plan. If modulation is to apply to a plat, then the *plat* shall not be approved until the Zoning Administrator has approved the modulation.

### Sec. 10.302 Street Yard Setbacks

The *street* yard is normally intended to ensure a safe *setback* from roads, but often results in all *buildings* being lined up in a row. *Landscaping* that screens buildings from the street or variations in setbacks can, in some conditions, reduce the need for the rigid setback. In other cases, building form may dictate a different type of setback.

- A. Single-Family and Lot-Line.** A combination of *landscaping* and *facades* that are articulated or staggered to give the sense that setbacks are varied can provide an environment equal to or preferable to that in which all houses sit exactly on the *setback* line. The setback may be reduced where compliance with the following standards is demonstrated:
1. When an applicant wants to use specific *building* envelopes that vary from lot to lot, the individual building construction envelopes shall be shown on the *final plat*, with varying setbacks described for each lot on the record *plan* to provide a streetscape with varied building locations.
  2. The minimum street *setback* may be reduced by up to 10 percent, provided that the average street setback for the *street* segment exceeds the minimum street setback.
  3. In addition to the street tree requirements, the Zoning Administrator may require up to a 20 percent increase in *landscaping* for the street trees or front yard landscaping for the first 10 feet of the lot.
  4. This provision shall only be used along the development's internal streets, not where single-family homes face homes in another subdivision across a street.
- B. Adjoining Lots Are Nonconforming.** In older parts of the County where existing setbacks are often nonconforming, the Zoning Administrator may approve unique setbacks where existing



adjacent dwellings that are located 200 feet on either side of the subject property on both sides of the *street* are all nonconforming, the Zoning Administrator, upon determining the local conditions, shall determine a *setback* for that block based on the condition (average or mean) that best maintains the current character for that block. The Zoning Administrator shall then annotate the Official Zoning Map with the required *street* setback for that street segment.

C. **Side Loading Garages.** Side loading attached garages located in front of the house shall be permitted on single-family detached house lots listed as 15,000 square feet in Table 3.201A, *Residential Use District Standards*. The setback for such garages may be reduced, provided the following are met:

1. Side load garage setbacks shall be a minimum of 15 feet.
2. One plant unit shall be installed for each side load garage in the area between the garage and the right-of-way.
3. Within a development, no more than 40 percent of the total lots may be developed with load garages. No more than three adjacent lots may contain side load garages. The orientation shall be broken up so that garages do not all face the same direction.

### Sec. 10.303 Patio and Atrium Units

The standards of this Section apply to patio and atrium units. These units are designed to have a wall enclosing the entire unit at the lot line, which can result in a *block* face that is very monotonous. The wall provides privacy to the side and rear of the atrium unit, which will not be as critical when the *atrium* faces *open space*. The requirement for a wall shall be relaxed, and a more varied *street* front required, based on the following:

A. **Front Walls.** The front wall may be substituted by the following and be counted as wall:

1. An evergreen hedge or deciduous hedge with a mature height of six feet.
2. A decorative metal fence with an *opacity* of 35 percent (this can be columns or wing walls) and additional *landscaping* consisting of one tree (*canopy* or *understory*) and five shrubs planted in the fenced area to provide additional screening.
3. The wall is staggered with one tree (canopy or understory) planted in front of portions of the wall to provide three-dimensional relief to a straight wall.

B. **Side or Rear Walls.** Where the side or rear wall of an atrium or patio unit abuts common *open space*, walls may be reduced so windows may be used to provide views into the open space. This requires that the open space is intensively landscaped so as to provide a heavily screened view of neighboring units. The wall may be opened up by lowering its height, using a decorative metal fence, or walling only a portion of the atrium or patio unit. Table 10.303, *Wall Reductions Abutting Open Space*, provides the standards for reducing the wall.



Width of Open Space	Plant Units per Acre	Plant Unit Type	Degree of reduction
20 to 30 feet	15	Deciduous	40%
	15	Evergreen	50%
31 to 50 feet	12	Deciduous	40%
	15	Deciduous	60%
	15	Evergreen	70%
Greater than 50 feet	8	Any	60%
	12	Any	75%
	16	Any	80%

**Sec. 10.304 Windowless Walls**

- A. **General.** In lot-line, *atrium*, and *patio* units, windows are generally prohibited from looking into the neighboring yards.
- B. **Exception.** Windows shall be permitted in walls designated as windowless only if it is demonstrated that:
  - 1. The adjoining land is public right-of-way; or
  - 2. The adjoining land is *open space*:
    - a. With a width of 15 to 40 feet, in which case windows are limited to eight square feet per room and are intended to provide light and very limited views; or
    - b. With more than 40 feet in width, in which case windows may be up to 12 square feet per room; or
  - 3. The windows:
    - a. Are frosted or composed of glass block;
    - b. Do not open;
    - c. Are materially offset from windows of any type on adjoining property, and
    - d. Satisfy all applicable *building* code requirements.

**Sec. 10.305 Building Spacing**

Various *attached dwelling unit* types or multi-family units have no minimum *side yard* lines (since the individual *dwelling units* are attached). For these development types, blocks of attached units or *buildings* are regulated by building spacing requirements. The basic standards can be modified in a variety of situations.

- A. **Irregular Facing Walls.** Where facing building walls are irregular (that is, include offsets of more than 4 feet), the average distance between the adjoining walls shall meet the spacing requirement, provided that no spacing between the buildings is less than 80 percent of the minimum building spacing requirements.



- B. **Non-Parallel Building Alignment.** The building spacing requirements of Section 3.303, *Planned District Housing Types*, assume that the *building* walls are generally parallel, but generally parallel configuration is not required. Other configurations change the impacts of separation on the provision of light, air, and fire access. Where building walls are not parallel to each other, the minimum building separation may be reduced such that the average separation is equal to the requirement of Section 3.303, *Planned District Housing Types*. Minimum separation shall be no less than 80 percent of the building spacing requirement.
- C. **Building Code.** The building code may require increased spacing for fire-rated *construction* where *building* setbacks are reduced, thus increasing costs, or require stricter standards. In the event of a conflict between the requirements of this Section and the building code, the requirements of the building code shall control.

### Sec. 10.306 Historic Sites

On *historic sites*, the standards for the radius of protection for the site may be modified. The *developer* shall submit a site analysis indicating the basis for requesting a reduction in the radius of protection. The Department shall grant a narrower radius of protection provided the Historic Landmarks Commission recommends approval of the narrower radius of protection and provided the proposed radius of protection in combination with plant materials or other protection measures, achieve the results and accomplish the intent of protection measures identified in Article 5, *Incentives*, of this Ordinance.



## Article 11 Administrative Bodies

### Division 11.100 Purpose

---

This Article establishes the various decision-making and advisory boards that directly participate in *development* review and decisions regarding applications for development approval, amendments to this Zoning Ordinance, and amendments to the *Jefferson County Comprehensive Plan*. Other boards that affect or advise as to the use or development of land or infrastructure may also exist as provided by the Jefferson County Charter, Code of Ordinances, or West Virginia law.

### Division 11.200 Administrative Boards and Commissions

---

The roles and responsibilities with respect to the *development* approvals that are required by this Ordinance are set forth in this Article. A body or person may have more than one responsibility, such as holding a public hearing in addition to taking action. Further, regardless of the *appeal* notation, all decisions may be appealed to the courts in accordance with State and Federal law and rules of judicial procedure.

#### Sec. 11.201 County Commission

- A. **General.** The County Commission shall have all powers conferred upon it by the Constitution, the laws of the State of West Virginia, and the County Charter. With respect to *development* approval and amendments to this Ordinance and the County's *Comprehensive Plan*, the County Commission retains and shall exercise the powers set out in this Section.
- B. **Approvals.** The County Commission shall hear and decide on the following applications after a public hearing is held and after reports and recommendations are provided by the Zoning Administrator and Planning Commission:
  1. Text amendments to the Comprehensive Plan.
  2. Amendments to maps within the Comprehensive Plan.
  3. Text amendments to this Ordinance and the Subdivision Regulations.
  4. Amendments to the Official Zoning Map.
- C. **Hiring.** The County Commission shall hire staff when necessary and shall designate the Zoning Administrator, Director of Zoning and Director of Planning.
- D. **Appointments.** The County Commission shall appoint the members of the following boards and commissions:
  1. Planning Commission.
  2. Board of Zoning Appeals.
- E. **Appeals.** The County Commission shall hear Beneficial Use Appeals, as provided in Section 12.501, *Beneficial Use Appeals*.



- F. **Fees.** The County Commission shall adopt a fee schedule for processing applications pursuant to this Ordinance. The fee schedule may be amended from time to time as determined appropriate by the County Commission.

## Sec. 11.202 Planning Commission

- A. **Powers and Duties.** The Jefferson County Planning Commission shall exercise the following powers and perform the following duties with respect to the Zoning Ordinance:
1. Exercise general supervision for the administration of the affairs of the commission;
  2. Prescribe rules, regulations and By-laws pertaining to administration, investigations and hearings; provided that the rules and regulations are adopted by the County Commission;
  3. Supervise the fiscal affairs and responsibilities of the commission;
  4. With consent from the governing body, hire employees necessary to carry out the duties and responsibilities of the Planning Commission; provided that the governing body sets the salaries;
  5. Keep an accurate and complete record of all Planning Commission proceedings;
  6. Record and file all bonds and contracts;
  7. Take responsibility for the custody and preservation of all papers and documents of the Planning Commission;
  8. Make recommendations to the appropriate governing body concerning planning;
  9. Make an annual report to the County Commission concerning the operation of the Planning Commission and the status of planning within its jurisdiction;
  10. Prepare, publish and distribute reports, ordinances and other material relating to the activities authorized under this Zoning Ordinance;
  11. Adopt a seal, and certify all official acts;
  12. Invoke any legal, equitable or special remedy for the enforcement of the provisions of this Zoning Ordinance;
  13. Prepare and submit an annual budget to the County Commission;
  14. If necessary, establish advisory committees;
  15. Delegate limited specified powers to a committee composed of one or more members of the commission when approved by a majority of commission members; and
  16. Contract for special or temporary services and professional counsel with the approval of the governing body. Upon request, a county prosecuting attorney, the county planning director, zoning administrator, the county engineer, or any other county employee may render assistance and service to the Planning Commission without compensation.
  17. Designate a member of the commission to attend meetings of other Commissions and organizations as Liaison when determined appropriate by the Planning Commission.



**B. Membership and Qualifications.**

1. The Planning Commission shall consist of not more than fifteen (15) members.
2. All members of the Planning Commission must be:
  - a. Residents of the County; and
  - b. Qualified by knowledge and experience in matters pertaining to the *development* of the County.
3. At least three-fifths of all of the members must have been residents of the County for at least three years prior to appointment and confirmation by the County Commission.
4. The members of the Planning Commission must fairly represent different areas of geography, interest, knowledge and expertise including, but not limited to, business, industry, farming, government and other relevant disciplines. One member must be a member of the County Commission.

**C. Appointment and Term.**

1. Appointments for Planning Commission membership shall be made and confirmed by the County Commission.
2. An individual may serve as a member of the Planning Commission, a municipal planning commission, a multi-county planning commission, a regional planning commission, or a joint planning commission at the same time.
3. The members of the Planning Commission who are already seated as of the effective date of this Ordinance shall serve out their respective terms. Thereafter, members shall continue to serve three-year terms on a staggered basis.

**D. Compensation.** All Planning Commission members shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their official duties when approved by the Planning Commission.

**E. Rules of Procedure.**

The Planning Commission operates in accordance with Chapter 8A of the West Virginia Code and the Planning Commission By-Laws.

**F. Meetings.**

1. The Planning Commission shall establish and follow rules of order. Failure to strictly follow rules of order shall not be grounds for *appeal* provided that:
  - a. The Commission acted in good faith; and
  - b. The appellant's right to due process was not violated.
2. The Planning Commission shall meet at least monthly and may meet more frequently at the request of the president or by two or more members.
3. Notice for a special meeting must be in writing, include the date, time, and place of the special meeting, and be sent to all members at least two *days* before the special meeting.



4. Written notice of a special meeting is not required if the date, time, and place of the special meeting were set in a regular meeting.

**G. Quorum and Decision.**

1. The Planning Commission must have quorum to conduct a meeting. A majority of the members of a Planning Commission is a quorum.
2. No action of the Planning Commission is official unless authorized by a majority of the members present at a regular or properly called special meeting.

**Sec. 11.203 Board of Zoning Appeals**

**A. Powers and Duties:** The Board of Zoning Appeals has the following powers and duties

1. Hear, review, and determine *appeals* from an order, requirement, decision, or determination made by an administrative official charged with the enforcement of this Ordinance, except beneficial use appeals, which shall be processed as provided in Division 12.200, *Procedures*, and Section 12.501, *Beneficial Use Appeals*. They may reverse, affirm, or modify the order, requirement, decision, or determination *appealed* from and have all the powers and authority of the official from whom the appeal was taken.
2. Hear and decide conditional use applications.
3. Hear and grant a variance to the Zoning Ordinance.
4. Write findings of fact on all decisions, clearly indicating all reasons for the decision and the evidence considered.
5. Adopt rules and regulations concerning:
  - a. The filing of *appeals*, including the process and forms for the appeal;
  - b. Applications for variances and conditional uses;
  - c. The giving of notice; and
  - d. The conduct of hearings necessary to carry out the board's duties under the terms of this Article.
6. Keep minutes of its proceedings.
7. Keep an accurate and complete audio record of all the Board's proceedings and official actions and keep the audio record in a safe manner, which audio record is accessible within two *days* of demand, for three years. Upon request of the applicant or County a transcript provided by a court recorder may also be made and kept in the same manner. The transcript shall be paid for by the entity requesting it.
8. Record the vote on all actions taken.
9. Take responsibility for the custody and preservation of all papers and documents of the Board. All minutes and records shall be filed in the office of the Board and shall be public records.



10. With consent from the governing body, hire employees necessary to carry out the duties and responsibilities of the Board, provided that the governing body sets the salaries and budget.
11. Supervise the fiscal affairs and responsibilities of the Board.

**B. Membership and Qualifications.**

1. The Board of Zoning Appeals shall be comprised of five members to be appointed by the County Commission.
2. The members of the Board of Zoning Appeals:
  - a. Must be residents of the County for at least three years preceding his or her appointment;
  - b. Must not be a member of a the County Planning Commission; and
  - c. Cannot hold any other elective or appointive office in the County government.
  - d. Must be qualified by knowledge and experience in matters pertaining to the *development* of the County.

**C. Appointment and Term.**

1. Upon creation of a Board of Zoning Appeals members shall be appointed for the following terms: one for a term of one year; two for a term of two years; and two for a term of three years. The terms shall expire on the first of January of the first, second, and third years, respectively, following their appointment. Thereafter, members shall serve three-year terms. If a vacancy occurs, the County Commission shall appoint a member for the unexpired term.
2. The County Commission may appoint up to three additional members to serve as alternate members of the Board of Zoning Appeals. The alternate members must meet the same eligibility requirements as set out in B above. The term for an alternate member is three years. The County Commission may appoint alternate members on a staggered term schedule.

**D. Rules of Procedure.**

The Board of Zoning Appeals operates in accordance with Chapter 8A of the West Virginia Code and the Board of Zoning Appeals Rules of Procedure.

- E. Compensation.** The members and alternate members of the Board of Zoning Appeals shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties when approved by the Board of Appeals.

**F. Meetings.**

1. The Board of Zoning Appeals shall establish and follow rules of order. Failure to strictly follow rules of order shall not be grounds for appeal provided that:
  - a. The Board acted in good faith; and



- b. The appellant's right to due process was not violated.
- 2. The Board of Zoning Appeals shall meet at least quarterly. A specific meeting schedule shall be set out in the Board of Zoning Appeals Rules of Procedure.
- 3. Notice for a special meeting must be in writing, include the date, time, and place of the special meeting, and be sent to all members at least two *days* before the special meeting.

## G. Quorum and Decision.

- 1. The Board of Zoning Appeals must have quorum to conduct a meeting. A majority of the members of a Board of Zoning Appeals is a quorum.
- 2. No action of the Board of Zoning Appeals is official unless authorized by a majority of the members present at a regular or properly called special meeting.

## Sec. 11.204 Historic Landmarks Commission

The Historic Landmarks Commission shall have the powers and duties of review of proposed subdivisions of land or site development plans when located in proximity to Class I, II, III, or IV *Historic resources* identified in the County.

- A. When any subdivision of land or land *development* proposal is subject to review and approval by either the County Planning Commission or the Board of Zoning Appeals and historic resources are identified within 1,000 feet of the proposed subdivision or development such proposal shall be forwarded to the Historic Landmarks Commission for review and comment.
- B. The Historic Landmarks Commission shall provide comments regarding treatment and/or protection of affected *historic resources* within three weeks of receipt of such application for review.
- C. The Historic Landmarks Commission shall also provide recommendations concerning demolition of historic structures in accordance with Section 5.303, *Demolition*, incentives for *open space* in accordance with Section 5.304, *Incentives for Open Space* and additional incentives for renovation or adaptive reuse of historic structures or protection of villages provided in Sections 5.305, *Renovation Incentives*, and 5.306, *Adaptive Reuse*.

## Division 11.300 Planning and Zoning Staff

---

### Sec. 11.301 General Duties

For the purposes of this Division, the directors or their designees of the Department of Planning or Zoning, the Department of Engineering, and other such employees or consultants as the County Commission designates shall constitute Staff. The Staff shall make recommendations to the County Commission, Planning Commission, Board of Zoning Appeals, and Jefferson County Historic Landmark Commission. Staff shall have the following jurisdiction, authority, and duties under this Ordinance:

- A. **Applications.** Staff shall review and, through the Zoning Administrator, approve, approve with conditions, or deny the following types of applications:
  - 1. Limited uses.
  - 2. Zoning certificates.



3. Occupancy permits.
- B. **Recommendations.** Staff shall review the following types of applications and, through the Zoning Administrator, make a written report and recommendations to the decision-making body:
1. Zoning text amendments.
  2. Zoning map amendments.
  3. Design reviews.
  4. *Plat* reviews for subdivision and development plats, including concept plans and preliminary and final plats for zoning compliance. (see Jefferson County Subdivision and Land Use Regulations).
  5. Land development reviews for zoning compliance. (see Jefferson County Subdivision and Land Use Regulations).
  6. Variations and amendments to approved applications.
  7. Beneficial use determinations.
  8. Telecommunications tower permits.
  9. Conditional uses.
- C. **Interpretations.** Staff shall provide, at an applicant's request and through the Zoning Administrator, interpretations of the provisions of this Ordinance.
- D. **Administration.** Staff shall develop, maintain and, as necessary or desirable, update application forms, technical standards, and related materials for the implementation of this Ordinance. This shall include the landscape materials list and all application forms.
- E. **Zoning Administrator.** A member of the staff shall be designated as Zoning Administrator and approved by the County Commission. The Zoning Administrator shall make or designate staff to make all formal actions required by A through D above.
- F. **Staff Function.** The Staff is authorized to serve as the staff to the Board of Zoning Appeals, the Planning Commission, County Commission, and the Historic Landmark Commission. Staff is directed to provide all record-keeping support to these bodies, as well as serve as their professional staff.

**Sec. 11.302 Adjustment of Application Requirements and Landscaping Lists.**

The Zoning Administrator is authorized from time to time to modify the application forms and data requirements to ensure that proper and adequate information is provided to make informed decisions pursuant to the standards of this Ordinance.





## *Article 12 Procedures and Administration*

### **Division 12.100 Purpose**

This Article establishes the standards and criteria for all approvals, administrative reviews, and administrative relief provided by this Ordinance. Division 12.200, *Procedures*, summarizes the procedures for each type of approval or review.

### **Division 12.200 Procedures**

Each of the following tables illustrates the procedural steps and time frames in each *development* approval process.

<b>Table 12.200A</b> <b>Zoning Ordinance Amendments, Text or Map (Zone Change): Procedure</b>		
Action	Responsible Entity at County	Max. Days to Next Step
<b>Pre-Application Phase</b>		
Applicant Contacts County	Zoning Administrator	10
Pre-Application Conference	Zoning Administrator	When applicant files formal application with applicable fee
<b>Formal Application Phase</b>		
Formal Application Submitted with Applicable Fee	Zoning Administrator	4
Application Completeness Review Completed	Zoning Administrator	20 <sup>1</sup>
Application Review Completed	Zoning Administrator	10
Public Notice Issued	Zoning Administrator	30
Public Hearing Conducted	Planning Commission	14
Written Recommendation Issued	Planning Commission	7
Public Notice Issued	Zoning Administrator	30
Public Hearing and Decision	County Commission	14
Written Decision Rendered	County Commission	N/A <sup>2</sup>
<sup>1</sup> If the application is not complete, the Zoning Administrator will send notice to the applicant within four days of completing the completeness review.		
<sup>2</sup> Appeals may be taken to a court of competent jurisdiction in the time frame provided by applicable statutes or rules of court.		

<b>Table 12.200B</b> <b>Conditional Uses, Variances, and Administrative Appeals: Procedure</b>		
Action	Responsible Entity at County	Max. Days to Next Step
<b>Pre-Application Phase</b>		
Applicant Contacts County	Zoning Administrator	10
Pre-Application Conference	Zoning Administrator	When applicant files formal application with applicable fee
<b>Formal Application Phase</b>		
Formal Application Submitted with Applicable Fee	Zoning Administrator	4
Application Completeness Review Completed	Zoning Administrator	20 <sup>1</sup>
Application Review Completed	Zoning Administrator	7
Public Notice	Zoning Administrator	30
Public Hearing and Decision	Board of Zoning Appeals	N/A <sup>2</sup>
<sup>1</sup> If the application is not complete, the Zoning Administrator will send notice to the applicant within four days of completing the completeness review.		
<sup>2</sup> Appeals may be taken to a court of competent jurisdiction in the time frame provided by applicable statutes or rules of court.		



Table 12.200C Beneficial Use Appeals: Procedure		
Action	Responsible Entity at County	Max. Days to Next Step
<b>Pre-Application Phase</b>		
Applicant Contacts County	Zoning Administrator	10
Pre-Application Conference	Zoning Administrator	When applicant files formal application with applicable fee
<b>Formal Application Phase</b>		
Formal Application Submitted with Applicable Fee	Zoning Administrator	4
Application Completeness Review Completed	Zoning Administrator	20 <sup>1</sup>
Application Review Completed	Zoning Administrator	7
Public Notice Issued	Zoning Administrator	15
Hearing Conducted	Hearing Officer	14
Written Recommendation Issued	Hearing Officer	5
Public Notice Issued	Zoning Administrator	30
Public Hearing and Decision	County Commission	14
Written Decision Rendered	County Commission	14 <sup>2</sup>
If Appeal is Granted, County Initiates Beneficial Use Ordinance	County Commission	N/A

<sup>1</sup>If the application is not complete, the Zoning Administrator will send notice to the applicant within four days of completing the completeness review.  
<sup>2</sup>Appeals may be taken to a court of competent jurisdiction in the time frame provided by applicable statutes or rules of court.

Table 12.200D Interpretation: Procedure		
Action	Responsible Entity at County	Max. Days to Next Step
<b>Formal Application Phase</b>		
Formal Application Submitted with Applicable Fee	Zoning Administrator	7
Application Completeness Review Completed	Zoning Administrator	14 <sup>1</sup>
Application Review Completed; Decision	Zoning Administrator	N/A <sup>2</sup>

<sup>1</sup>If the application is not complete, the Zoning Administrator will send notice to the applicant within four days of completing the completeness review.  
<sup>2</sup>Appeals may be taken to the Board of Zoning Appeals as provided in Section 12.502, *Administrative Appeals*.

Table 12.200E Zoning Certificates, Sign Permits: Procedure		
Action	Responsible Entity at County	Max. Days to Next Step
<b>Formal Application Phase</b>		
Formal Application Submitted with Applicable Fee	Zoning Administrator	7
Application Completeness Review Completed	Zoning Administrator	7 (14 for site plan review) <sup>2</sup>
Application Review Completed; Decision	Zoning Administrator	N/A <sup>3</sup>

<sup>1</sup>Approval of permitted uses and limited uses that are located in existing buildings.  
<sup>2</sup>If the application is not complete, the Zoning Administrator will send notice to the applicant within four days of completing the completeness review.  
<sup>3</sup>Appeals may be taken to the Board of Zoning Appeals as provided in Section 12.502, *Administrative Appeals*.



## Division 12.300 Provisions of General Applicability

---

This division details the various process elements that apply to all procedures. For example, if a public hearing is required for a procedure in Division 12.200, *Procedures*, it must follow the requirements for public hearings in Section 12.305, *Public Hearings*.

### Sec. 12.301 Applications

- A. **Initiation.** Unless otherwise indicated in this Article, applications shall be submitted by the *owner*, any other person who is authorized by the *owner* (in writing) who has a contractual interest in the land for which the use is proposed, or either of their authorized agents.
- B. **Submission of Application.** An application shall be submitted to the Zoning Administrator along with the fee set out in the Department of Planning's established Fee Schedule.
- C. **Inspection and Access.** Accompanying any application for a permit, appeal, or other administrative actions shall be a signed statement granting Staff right of reasonable *access* to view, enter, and inspect the property, or on-site uses or *buildings*, to verify and ensure compliance with this Ordinance.
- D. **Contents of Application.** The application shall be submitted in or on a form established by the Zoning Administrator and available at the offices of the Department of Planning.

### Sec. 12.302 Sufficiency Review

The Zoning Administrator shall determine, within the time specified in Division 12.200, *Procedures*, if the application is complete and includes all data required or necessary to evaluate compliance with this Ordinance.

- A. **Incomplete Applications.** If the Zoning Administrator determines the application is not complete, a written notice shall be mailed to the applicant specifying the deficiencies.
- B. **Complete Applications.** When the application is determined complete, the Zoning Administrator shall notify the applicant and begin the requisite substantive reviews by forwarding the material to the *plan* review committee or other staff, as appropriate. If a public hearing is required, the date shall be set to hear the application and included in the notice.
- C. **Additional Information.** Nothing in this subsection shall limit the Zoning Administrator's authority to require additional information that is reasonably necessary following the determination that the application is complete. At any time during the review process, the Zoning Administrator may require the applicant to provide additional information that is reasonably necessary to thoroughly evaluate the application.

### Sec. 12.303 Fees

- A. **Fee Required.** All applications for development approval and all appeals shall be accompanied by the fee, as set out in the Department of Planning's fee schedule, except that no fees shall be charged to any government agency.
- B. **Nonrefundable Fees.** Once an application for a zoning text amendment or *map amendment* has been accepted by the Zoning Administrator, the filing fee is nonrefundable.



- C. **Refundable Fees.** For other applications, the fee is refundable upon withdrawal of the application until a public hearing notice has been submitted for publication.

**Sec. 12.304 Application Review**

- A. **Departmental Review.** Upon determining that an application is complete, it shall be forwarded to the applicable agency, individual, or planning department staff, as specified in Division 12.200, *Procedures*, and appropriate County, school, utility, and State agencies for review and comment. The Staff may meet to evaluate the comments of different County departments and all outside comments regarding the application or simply review all comments.
- B. **Written Decision or Recommendation.** Upon completion of the application review by the agency or Staff, the Zoning Administrator or designee shall prepare a written decision or recommendation regarding the application. For variances, conditional uses, or appeals, the recommendations of Staff shall be sent to the Board of Zoning Appeals. For zoning text and *map amendments*, the recommendations shall be sent to the *Planning Commission* and the County Commission. A copy will also be provided to the applicant.
- C. **Plats.** If the application is a plat, the written decision as to whether the *plat* complies with this Zoning Ordinance shall be forwarded to the Planning Commission.

**Sec. 12.305 Public Hearings**

- A. **General.** The following applications require a public hearing:
  - 1. All applications for conditional uses, variances, and appeals shall be heard at a public hearing by the Board of Zoning Appeals.
  - 2. Applications or petitions for zoning text or map amendments or zoning *map amendments* shall be heard at a public hearing by the *Planning Commission* within sixty (60) days of receipt of the application or petition.
  - 3. Applications for zoning text or map amendments shall also be heard at a public hearing by the County Commission.
- B. **Public Meeting Requirement.** All meetings of the County Commission on zoning matters, the Board of Zoning Appeals, and the Planning Commission shall be public meetings unless otherwise excepted by West Virginia Code.

**Sec. 12.306 Notice of Public Hearings**

The Zoning Administrator shall be responsible for ensuring notice by newspaper publication, posting, and mail concerning applications for zoning changes, variance, *conditional use*, or beneficial use.

- A. **Newspaper Publication.** Applications shall be advertised in the legal notice section of a newspaper of general circulation in the County. Notice shall appear at least once a week for two successive weeks, with the first such publication at least 14 *days* prior to the public hearing date, and shall contain the following information:
  - 1. The type of application sought, i.e. *conditional use*, variance, amendment to the Zoning Map, or amendment to the Zoning Ordinance.
  - 2. A short description of the proposed action under consideration.



3. A legal description of the parcel, the approximate *street* location or address, where possible, and the name of the person or entity seeking the application.
  4. The location, address, date, and time of the public hearing.
  5. Information on where full details of the application may be obtained, including the location, hours, and phone number.
- B. **Posted Notice.** The applicant shall post a public hearing notice (sign) on all properties subject to: a conditional use application, an application for a variance, or a zoning *map amendment* (individual *map amendment*, but not comprehensive map amendment) at least 15 *calendar days* in advance of the public hearing.
1. One *sign* shall be placed on the *parcel* for which the particular application was filed. The Zoning Administrator shall determine the number of additional signs to be placed on the parcel as necessary to carry out this Ordinance's intent of providing reasonable notice by posting subject property (see provision 3 below).
  2. Signs shall be no less than two feet by three feet and shall include wording that clearly describes the type of action or *permit* requested and the date, time, and location of the public hearing. The Zoning Administrator may require additional information to be placed on any *sign* serving to fully inform the public as to the nature of the permit.
  3. To the extent practicable, all signs shall be placed in a conspicuous location so as to be clearly visible to the traveled portion of the respective street. Where the land does not have *frontage* on a public street, an additional *sign* shall be erected on the nearest *street right-of-way* with an attached notation indicating, generally, the direction and distance to the land subject to the application.
  4. The *sign* shall be removed within 7 days after the close of the hearing on the application.
  5. The failure of any such posted notice to remain in place after the notice has been posted shall not be deemed a failure to comply with the standards of this Ordinance and shall not be grounds to challenge the validity of any decision made on the application. However, any person(s), firm, association, or corporation who shall remove, mar, scratch, obliterate, or in any manner deface, hide from view, or tamper with such signs shall be subject to the provisions and penalties provided by County and State law.
  6. *Comprehensive amendments* to maps are exempt from the requirements of this subsection.

### Sec. 12.307 Continuances, Withdrawal, and Denial of Application

- A. **Method of Withdrawal.** Any application may be withdrawn, either in writing or on the record during the proceeding, provided that it is withdrawn before the close of the public hearing.
- B. **Effect of Withdrawal.** If an individual zoning *map amendment* or text amendment is withdrawn, it may be re-filed at the next applicable application cycle, in accordance with this Ordinance.
- C. **Continuances.** Requests for continuance of any administrative, legislative, or quasi-judicial proceeding called for herein may be granted at the discretion of the agency, board, or



commission holding the public hearing. If the request is granted, the applicant shall pay all additional costs associated with the rescheduling of the proceeding.

- D. **Effect of Denial of Application.** The County Commissioners may not accept the filing of an application for an individual *rezoning* of the whole or part of any land for which an individual rezoning has been denied by the County Commissioners on the merits in the 12 months before the date of the application.

**Sec. 12.308 Public Hearing Procedure**

Where a public hearing is required by Division 12.200, *Procedures*, the following rules apply to the conduct of the hearings:

A. **Testimony.**

1. All testimony shall be under oath.
2. Testimony shall be recorded by machine or, at the developer's or other party's option, by a court reporter.
3. If a person represents an organization, written evidence of that person's authority to speak on behalf of the organization in regard to the matter shall be provided to the County for the record before the close of the public hearing.
4. Persons appearing at a public hearing shall identify themselves and state their address and the address of any organization they represent.
5. Citizens and applicants have the right to employ expert witnesses to testify at public hearings.

- B. **Purpose.** The purpose of the public hearing is to provide an opportunity for the public to speak to the issue of whether the proposal under consideration meets the standards set forth for that application type for approval by this Ordinance.

- C. **Hearing Elements and Sequence.** The hearing shall consist of the following elements, conducted in the sequence specified below:

1. The applicant shall make a presentation of the proposal. The Board of Zoning Appeals or the Planning Commission may ask questions to the applicant at this time.
2. Staff shall present its recommendation regarding whether the proposal conforms to the requirements of the Zoning Ordinance. Staff shall present any recommended conditions for compliance, along with any written comments received from review agencies.
3. The public may present sworn testimony. Both opinions and questions will also be taken during the hearing. The testimony at the hearing shall be limited to whether the proposal complies with the standards of this Ordinance.
4. The staff shall be given the opportunity to supplement or further comment at the close of the hearing.
5. The applicant shall be given an opportunity to rebut or supplement the information presented at the hearing.



- D. **Closing.** At the conclusion of the testimony, the body holding the hearing may ask any follow-up questions of witnesses and the applicant.
1. If the agenda of the meeting is too long or there is insufficient time to conclude testimony, the hearing shall be continued to the next regular meeting or to a special meeting conducted prior to the next regular meeting.
  2. The hearing shall be closed immediately after all public testimony has been received.

### Sec. 12.309 Actions By Decision-Making Bodies

- A. **General.** The decision-making body shall consider the application, relevant support materials, Staff report, and public and expert testimony (where a public hearing is required) and decide the application.
- B. **Recommendation and Decision.** For the Board of Zoning Appeals or County Commission, the decision shall be made by majority vote of a quorum present to, based on the applicable provisions of this Ordinance:
1. Make a recommendation regarding the application if the Planning Commission or Board is in a recommending role; or
  2. Approve or deny the application; or
  3. Affirm or reverse on administrative appeal.
- C. **Approval with Conditions.** Additionally, the following types of applications may be approved with conditions to ensure continuing compliance with this Ordinance and compatibility with the context of the subject property:
1. Interpretations.
  2. Modulations.
  3. Limited Uses.
  4. Conditional Uses.
  5. Variances
  6. Beneficial Use Appeals.
- D. **Legislative Decisions.** Applications for text amendments may be granted with whatever modifications the County Commission determines are appropriate and desirable.
- E. **Time Limits for Decision.** All decision-making bodies and persons shall act within the time limits established in this Ordinance, as specified in Division 12.200, *Procedures*. Action shall be taken as promptly as possible in consideration of the interests of the applicant and the citizens of the County.
- F. **Rendering of Decision.** All decisions or recommendations shall be rendered in writing within 30 *days* of the close of the public hearing and shall include the following:
1. A clear statement of specific findings of fact and the basis upon which such facts were determined, with specific reference to this Ordinance's relevant standards.



2. A clear statement of approval, approval with conditions, or denial. Conditions may only be required by the County as provided in subsection C above.
3. Any other information deemed necessary by the decision-making body.

## Sec. 12.310 Effect of Approval

Approving any application only authorizes the particular use, plan, or other specific activity for which the approval was granted. Approvals shall run with the particular land for which approval is given. Exceptions are zoning text changes and use interpretations, which shall apply generally to all land that is subject to this Ordinance.

### Expiration of Approvals.

Permitted time frames for an approval do not change with changes in ownership and shall expire as indicated in Table 12.310, *Time Limitations and Extensions*, if any of the following occur:

A *building permit* has not been issued to establish the use authorized in the approval; or

The use does not require a *building permit*, but is not established, ongoing, and in operation.

Any approval not listed in Table 12.310, *Time Limitations and Extensions*, shall not expire. Such approvals shall continue in force until superseded by an Ordinance change, a subsequent inconsistent application, or other similar specific action that would alter the approval.

**Extensions.** Upon written request, one time extension may be granted by the decision-making body for a period not to exceed the original approval period for good cause shown. No request for an extension shall be considered unless a written application requesting the extension is submitted to the Zoning Administrator no later than one month prior to the expiration of the approval. Failure to submit an application for an extension within the time limits established by this Section shall cut off the possibility of extension of the approval.

**Appeals.** If there is an appeal or litigation during the time period that limits the applicant's ability to proceed, the appeal or litigation shall suspend the expiration date of the approval, and the date shall be recalculated when the appeal or litigation, including appeals, is complete. The new expiration date shall be established by adding the number of *days* that the approval remained valid before the appeal or litigation commenced to the date the appeal or litigation was completed by a final, nonappealable order. This subsection does not apply if the litigation is initiated by the County to enforce compliance with this Ordinance or the terms of a *development* approval.



Table 12.310 Time Limitations and Extensions	
Application Type	Time Limitation (months)
Conditional Use	24 <sup>1</sup>
Variance	24 <sup>1</sup>
Land Development Plan Review	24
Preliminary Subdivision Plat	12
Final Subdivision Plat	12
<b>Notes</b>	
<sup>1</sup> Unless specified otherwise in the Conditional Use Approval. The Conditional Use approval may also specify periodic review, at which time the approval could be terminated.	

## Division 12.400 Zoning Review Procedures

### Sec. 12.401 Amendments to the Zoning Map or Text

- A. **General.** Amendments to the Official Zoning Map are classified as either *comprehensive amendments* or individual amendments.
- B. **Comprehensive Zoning Map Amendments.**
1. The County expressly recognizes that sections of the County are changing from a rural to a residential, commercial, industrial, or other character. One of the paramount purposes of the *Comprehensive Plan* is to anticipate and manage future growth. However, it is acknowledged that the plan must be revised from time to time. When changes to the *plan* or other changes require a substantial *rezoning* of a number of properties in various parts of the County to bring the zoning map into conformance, such multiple changes are considered a comprehensive zoning *map amendment*.
  2. Comprehensive zoning map amendments shall be initiated by either the County Commission or the Planning Commission.
  3. Comprehensive zoning map amendments shall be adopted in the manner required for the adoption of Ordinances.
  4. The County Commission shall not adopt a comprehensive zoning *map amendment* unless it finds the amendment is consistent with:
    - a. The adopted *Comprehensive Plan* and/or area plans; and
    - b. A showing of other significant changed conditions that require such *comprehensive amendment*.
- C. **Individual Map Amendments.** Individual *map amendments* are amendments to the Official Zoning Map that affect individual properties or a small number of properties. Individual map amendments may be initiated by the County Commission, Planning Commission, or a *petition* of the *owner* or owners of fifty percent (50%) or more of the property which is the subject of the proposed amendment. All proposed *map amendments* that are initiated by the County Commission or a *petition* of the *owner(s)* of property shall be referred to the Planning Commission for review and recommendation, and review for consistency with the



comprehensive plan. Before amending the zoning map, the governing body with the advice of the planning commission, must find that the amendment is consistent with the adopted comprehensive plan. If the amendment is inconsistent, then the governing body with the advice of the planning commission, must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area.

- D. **Zoning Text Amendments.** Individual text amendments may be initiated by the County Commission, Planning Commission, or a *petition* of the *landowner*(s). All proposed text amendments that are initiated by the County Commission or a petition of the owner(s) of property shall be referred to the Planning Commission for review and recommendation, and review for consistency with the comprehensive plan. Before amending the zoning ordinance text, the governing body with the advice of the planning commission, must find that the amendment is consistent with the adopted comprehensive plan. If the amendment is inconsistent, then the governing body with the advice of the planning commission, must find that there have been major changes of an economic, physical or social nature which were not anticipated when the comprehensive plan or zoning ordinance was adopted and those changes have substantially altered conditions such as to warrant the text change.

#### Sec. 12.402 Conditional Uses: Generally

- A. **General.** Conditional use applications are decided after public hearing by the Board of Zoning Appeals. Conditional use approval is required for all uses and structures which are listed in Table 2.201A and Table 2.201B as conditional uses. The hearing is intended to determine whether the *conditional use* complies with all applicable provisions of this Ordinance and its proposed location and design are such that it meets the needs of the community for such use without creating adverse conditions or a nuisance in the neighborhood.
- B. **Application; Simultaneous Processing.** An application for a *conditional use* may be processed simultaneously with other zoning applications, and approval of the other applications may be a condition of approval of the conditional use. However, in the case of land *development* plans, a conditional use approval, if required, is a pre-condition to application. Each application shall be processed on its own independent merits according to the standards applicable to the application.
- C. **Required Findings.** A *conditional use* shall be granted when the Board of Zoning Appeals makes findings of fact that:
1. The proposed *development* complies with all of the applicable standards of Division 2.400, *Limited and Conditional Use Standards*; and
  2. The nature and *intensity* of the operations involved in or conducted in connection with the use and the size of the site in relation to it are such that the proposed *conditional use* will be of the same character in terms of *intensity* and *open space* or landscape requirements of other areas in the neighborhood that are similarly zoned; and
  3. Operations in connection with any *conditional use* will not be more objectionable to nearby properties by reason of noise, fumes, vibration, or other characteristics than would the operations of any *permitted use* not requiring conditional use approval; and



4. No variances of other provisions of this Ordinance are required; and
  5. Where the use provides service to the community or neighborhood (such as utilities or communication), there are not alternative sites that meet the applicant's specific criteria to serve that area which are zoned so the proposed use is permitted or would provide the service with less disruption to neighboring properties; and
  6. The road system providing *access* to the proposed *conditional use* is adequate to serve the site for the intended use; and
  7. The traffic impacts of the use meets the following standards:
    - a. For local residential subdivision streets, the use shall not result in total traffic on the road of more than 150 vehicles per hour.
    - b. For local nonresidential streets, the use shall not result in total traffic on the road of more than 600 vehicles per hour.
    - c. For collector or *arterial roads*, the trip generation of the *conditional use* shall not exceed the trips generated by the most intensive use permitted in the district, unless the road would continue to operate at *Level of Service C* or better after *construction* and accounting for any approved developments not yet built.
- D. **Conditions of Approval.** In addition to the general requirements listed above, uses requiring a conditional use approval shall be subject to the imposition of reasonable conditions, if determined necessary by the Board of Zoning Appeals to ensure continued compliance and compatibility, such as:
1. Assurance that the *conditional use* is developed exactly as presented in drawings, exhibits, and assertions made at the hearings;
  2. Limiting uses, reducing *density*, and/or increasing *open space*, landscaped surfaces, or environmental protection to ensure that the conditional use is consistent with the area's character or adequately protects the use and enjoyment of neighboring property;
  3. Limiting the length of time a *conditional use* may exist, or providing for periodic review of the appropriateness of the use, or providing for eventual elimination of the use;
  4. Imposing conditions on hours of operation and the use of outdoor lighting;
  5. Imposing any other conditions that ensure the general purposes, goals, and objectives of the *Comprehensive Plan* and this Ordinance are met; or
  6. Preventing or minimizing adverse effects from the proposed *conditional use* and *development* on other properties in the neighborhood and on the public health, safety, and welfare.
- E. **Acceptance of Conditions.** All conditions and restrictions shall be written and mailed to the applicant within thirty *days* of approval by the Board of Zoning Appeals. The applicant shall submit a written statement agreeing to the approval and all conditions within 10 *days* of the date of the written notice of the conditions and restrictions. If the conditions are accepted, the project is approved. If no agreement is offered or if the conditions are rejected, the application is denied.



- F. **Official Zoning Map Annotation.** Upon approval of a *conditional use*, the Zoning Administrator shall indicate the same in the proper place on the Official Zoning Map by use of an appropriate code number or symbol.
- G. **Effect of Conditional Use Approval.** A *conditional use* authorizes a use or structure according to specific standards set out in this Ordinance and conditions of approval. Approval of a conditional use does not directly authorize *development* if other approvals are also required by this Ordinance. Therefore, development approved by a conditional use shall not be carried out until the applicant has secured all other development approvals required by this Ordinance.
- H. **Amendment of Conditional Use Approval.** No use or activity permitted as a *conditional use* shall be enlarged or extended beyond the limits authorized in the grant of conditional use approval. All enlargements, extensions, and changes in use shall require a new application for a *conditional use* to reflect the change(s).
- I. **Revocation of Conditional Use Approval.** The Board of Zoning Appeals may revoke a conditional use *permit* for violation of the conditions of approval or because the permit has expired. The County shall provide notice to the land *owner* and public in the same manner as was provided for the establishment of the *conditional use*. Revocation shall be recommended for violations of the conditional use permit or other regulations of the County.
- J. **Minor Deviations.** The Zoning Administrator may authorize minor deviations from a *conditional use* approval that appear necessary in light of technical or engineering considerations first discovered during actual *development* and not reasonably anticipated during the initial approval process, provided that:
1. They comply with this Ordinance, or the specific approval in all respects except a minor site adjustment;
  2. There is no increase in *density*;
  3. There is no change in use;
  4. There is no more than an incidental change (5%) in floor area;
  5. There is no decrease in the amount of land set aside for *open space* or landscaped open space;
  6. There is no decrease in the amount of required parking;
  7. The modification improves the overall function of the site, taking into account the unexpected circumstances; and
  8. There is no material decrease in the amount of required *landscaping*.

### Sec. 12.403 Variances

- A. **General.** A variance is a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a *parcel* of land.
- B. **Application.** An application for a variance shall be filed with the Board of Zoning Appeals only for a purpose for which a variance is authorized by this Ordinance.



1. If the variance seeks a change of use, the Zoning Administrator shall not accept it, and should advise the applicant to file an application for a:
    - a. Zoning map amendment;
    - b. Zoning Ordinance text amendment; or
    - c. Beneficial use appeal.
  2. If the variance would seek to build more on a property than would otherwise be allowed on a property of similar size and condition, the Zoning Administrator shall not accept it, and should advise the applicant to file an application for a:
    - a. Zoning *map amendment*; or
    - b. Zoning Ordinance text amendment.
- C. **Grounds.** The grounds on which the variance is requested shall be submitted with the application along with a statement regarding how the proposed variance meets the standards set out in this Section.
- D. **Required Findings and Limitations.** The Board of Zoning Appeals shall not grant a variance to the zoning ordinance unless it finds that the variance:
1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent *property owners* or residents;
  2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
  3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
  4. Will allow the intent of the zoning ordinance to be observed and substantial justice done.
- E. **Conditions of Approval.** In addition to the required findings listed above, the Board of Zoning Appeals may establish any reasonable conditions of approval as determined appropriate or necessary.
- F. **Official Zoning Map Annotation.** Upon approval of a variance, the Zoning Administrator shall indicate the same in the proper place on the Official Zoning Map by use of an appropriate code number or symbol.
- G. **Effect of Variance.** A variance authorizes a departure from specific requirements of this Ordinance to the extent provided in the approval. Approval of a variance does not directly authorize *development* if other approvals are also required by this Ordinance. Therefore, development approved by a variance shall not be carried out until the applicant has secured all other required development approvals.
- H. **Amendment of Variance.** No *building* or structure approved by a variance shall be enlarged or extended beyond the limits authorized in the grant of variance approval if the enlargement or extension is not otherwise permitted by this Ordinance. A variance may be amended, extended, varied, or altered only pursuant to the standards and procedures for the original approval of a variance.



- I. **Revocation of Variance.** The County may revoke a variance for violation of the conditions of approval or because the variance has expired due to inaction of the applicant or successor in title for the period set out in Table 12.310, *Time Limitations and Extensions*. The County shall provide notice to the land *owner* and public in the same manner as was provided for the establishment of the variance. Revocation shall be recommended for violations of the terms of the variance or other regulations of the County.

## Division 12.500 Appeals and Interpretations

---

### Sec. 12.501 Beneficial Use Appeal

- A. **General.** A beneficial use appeal is a process by which the County:
  1. Evaluates an allegation that no beneficial use remains in a property;
  2. Determines whether some level of relief from this Ordinance is warranted; and
  3. Provides the County Commission a means of providing such relief.
- B. **Applicant.** An application for a beneficial use appeal may be made only by an *owner* of property who alleges that the application of this Ordinance to their property has denied them of all or substantially all economically viable use of their property permitted at the time this Ordinance was adopted. No such application shall be accepted until the applicant demonstrates that they have exhausted all other administrative remedies available and afforded to the applicant under the terms of this ordinance.
- C. **Application.** An application for a beneficial use appeal shall be filed with the Zoning Administrator only after denial of an application for *development* approval and subsequent denial of administrative appeal by the Board of Zoning Appeals. An application for a beneficial use appeal shall be submitted, along with the required fee, on a form provided by the Department of Planning. In addition to that basic information, the following information shall be submitted to support the application:
  1. A copy of the application for development approval that was denied;
  2. Documentation of the purchase date and purchase price of the property;
  3. A description of the physical features of the property, total acreage, present use, the use of the property at the time of the adoption of this Ordinance, and any known prior uses;
  4. A description of the specific portions of this Ordinance which allegedly eliminate all or substantially all economically viable use of the property, together with all appraisals, studies, and other supporting evidence, and any actions taken by the County related to the property;
  5. A description of the use which the land *owner* believes represents the minimum beneficial use of the property and all documentation, studies, and other evidence supporting that position;
  6. If the property has been listed for sale since the adoption of this Ordinance, originals or copies of all bids, offers to purchase, and other correspondence regarding the sale of such property;



7. An appraisal by a licensed appraiser that shows the value of the property before the application of the Zoning Ordinance and the value of the property after the application of the Zoning Ordinance;
  8. The dates of the denial of the application for *development* approval and subsequent appeal, and the reasons given by the decision-makers; and
  9. A statement regarding why the applicant is entitled to relief pursuant to the criteria in D below.
- D. Hearing Officer Proceeding; Findings of Fact; Recommendation.** A public hearing shall be conducted by the County's hearing officer. The applicant, staff, and citizens shall be given opportunity to testify. At the conclusion of the hearing, the hearing officer shall make findings of fact and recommendations to the County Commission. Those may be presented at the close of the hearing or at a public meeting within 10 *days* of the close of the hearing.
1. Findings of Fact. In determining if a land *owner* has been deprived of the beneficial use of property, a hearing officer shall submit to the County Commission findings of fact regarding the following:
    - a. The property value prior to the adoption of the regulation(s) that the *owner* alleges deprives it of beneficial use.
    - b. The property value with the regulation(s) applied.
    - c. The existing use of the property, including whether it is or could be occupied by the *owner*.
    - d. The uses that are permitted on the property by this Ordinance and whether a *permitted use* that conforms to the requirements of this Ordinance could be established on the property.
    - e. With regard to governmental subsidies for existing or *permitted uses* of the property:
      - i. Whether such subsidy is available to the applicant;
      - ii. Whether the applicant has applied for such subsidy and, if so, the status of the application;
      - iii. The value of the subsidy and its effect upon the property value; and
      - iv. The cumulative public costs of the subsidy and the benefits conferred upon the *owner*, including whether the owner's economic return is enhanced by the subsidy.
    - f. The extent to which the regulations as applied to the owner's property protect users, future users, or neighbors from threats to health, safety, or general welfare.
    - g. The extent to which the *owner* backed reasonable expectations with investments in the property and the timing, amounts, and purposes of those investments.
    - h. Whether the owner's proposed use and development *plan* would be a nuisance *per se*.



- i. Whether natural physical limitations of the property or regulations imposed by other units of government limit the property's *development* potential without the application of the regulations at issue in beneficial use appeal.
    - j. The potential that the owner's proposed use and *development plan* will damage future residents of the owner's property or neighboring *property owners*.
  - 2. **Recommendation.** The hearing officer shall make recommendations to the County Commission on the following:
    - a. Whether the applicant demonstrated a probable deprivation of all beneficial use. The hearing officer may indicate yes, possibly, or no so that the Commission is aware of uncertainty.
    - b. Specific recommendation for action to mitigate the deprivation by providing a beneficial use. This may include a text or map change, or a granting of specific relief.
    - c. The degree to which relief must be granted to cure the deprivation.
- E. **Public Hearing before County Commission.** At the next regular meeting after receipt of the hearing officer's findings and recommendations, the County Commission shall hold a public hearing on the beneficial use appeal. The purpose of this meeting is to hear the hearing officer's recommendation, recommendations from the County Prosecuting Attorney's office, and Staff. Any party represented at the Beneficial Use Hearing shall also be given an opportunity to be heard. Argument may be based only on the hearing officer's findings of fact. No evidence that was not presented to the hearing officer shall be heard.
- F. **Action.** The County Commission shall take one of the following actions:
  - 1. They may accept the hearing officer's recommendation and grant the recommended relief.
  - 2. They may modify and approve relief.
  - 3. They may reject the hearing officer's findings and recommendations if they are clearly erroneous.
- G. **Required Findings.** In order to grant relief, the County Commission shall, in writing, show that the *owner* has been deprived of all or substantially all economically beneficial use of its property, in that:
  - 1. The deprivation is more than a mere decrease in value, but, as such, all or substantially all viable use or enjoyment of the property has been lost due to the regulations;
  - 2. The deprivation is due to the application of this Ordinance, and not just the reality of limited *development* potential, given the natural condition of the property;
  - 3. There is no beneficial use to the *owner*, not even:
    - a. A *dwelling unit*;
    - b. A permitted low-*intensity* use;
    - c. A use that does not require further *development* of the land that is common to the County and/or the area of the subject property; or



- d. An existing *nonconforming use* that is permitted to continue pursuant to Article 6, *Nonconformities*;
  4. There is no available governmental subsidy that creates a beneficial use by adding value to the property or increasing the potential economic return to the *owner* of the existing use; and
  5. The deprivation is of more than just the owner's expectations alone, and the *owner* has made reasonable investments based on expectations before the Zoning Ordinance was adopted.
  6. The owner's proposed use and development *plan* will not threaten the health, safety, and welfare of users, future users, or neighbors, and will not be a nuisance *per se*.
- H. **Relief Authorized.** If the County Commission grants the appeal pursuant to G above then the County Commission shall initiate and approve a beneficial use ordinance in the manner required for adoption of ordinances, that provides relief to the *owner* in one of the following ways:
1. It approves the owner's proposed use and *plan of development* with any conditions imposed pursuant to I below that are necessary to limit the level of relief to that which is necessary to allow a beneficial use of the property; or
  2. Amends the Zoning Ordinance. Any amendment shall be done in compliance with the standards in Section 12.401, *Amendments to the Zoning Map or Text*.
- I. **Conditions of Approval.** All conditions imposed pursuant to this subsection shall be expressly set forth in writing in a beneficial use ordinance.
1. The County Commission shall place conditions on proposed uses and development plans where hazardous conditions would otherwise result. Such conditions may include location restrictions, size limitations, and additional building standards.
  2. In granting a beneficial use appeal, the County Commission may prescribe any other conditions and safeguards that it finds are appropriate and in conformity with this Ordinance and the County's *Comprehensive Plan*. These conditions may include:
    - a. Limits on the use of the property;
    - b. Standards for locating the use;
    - c. Standards for mitigating the impact on adjoining *property owners* who could lose protection as a result of permitting the proposed use or *plan of development*; and
    - d. Any other standards to protect the general health, safety, and welfare that are consistent with good planning practices.
- J. **Notice.** Upon approval of relief in a beneficial use appeal, the applicant shall be give written documentation of the relief granted.
- K. **Acceptance of Relief.** Within 30 *days* of the notice of relief the applicant shall accept the relief as curing the problem and agree to forgo any further action regarding the taking of the property. The beneficial use ordinance shall become effective only upon receipt of this notice of acceptance. If the notice of acceptance is not received within 30 days of the date of adoption, then the beneficial use ordinance is null and void.



- L. **Certification.** The County Commission shall formally record the beneficial use ordinance.
- M. **Official Zoning Map Annotation.** Upon approval of a beneficial use appeal by County Commission and acceptance by the land *owner*, the Administrator shall indicate the same on the Official Zoning Map by use of an appropriate code number or symbol and have the documents granting relief recorded in the public records of Jefferson County.
- N. **Subdivision and Land Development.** Any subdivision or land *development* required to fulfill the relief shall be processed as a minor subdivision or minor land development, regardless of its size.
- O. **Appeal to Court.** A denial of a beneficial use appeal or imposition of conditions that are adverse and unacceptable to the applicant may be appealed to a court of competent jurisdiction in the manner prescribed by law or rules of judicial procedure.

## Sec. 12.502 Administrative Appeals

- A. **Initiation.** Any decision of the Zoning Administrator may be appealed to the Board of Zoning Appeals. An appeal to the Board of Zoning Appeals is initiated by a written notice of appeal filed with the Board of Zoning Appeals and the official whose decision is the subject of the appeal (e.g., the Zoning Administrator or Floodplain Administrator) and payment of the applicable fee. On receipt of the notice of appeal, the official from whom the appeal is taken shall transmit to the Board of Zoning Appeals all the papers constituting the record of the action that is appealed.
- B. **Summary Dismissal of Appeal.**
  - 1. Appeals shall be summarily dismissed by the Zoning Administrator without a hearing if any of the following circumstances exist:
    - a. The notice of appeal is not filed within the appeal period.
    - b. The notice of appeal is materially incomplete.
    - c. The notice of appeal alleges only that the development does not comply with restrictions or regulations that are not subject to the Board of Zoning Appeals' jurisdiction. Examples of such allegations include: "the development violates the covenants and restrictions of the subdivision," or "the development violates the Federal Clean Air Act." However, if the notice of appeal also alleges errors over which the County has jurisdiction, then only the allegations that are outside of the County's jurisdiction shall be dismissed.
    - d. The notice of appeal provides only general allegations of error. General allegations of error are those allegations that do not provide enough information to the other parties to formulate a response. Examples of general allegations include: "the approval should not have been granted," or, without more, "the *plan* does not comply with the requirements of the Zoning Ordinance." However, if there is a reasonable question as to whether any allegation of error in a notice of appeal is general or specific, the allegation shall be considered specific and the appeal shall not be summarily dismissed.
    - e. The required fee is not paid.



2. If an appeal is summarily dismissed pursuant to this subsection, written notice stating the reason for the dismissal shall be mailed to the appellant at the address provided on the notice of appeal.
  3. An appellant whose appeal is summarily dismissed may re-file a corrected notice of appeal at any time before the end of the appeal period.
- C. **Parties.** An appeal may be initiated by any of the following parties:
1. A person who is aggrieved by a decision; or
  2. Any officer, department, board, or bureau of a municipality affected by the decision.
- D. **Appeal Period.** All notices of appeal shall be filed by 5:00 p.m. on the 30th day after the date of written notice of the decision that is the subject of the appeal.
- E. **Contents of Notice of Appeal.** All notices of appeal shall include the following information:
1. The name, address, and telephone number of the appellant;
  2. The date of the decision from which the appeal is taken;
  3. A brief description of the harm that the appellant alleges it will suffer as a result of the decision that is the subject of the appeal; and
  4. The specific grounds for the appeal. Although absolute precision is not required, specific grounds are allegations that give the County and other parties to the appeal enough information about the nature of the appeal to respond to the allegations and adequately prepare for the hearing. Examples of specific grounds include: "the application does not comply with the applicable requirements of Table 3.201B of the Zoning Ordinance" or "notice of the hearing was not provided in the time frame required by law."
- F. **Notice of Hearing.**
1. Within ten *days* of receipt of the appeal by the board of zoning appeals, the board shall set a time for the hearing of the appeal and give notice. The hearing on the appeal must be held within forty-five days of receipt of the appeal by the board.
  2. At least fifteen *days* prior to the date set for the hearing on the appeal, the Board of Zoning Appeals shall publish a notice of the date, time and place of the hearing on the appeal as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of the West Virginia Code, and written notice shall be given to the interested parties. The publication area shall be the area covered in the appeal.
  3. The Board of Zoning Appeals may require the party filing the appeal to pay for the cost of public notice and written notice to interested parties.
- G. **Hearing and Decision.**
1. A public hearing shall be conducted in accordance with the procedure outlined in Section 12.308, *Public Hearing Procedure*. At the hearing, any party may appear in person, by agent or by an attorney licensed to practice in this state.
  2. Every decision by the board must be in writing and state findings of fact and conclusions of law on which the board based its decision. If the board fails to provide findings of fact



and conclusions of law adequate for decision by the circuit court, and as a result of the failure, the circuit court returns an appealed matter to the board and dismisses jurisdiction over an applicant's appeal without deciding the matter, whether the court returns the matter with or without restrictions, the board shall pay any additional costs for court filing fees, service of process and reasonable attorneys' fees required to permit the person appealing the board's decision to return the matter to the circuit court for completion of the appeal.

3. In general, the Board of Zoning Appeals shall have the same powers and scope of review and decision as the official or body whose decision is under review. It may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination involved in the appeal.
4. The Board of Zoning Appeals shall affirm the decision if it finds that the appellant did not prove any of its allegations of error, and if applicable, prove any of its allegations of injury.

**H. Voluntary Dismissal of Appeal.**

1. An appeal may be voluntarily dismissed by the appellant who filed the appeal at any time before a decision on the appeal is made. Voluntary dismissals shall be submitted to the Zoning Administrator in writing, except that an appellant may voluntarily dismiss an appeal orally on the record of the public hearing at which the appeal is to be heard.
2. Voluntary dismissal shall terminate the proceedings on the appeal.
3. Appeals dismissed in this manner are dismissed with prejudice and shall not be re-filed by the appellant.

**I. Effect of Appeal.**

1. In general, an appeal to Board of Zoning Appeals stays all proceedings in furtherance of the action.
2. The stay shall be lifted if the officer from whom the appeal is taken certifies to the Board of Zoning Appeals, in writing, facts supporting the official's opinion that a stay would cause imminent peril to life or property. If a stay is lifted, it will be reimposed only if a restraining order is granted by the Board of Zoning Appeals or a court of record on the application, after notice to the Zoning Administrator, shows due cause for lifting the stay.

**Sec. 12.503 Appeals to the Courts**

Upon the conclusion of any administrative appeal to the County, an appeal to the Court may be taken pursuant to applicable law and rules of judicial procedure.

**Division 12.600 Other Application Reviews**

---

**Sec. 12.601 Zoning Certificate**

- A. **General.** A zoning certificate is required to verify that a proposed use is permitted by the Zoning Ordinance. A zoning certificate is required for any new use or expansion of an existing use.
- B. **Standards.** A zoning certificate shall be granted if the proposed use is:



1. Permitted by the Zoning Ordinance;
2. Permitted by limited use, and the applicant has demonstrated compliance with all applicable standards; or
3. Permitted by *conditional use*, and the conditional use approval has been granted and has not expired.
4. A temporary use which requires a permit.

### Sec. 12.602 Sign Permit

- A. **General.** A *sign permit* is required for all new or substantially modified permanent signs.
- B. **Standards.** A sign permit shall be granted if the proposed *sign* complies with the applicable standards of Article 9, *Sign Regulations*. A building *permit* shall also be required for permanent signs.

### Sec. 12.603 Interpretations

- A. **General.** If any section or provision of this Ordinance is not clear with respect to its application to an individual parcel, the applicant for development approval of that *parcel* may request a formal interpretation from the Zoning Administrator.
- B. **Decision.** The Zoning Administrator shall decide the application in the time frame set out in Division 12.200, *Procedures*. The decision shall be based upon the purpose statements set out in Article 13, *Enforcement and Legal Status*.
- C. **Record of Decisions.** The Zoning Administrator shall keep a record of decisions on interpretations.

### Sec. 12.604 Unlisted Uses

- A. **General.** If an applicant proposes a use that is not addressed by this Ordinance, the applicant may request a formal interpretation from the Zoning Administrator as to the permissibility of the use in the district in which the applicant's *parcel* is located.
- B. **Decision.** The Zoning Administrator shall decide the application in the time frame set out for interpretations in Division 12.200, *Procedures*. The decision shall be based upon:
  1. The functional similarity of the use to other *permitted uses* in terms of:
    - a. Traffic generation;
    - b. *Peak hours* of use and their compatibility with other permitted uses in the district; and
    - c. Noise, dust, odors, vibration, and toxic materials.
  2. The purpose statements set out in Article 13, *Enforcement and Legal Status*.
- C. **Record of Decisions.** The Zoning Administrator shall keep a record of decisions on interpretations, which shall include the Zoning Administrator's reasoning.





## Article 13 Enforcement and Legal Status

### Division 13.100 Purpose

---

The purposes of this Division are:

- A. To delineate the responsibilities for the enforcement of this Ordinance;
- B. Identify the procedures for noticing a land *owner* of a violation and collecting fines and discontinuing or correcting the violation; and
- C. To set out the legal status of this Ordinance, including the County Commission's intent with regard to severability, repealer, and conflicting provisions.

### Division 13.200 Enforcement

---

#### Sec. 13.201 Enforcement

The Zoning Administrator shall be delegated the responsibility to enforce this Zoning Ordinance.

#### Sec. 13.202 Penalties and Remedies

- A. **Public Nuisance Declared.** Any *buildings* erected, raised or converted, or land or premises used in violation of any provision of this Ordinance is a common nuisance and the *owner* of the building, land or premises shall be liable for maintaining a common nuisance.
- B. **Criminal Fines Authorized.** A person who violates any provision of this Ordinance is guilty of a misdemeanor, and upon conviction, shall be fined not less than fifty dollars nor more than five hundred dollars.
- C. **Injunction.** The Planning Commission, the Board of Zoning Appeals, or any designated enforcement official may seek:
  - 1. An injunction in the circuit court of Jefferson County to restrain a person or unit of government from violating the provisions of this Zoning Ordinance.
  - 2. A mandatory injunction in the circuit court of Jefferson County, directing a person or unit of government to remove a structure erected in violation of the provisions of this Zoning Ordinance.
- D. **Costs.** If the Planning Commission, Board of Zoning Appeals, or the designated enforcement official is successful in any such suit, the respondent shall bear the costs of the action.

#### Sec. 13.203 Enforcement Procedure

- A. **Investigation of Complaints.** The Zoning Administrator or Staff shall promptly investigate any written complaint alleging a violation of this Ordinance and determine if a violation has occurred.
- B. **Penalty; Fines.** As provided in §8A-1-1 et seq. of the West Virginia Code, as amended, any person who violates any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than fifty dollars (\$50.00) or more than five hundred dollars



(\$500.00) per day. Each day during which any violation of this Ordinance continues shall constitute a separate offense.

C. **Notice.** When it appears to the Board of Zoning Appeals or the Zoning Administrator or Staff that a violation of this Ordinance has occurred, the County shall notify the responsible person by means of a written Violation Notice. The Violation Notice shall specify the nature of the violation and shall request that the violation be terminated within 15 *days* from the date appearing on the Notice. Failure to terminate the violation within the requested time shall be cause for the Board of Zoning Appeals or the Zoning Administrator or Staff pursuant to §8A-10-1, 2 and 3, of the West Virginia State Code, as amended, to:

1. Seek an injunction in the Circuit Court of Jefferson County to restrain the responsible person from continuing the violation cited or seek an injunction requiring the removal of structures or land uses from the property involved, or
2. Issue a warrant for the arrest of the person responsible for the violation and seek a conviction in the Circuit Court of Jefferson County.

## Division 13.300 Legal Status

---

The following provisions cover the issue of conflicting provisions, both within this Ordinance and with other jurisdictions or codes. The severability and repealers of this Ordinance are also covered in this Division.

### Sec. 13.301 Severability

A. **General.** If any division, section, paragraph, clause, provision, or portion of this Ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected. If any application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment.

B. **Signs.** With respect to Article 9, *Sign Regulations*, the following severability provisions shall apply instead of the general severability provision of A above:

1. **Interpretation; substitution of noncommercial speech for commercial speech.** Notwithstanding anything contained in this Ordinance to the contrary, any *sign* erected pursuant to the provisions of this Ordinance or otherwise lawfully existing with a commercial message may, at the option of the *owner*, contain a noncommercial message in lieu of a commercial message. The noncommercial message may occupy the entire sign face or any portion thereof. The sign face may be changed from commercial to noncommercial messages, or from one noncommercial message to another, as frequently as desired by the *owner* of the sign, provided that the *sign* is not a prohibited sign or sign-type and provided that the size, *height*, *setback* and other dimensional criteria contained in this Ordinance have been satisfied.
2. **Severability generally.** If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Article 9, *Sign Regulations*, or any other provision of this Ordinance related to signage, is declared unconstitutional by the valid



judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Article 9, *Sign Regulations*, or this Ordinance.

3. **Severability where less speech results.** Without diminishing or limiting in any way the declaration of severability set forth above in subsection B2 above, or elsewhere in this Section, this Ordinance, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Article 9, *Sign Regulations*, or any other provision of this Ordinance related to signage, is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of said Article or provision, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.
4. **Severability of provisions pertaining to prohibited signs and sign elements.** Without diminishing or limiting in any way the declaration of severability set forth above, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Article 9, *Sign Regulations*, or any other provision of this Ordinance related to signage, is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Article 9, *Sign Regulations*, that pertains to prohibited signs or sign elements. It is the intent of the County Commission to ensure that as many prohibited sign types and sign elements as may be constitutionally prohibited continue to be prohibited.
5. **Severability of provisions if adjudicated stricken due to a content-basis.** It is the intent of the County to regulate signage in a manner that implements the purposes of Article 9, *Sign Regulations*, as expressed therein. The County finds that the purposes stated in Article 9, *Sign Regulations*, are legitimate, substantial, and compelling public interests, that the regulation of signage provided by Article 9, *Sign Regulations*, is unrelated to the suppression of free expression, and that the incidental restrictions on expression that may occur as a result of these regulations is no more than is essential to the furtherance of the public interests. However, if a court of competent jurisdiction finds any regulation therein to be based upon content and, further, declares such regulation unconstitutional, then it is the intent of the County that only that portion of the provision that is found to relate to content be severed from this Ordinance, and if it is not possible for the court to strike only the portion of the provision that is found to relate to content, then it is the intent of the County Commission that all signs that would be subject to the stricken provision will instead be subject to the next surviving provision for a *sign* of like geometry and character that is more restrictive than the stricken provision in terms of *sign area*.



## **Sec. 13.302 Repealer**

All prior ordinances or parts of ordinances not consistent or conflicting with the provisions of this Ordinance as well as all provisions of the previous Jefferson County Zoning and Development Review Ordinance are hereby repealed; provided that in the event this Ordinance is found invalid in its entirety by a court of competent jurisdiction, the last valid Zoning Ordinance, the Jefferson County Zoning and Development Review Ordinance, previously adopted and as amended in 2002 by the County Commission of Jefferson County, WV, shall be revived and shall govern all land use within the unincorporated territory.

## **Sec. 13.303 Conflicting Provisions**

The standards of this Ordinance are minimum standards. Whenever the standards and specifications in this Ordinance conflict with those contained in another section of this Ordinance, the more specific provisions shall govern. Whenever the standards and specifications in this Ordinance conflict with those contained in any other County ordinances or codes, the more specific provisions shall govern. Nothing in this Ordinance shall be taken as repealing or limiting powers granted under State and Federal statutes. Further, where State or Federal agencies have jurisdiction, the most stringent provisions shall apply.

## **Sec. 13.304 Telecommunications**

- A. This Ordinance shall be interpreted consistent with the provisions of the Federal Communications Act of 1934, as amended by the Telecommunications Act of 1996.
- B. This Ordinance shall apply to all persons, partnerships, limited liability companies, limited liability partnerships, corporations, and other entities seeking to locate, site, place, modify, or *construct* wireless telecommunication facilities within the County.
- C. This Ordinance reserves to the County all authority contained in State law and the County Charter regarding land use and regulation which has not been preempted by the Federal government pursuant to Section 704 of the Telecommunications Act of 1996 as to the placement, *construction*, and modification of personal wireless service facilities.



## Article 14 Definitions

### Division 14.100 Word Usage and Abbreviations

---

#### Sec. 14.101 Word Usage

This Division's provisions and rules shall be observed and applied when interpreting this Ordinance, except when the context clearly requires otherwise. Words used or defined in one tense or form shall include other tenses or forms.

- A. Words in the singular number shall include the plural number. Words in the plural number shall include the singular number.
- B. The masculine gender shall include the feminine. The feminine gender shall include the masculine.
- C. The word "shall" is mandatory.
- D. The word "may" is permissive.
- E. The word "person" includes individuals, partnerships, firms, corporations, associations, trusts, and any other similar entities or combination of individuals.
- F. The word "Attorney" shall mean the Office of the Prosecuting Attorney of Jefferson or any individual attorney therein or any other attorney designated by the County Commission of Jefferson County.
- G. The words "Board of Zoning Appeals " shall mean the Board of Zoning Appeals of Jefferson County.
- H. The words "Comprehensive Plan" shall mean the Comprehensive Plan of Jefferson County. It includes all adopted maps, charts, and explanatory materials and subsequent amendments.
- I. The word "Commissioners" shall mean the County Commission of Jefferson County, West Virginia.
- J. The word "County" shall mean Jefferson County, West Virginia.
- K. The word "Department" shall mean the Jefferson County Department of Planning.
- L. The words "Landmark Commission" shall mean the Jefferson County Historic Landmark Commission.
- M. The word "*Owner*" shall mean or include the person holding title to the property, *lessees*, occupant, or person in charge of the property for management or *construction*.
- N. The words "Planning Commission" shall mean the Jefferson County Planning Commission.
- O. The words "County Clerk" shall mean the Office of Jefferson County Clerk.
- P. The words "*Professional Engineer*" shall mean an engineer licensed in the State of West Virginia.



Q. The word "Staff" shall mean the Jefferson County Planning, Zoning or Engineering Departments, Zoning Administrator, and such other employees or consultants designated by the County Commission.

R. The word "State" shall mean the State of West Virginia.

## Sec. 14.102 Abbreviations

The following abbreviations are used in this Ordinance:

AASHTO	American Association of State Highway and Transportation Officials
ac.	Acre
DBH	<i>diameter at breast height</i> for a tree
du or dus	<i>dwelling unit(s)</i>
FAR	<i>floor area ratio</i>
FEMA	Federal Emergency Management Agency
ft.	Feet
GD	<i>gross density</i>
GFAR	<i>gross floor area ratio</i>
LSR	<i>Landscape surface ratio</i>
max.	Maximum
min.	Minimum
N/A	not applicable
NAICS	North American Industry Classification System
ND	<i>net density</i>
NFAR	<i>net floor area ratio</i>
OSR	<i>open space ratio</i>
sf.	square feet
S.F.	single-family

## Division 14.200 Use Definitions

---

### Sec. 14.201 Agricultural Uses

A. **Agriculture.** (NAICS 111, 112, part and 11142) These uses include:

1. **Farms.** Land (with and without farm residences) used for field crops, orchards, viniculture, aquaculture, and truck farming. It also includes the raising or breeding of livestock, cattle, horses, poultry, and bees.
2. **Nurseries.** Nurseries and ornamental floriculture (part NAICS 11142) whose primary use is the growing of plants, with incidental sales of *landscaping* products or equipment. For uses that are primarily involved in the retail sale of plants, garden supplies, and landscape materials, see Garden Centers.



- a. **Other.** The above uses can also include "pick your own" sales, and agricultural tourism such as crop mazes and *farm* tours, or community supported agriculture.
3. **Clearing.** This involves the cutting of trees or underbrush on a site whether by clear cutting, *selective cutting*, bulldozing, burning or other means including Forestry (NAICS 113) or in preparation for *development* or agricultural use.
- B. **Farmstead.** This is a residential-agricultural unit, consisting of no less than forty (40) acres, in which the land is used for agriculture by the owner/operator of the agricultural operation who lives on the land as *owner* or by lease. It may include multiple properties and the home, barns, and fields or *pastures* need not be on the same property.
- C. **Intensive Agriculture.** (NAICS 112 and part 11142) These uses include any agricultural uses such as feed lots, hog farms, and poultry operations where animals are tightly confined in *buildings* or outdoor pens or *pastures* that are required to obtain an NPDES or related *permit* because of animal or poultry wastes.
- D. **Commercial Stables.** The stabling, training, feeding of horses, or the provision of riding facilities for other than the use of the resident of the property.

#### Sec. 14.202 Residential Uses

- A. **Single-family Detached.** These are all detached *dwelling units* constructed on lots and intended for only one *family*.
- B. **Single-family Cluster.** These are single-family residential uses that include, as part of the subdivision design, common *open space* that meets the standards in Article 3, *District and Bulk Standards*.
- C. **Single-family Attached.** These are all *attached dwelling units* including twin, *duplex*, *atrium*, weak-link, and all townhouse types. This use may also have minimum *open space* standards.
- D. **Two-family.** These are all attached two-dwelling units including *duplex* and twin-home types. The units are attached by a common sidewall or common floor. This use may also have minimum *open space* standards.
- E. **Planned.** This describes a development that consists of one or more of the following housing types: single-family, single-family lot-line, village houses, *duplex*, twin, *patio houses*, atrium houses, z-lots, townhouses of several types, *multiplexes*, and *apartments*. Such developments shall be planned as a unit and shall meet all the *open space* standards in Article 3, *District and Bulk Standards*.
- F. **Mobile Manufactured Home Park.** This is a parcel of land divided into two or more mobile manufactured home lots for rent, lease, or sale. This use also includes a *parcel* of land divided into two or more manufactured home lots for sale. All single-wide mobile manufactured homes shall be in *mobile manufactured home parks*.
- G. **Group Residential Facility.** A facility that is owned or leased by a behavioral health service provider and that:
  1. Provides residential services and supervision for individuals who are developmentally disabled or behaviorally disabled;



2. Is occupied as a residence by not more than eight individuals who are developmentally disabled and not more than three supervisors, or is occupied as a residence by not more than 12 individuals who are behaviorally disabled and not more than three supervisors;
3. Is licensed by the Department of Health of the West Virginia Division of Human Services; and
4. Complies with the West Virginia Fire Commission for residential facilities.

H. **Group Residential Home.** A building owned or leased by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence. A behavioral health service provider may not lease a building to such persons if the provider is providing services to the persons without a license.

I. **Small Single-family.** A type of single-family affordable *dwelling* having only one bedroom.

## Sec. 14.203 Home Uses

- A. **Home Occupations.** This refers to any service, professional, or art occupation, which is conducted in a residence, which does not change the essential character of the residential use. Businesses meeting the definition of *creative worker* shall be permitted in *home occupations*. Sales, wholesale or retail, shall be prohibited except for sales distributors who fill orders for catalog type products and make deliveries to the customer's house, as opposed to customers coming to the place of business. Commercial deliveries are made by *parcel* services, not large trucks.
- B. **Home Business.** This is a business operated out of homes that permits the employment of up to three unrelated individuals in the home. Uses are limited to office and certain service businesses. Businesses meeting the definition of *creative worker* shall be permitted in home businesses. Sales (wholesale or retail) are prohibited.
- C. **Home Workspace.** This is a business that involves the crafting of art or crafts from a home based workshop and the provision of gallery or sales space for the works produced. The lead artist or artisan must live on the property and there may be up to three unrelated employees. Businesses meeting the definition of *creative worker* shall be permitted in home workspaces.
- D. **Home Industry.** This is a business that involves the manufacture of products, the use of commercially licensed vehicles, and permits the employment of up to five unrelated employees who work on site, or three on-site employees and up to 10 employees who do their work at client sites.
- E. **Family Child Care.** *Family* child care includes "family child care home" and "family child care facility," but does not include "informal family child care" and "relative family child care," as each of those phrases are defined in *W.Va. Code §49-2B-2*, as may be amended from time to time. At the time of adoption of this Ordinance, the phrases were defined by statute as follows:
1. "Family child care home" is a facility which is used to provide nonresidential child care services for compensation in a provider's residence. The provider may care for four to six children, at one time including children who are living in the household, who are under six years of age. No more than two of the total number of children may be under twenty-four months of age.



2. "Family child care facility" is any facility which is used to provide nonresidential child care services for compensation for seven to twelve children, including children who are living in the household, who are under six years of age. No more than four of the total number of children may be under twenty-four months of age. A facility may be in a provider's residence or a separate *building*.
3. "Informal family child care" is a home that is used to provide nonresidential child care services for compensation for three or fewer children, including children who are living in the household, who are under six years of age. Care is given in the provider's own home to at least one child who is not related to the caregiver.
4. "Relative family child care" means a home that provides nonresidential child care services only to children related to the caregiver. The caregiver is a grandparent, great grandparent, aunt, uncle, great-aunt, great-uncle or adult sibling of the child(ren) receiving care. Care is given in the provider's home.

### Sec. 14.204 Institutional Uses

- A. **Places of Public Assembly.** This use includes *museums*, aquariums, cultural or arts centers, conference centers, libraries, private schools serving grades K-12, places of worship, and cemeteries. (NAICS 6111, 6244, 8131, 81222, 8134). The use is further defined by *scale*. Note that public schools are exempt for zoning.
- B. **College.** Private and Public colleges, universities, internet-based learning facilities and professional schools (NAICS 6113); other advanced education (NAICS 6112).
- C. **Institutional, Residential.** These uses include:
  1. Convents or monasteries and nursing homes.
  2. Sheltered care facilities or group living facilities where the residents live in an institutional environment and are, generally, under the care or control of staff. All *sheltered care*, group care, group residential homes, and residential substance abuse facilities where total *occupancy* is more than eight shall be considered institutional residential use. The residents would be members of an institution, or would have institutional care, or would be treated by staff in an institutional setting, rather than living independently. Includes drug and alcoholism hospitals and rehabilitation centers (NAICS 623, 62422, 62423).
  3. Institutional housing where there is commercial rental or condominium ownership combined with any of the following: common food service, nursing, or health care (NAICS 623311, 6239, 624229).
  4. Dormitories, fraternities, sororities, or co-ops.
  5. Schools with live-in facilities on site, other than universities, colleges, or preparatory schools (NAICS 61111).
- D. **Protective Care.** This is housing where the residents are assigned to the facility and are under the protective care of the county, state, or federal government (NAICS 92214). This use includes jails, prisons, work release, other similar facilities, and psychiatric hospitals (NAICS 6222).



- E. **Public Service Facility.** These uses include government or privately operated facilities that provide local public services. They include:
  - 1. Emergency service, *buildings*, or garages (e.g. ambulance, fire, police, rescue).
  - 2. *Conservation* and agricultural service agencies.
  - 3. Postal service buildings except major distribution centers (NAICS 62191, 92212, 92216).
  - 4. State and federal agency services that span beyond Jefferson County and the immediate surrounding area are included as Office uses covered under Section 14.205, *Commercial Uses*.
- F. **Utilities, Neighborhood.** Utilities serving the local area (NAICS 221122, 22121). Utility substations or transmission and local distribution facilities, including electric, gas, telephone, sewer, water, and stormwater. Whether a substation or transmission facility, the transmission lines shall either be in road rights-of-way, adjacent to the rights-of-way, or in *easements* or separate rights-of-way 20 feet or less in width. Generation or storage of combustibles is not permitted.
- G. **Hospitals.** Hospitals and medical laboratories (NAICS 339116, 62151, 62211, 62221, 62231), including general medical and surgical hospitals and specialty hospitals, except alcoholism and drug rehabilitation facilities.

## Sec. 14.205 Commercial Uses

- A. **Office.** Office uses include:
  - 1. Finance, banks, trusts, lending (NAICS 521, 522, 525, 533).
  - 2. Security, commodity brokers, and services (NAICS 523).
  - 3. Insurance carriers, agents, brokers, and service (NAICS 524).
  - 4. Real estate (NAICS 531).
  - 5. Professional and Technical Services (NAICS 5411-5419).
  - 6. Business services (NAICS 55, 5611-5616, 5619, 8139).
  - 7. Health services (NAICS 621).
  - 8. Social services (NAICS 624) (except care facilities).
  - 9. Educational services, such as business schools (NAICS 6114), technological, and trade schools excluding public and private schools serving grades K-12 (see Institutional Uses).
  - 10. Civic and social organizations (NAICS 8132 -34).
  - 11. Miscellaneous services.
  - 12. Agricultural support and services (offices only, no equipment or warehousing) (NAICS 115).
  - 13. Governmental offices (NAICS 92 excluding public service).



- B. **Shopping Center.** A group of commercial retail, service, and other commercial uses located in a single planned unit.
- C. **Commercial Retail.** Commercial and retail uses include the following, provided no general storage or sales occur on the exterior on a regular basis. Furthermore, no regular sales can exceed five percent of the interior floor area.
1. Paint, glass, wallpaper, hardware (NAICS 44412, 44413).
  2. General merchandise stores (NAICS 452).
  3. Food and beverage stores (NAICS 445).
  4. Clothing and accessory stores (NAICS 448).
  5. Furniture stores (NAICS 442).
  6. Electronics and appliances (NAICS 443).
  7. Miscellaneous retail, including: art, gifts, sporting goods, drug stores, liquor, books, toys, camera stores (NAICS 451, 452 except 453).
  8. Garden centers (NAICS 44422).
  9. Consumer rental (NAICS 5322, 5323).
- D. **Light Automobile Service.** This includes:
1. Gasoline service stations, gas convenience marts, and quick service oil, tune-up, brake, and muffler shops where repairs are made in fully enclosed bays, and no vehicles are stored overnight (NAICS 811191, 811192). A single-bay car wash associated with a gas convenience mart is permitted provided they constitute less than 20 percent of *total floor area* and are not in a separate *building*.
  2. Auto malls with a number of the uses, as listed in D.1 above, contained in a single *building*. When the total floor area is greater than 30,000 square feet, car washes shall be permitted as part of the mall (NAICS 4411, 4413, and 811191, 81119).
- E. **Services.** These uses include a wide variety of personal and commercial services. This category does not include those services for customers in vehicles, such as a drive-in banking facility.
1. Daycare (NAICS 6244), other than Family Daycare (see Section 14.203E, *Family Child Care*).
  2. Educational services (NAICS 611 except 611512, 61162).
  3. Social assistance (NAICS 624).
  4. Hospitals and medical laboratories (NAICS 339116, 62151, 62211, 62221, 62231), including general medical and surgical hospitals and specialty hospitals, except alcoholism and drug rehabilitation facilities.
  5. Postal service *buildings*, except regional distribution centers, couriers, and messengers (NAICS 491, 492).
  6. Miscellaneous repair services and shops (NAICS 44311, 8112, 8113, 8114).



- 7. Health and exercise; dance studios (NAICS 71394, 71399).
- 8. Funeral homes (NAICS 81221).
- 9. Laundry services (NAICS 8123).
- 10. Personal services (NAICS 8121, 8129).
- 11. Veterinary services (NAICS 54194).

F. **Drive-in Facility.** These uses include all uses providing service to customers in vehicles who either drive up to a window or station or drive through the *building* for purchases or services (e.g., banking). This is often the second use of the property, and the primary use must also be permitted in the district. Drive-in facility does not include drive-in cinema.

G. **Commercial Lodging.** (NAICS 72111) These uses include *hotels*, *motels*, including those with convention facilities, and facilities that cater to members of the organization owning them.

H. **Bed and Breakfast.** (NAICS 721191) This is any place of lodging that provides eight or fewer rooms for rent, is the owner's personal residence, and is occupied by the *owner* at the time of rental.

I. **Country Inn.** This is a commercial lodging facility with 30 or less overnight rooms intended for short-term accommodations.

J. **Heavy Retail and Service.** These are retail and/or service activities that have regular exterior service or storage areas or partially enclosed structures as listed below:

- 1. Exterior commercial retail sales.
- 2. Home centers (NAICS 44411).
- 3. Lumber and other building materials (NAICS 4213, 4413, 44419, 44911).
- 4. Vehicle repair services, towing, and parking (NAICS 8111, except light auto services).
- 5. Fuel dealers (NAICS 45431, 454312, 454319).
- 6. Garden supplies and Nurseries (NAICS 11142 and 44421) including limited growing of plants in greenhouses and outdoors, including the sale of incidental accessories.
- 7. Mini warehouses, not with outside storage (NAICS 53113).
- 8. Recreational equipment rental where equipment is stored outside (NAICS 532292).
- 9. Repair shops and related services (NAICS 811).
- 10. Microbreweries.

Heavy retail and service uses, as defined in this definition, may be permitted on *farmsteads*, but shall not include items 1, 2, and 5 of this provision.

K. **Vehicular Sales, Rental, and Service.** Automobile, boat, motorcycle, *recreational vehicle* dealers, auto repair (NAICS 4411, 441221, 441222, 53211).

L. **Agricultural Support and Other Rural Services.** This use includes *farm* supply services, equipment repair and dealers, grain storage, and biofuel supply (NAICS 115, 49313, 4225, 54194).



- M.  **kennel**. The boarding, breeding, training, or selling of domestic dogs or cats. This shall include the keeping of more than nine dogs or cats over the age of four months or the keeping of a total of more than nine dogs and cats. This use permits outdoor dog runs. (NAICS 11521).
- N.  **Mixed Use**. This is a use that contains two or more use categories, one of which shall be residential. Two configurations are permitted:
1. A multi-story structure; or
  2. A  *building*  or group of buildings arranged around a  *pedestrian precinct*  containing three or more uses.
- O.  **Restaurants**. A use that serves food for consumption within or to take out (NAICS 722).

### Sec. 14.206 Recreation and Amusement Uses

A.  **Adult Uses and Gambling**. This includes:

1. Adult bookstore means an establishment having, as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this Section (see below), or an establishment with a segment or section devoted to the sale or display of such material.
2. Adult entertainment establishment means an enclosed  *building*  used for presenting material and/or conduct distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this Section, for observation by patrons therein. This includes bars, restaurants, movie theaters, theaters, peep shows, strip halls, special cabarets (NAICS 71399, 72241), physical culture establishments, role playing or bondage establishments, or any other normally  *permitted use*  where "specified sexual activities" are displayed, or where "specified anatomical areas" are exposed to customers.
3. For the purpose of this definition, the term "specified sexual activities" is defined as:
  - a. Human genitals in a state of sexual stimulation or arousal;
  - b. Acts of human masturbation, sexual intercourse, or sodomy;
  - c. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
4. For purposes of this definition, the term "specified anatomical areas" is defined as:
  - a. Less than completely and opaquely covered: (1) human genitals, pubic region; (2) buttocks; and (3) female breast below a point immediately above the top of the areola; and
  - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
5. Massage parlors means establishments offering massage, manipulation, rubbing, vibration, stroking, or tapping of the human body with the hand or an instrument, staffed



by one or more persons who do not belong to any nationally recognized massage therapy association or by persons who are not graduates of any recognized training school in massage therapy.

6. Gambling facility means any facility utilizing gambling or casino type games of chance (video or mechanical) and that provides any type of payoff or remuneration.

- B. **Outdoor Recreation.** This use includes the following: Public areas (open to community residents) for *active recreational* activities including, but not limited to: jogging, cycling, tot-lots, playing fields, playgrounds, outdoor swimming pools, and tennis courts (NAICS 7113); golf courses, (full-sized nine holes, regulation length) regardless of ownership and membership, golf and country clubs, par 3 golf courses, and golf driving ranges (NAICS 71391, 71393, 71394). *Passive recreational* uses including, but not limited to: arboretums, wildlife sanctuaries, forests, areas for hiking, nature areas, and other passive recreation-oriented parks. Picnic areas, garden plots, and beaches.
- C. **Indoor Recreation.** This use includes the following: Recreational uses that are public (open to community or development residents) including community recreation centers, gymnasiums, indoor swimming pools, or tennis, racquetball, or handball courts (NAICS 71394). Specifically excluded are health and exercise clubs (SIC 7991) and uses listed as commercial amusement uses.
- D. **Commercial Amusement, Outdoor.** (NAICS 512132, 71311, 71212, 71213, 71219) This use includes, but is not limited to: fairgrounds, outdoor stadiums, racing facilities, rodeos, music arenas, theme parks, amusement parks, miniature golf establishments, water slides, batting cages, hunting preserves, and shooting ranges.
- E. **Commercial Amusement, Indoor.** (NAICS 512131, 7111, 7112 part, 7113, 712 part, 713 part) This use includes, but is not limited to, all indoor commercial amusement facilities: bowling alleys, indoor sports arenas, movie theaters, indoor skating rinks (ice or roller), video arcades, pool halls, and shooting arcades.
- F. **Campgrounds and RV Parks.** This is a form of commercial lodging where guests bring or rent tents, travel trailers, *recreational vehicles* (RVs), campers, or other similar forms of shelter provided by the campground facility. The campground or RV Park rents pads or other forms of shelter available to the guests. If cabins are provided they shall not exceed 800 square feet and shall be limited to no more than 7 per acre.

## Sec. 14.207 Industrial Uses

- A. **Light Industry.** This use includes: manufacturing, transportation, and wholesale use in buildings of less than 80,000 square feet of groundcover or having *exterior storage* occupying less than 15,000 square feet, or having a height of less than 45 feet. This, generally, includes the following uses:
1. Building, development, and general contracting (NAICS 233). Special trade contractors (NAICS 235) (except storage of any equipment that is more than 12 feet in height).
  2. Food products (NAICS 311, 312) (except NAICS 3112, 3116, 3117, 31212, 31213, 31214, 3122) other than micro-breweries.



3. Textiles and apparel (NAICS 313, 314 & 315).
  4. Furniture and fixtures (NAICS 337).
  5. High tech heavy industry (NAICS 327, 335, 8112, 443) where the business is less than 20,000 square feet and receives and ships all its packages via courier service.
  6. Printing and publishing (NAICS 511, 512, 323).
  7. Office and computing machines (NAICS 334).
  8. Electric and electronic equipment (NAICS 335), except electronic distribution and electrical industrial (NAICS 3353, 3359).
  9. Instruments and related products (NAICS 334, 339).
  10. Miscellaneous manufacturing industries (NAICS 45, 52, 44).
  11. Transportation services (NAICS 488).
  12. Communications (NAICS 513).
  13. Wholesale trade, durable and non-durable (NAICS 421, 422), except *farm* products (NAICS 4225).
  14. Mini-warehouses (NAICS 53113).
  15. Regional utility substation or distribution station (NAICS 221, 486) on at least two acres.
  16. Truck, recreational vehicle, and *mobile home* sales (NAICS 441222, 441229, 44121, 45393).
  17. Truck rental (NAICS 53212).
  18. Other rental (NAICS 531199).
  19. Any heavy industrial use (B below) occupying a masonry building less than 20,000 square feet in floor area, having no outside storage or processing and which is serviced with delivery of raw or partially assembled materials and shipping of the final product by *parcel* delivery vans, not semi-trailers.
- B. **Heavy Industry.** This category includes: *construction*, mining support, manufacturing, transportation, and public utilities due to the land use *intensity* impacts typically associated with large industrial uses, their accessory *outdoor storage* uses, and large building areas. The following uses are permitted:
1. Heavy construction contractors (NAICS 234).
  2. Meat products manufacturing (NAICS 3116).
  3. Seafood product preparation and packaging (NAICS 3117).
  4. Alcoholic beverages (NAICS 31212, 31213, 31214).
  5. Industrial equipment leasing (NAICS 5324).
  6. Stone, clay, and glass products (NAICS 327);
  7. Trucking and warehousing (NAICS 484).



8. Transportation equipment manufacturing (NAICS 336).
  9. Hydrocarbon production, refining, and processing facilities; but excluding office functions, transmission, or distribution (NAICS 22). This includes all utilities that are excluded from subsections D or E, below.
  10. Welding, sheet metal, blacksmith (NAICS 3323).
  11. Any light industry in a *building* or buildings in excess of 80,000 square feet of groundcover, or having *exterior storage* occupying 15,000 square feet or more, or having a height in excess of 45 feet.
- C. **Warehousing.** This category includes all warehousing (SIC 42), except mini- or self-storage warehouses or that is not incidental to a manufacturing facility and occupying less than 25 percent of the *total floor area* (NAICS 4921).
- D. **Utilities, Region.** This use includes electric power generation and transmission; natural gas storage, distribution, or pumping; and regional facilities, such as regional switching stations, pump storage, and other facilities not housed inside normal buildings (NAICS 22).
- E. **Utilities, Community.** (NAICS 221122, 22121). A utility described above that is served by or involves rights-of-way or *easements* greater than 20 feet. Generation or storage of combustibles is excluded from this definition (see subsection D, above).
- F. **Extraction.** This category includes extraction uses, such as mining and quarrying and any other extraction use (NAICS 21).
- G. **Waste Facilities.** This use includes waste facilities where wastes are handled for trans-shipment to a disposal facility. It includes trash compaction and transfer stations.
- H. **Recycling or Storage.** This use includes any land or structure used for salvaging, recycling, junkyards, or storing of waste paper, rags, scrap metal, and discarded materials and the collection, dismantlement, storage, and salvage of two or more inoperative vehicles, automobiles, boats, trucks or *farm* vehicles or equipment, or other types of machinery. This includes the aggregate storage of man-made equipment, machinery, scrap, or other used materials having a total cubic volume of 700 cubic feet. Where there is no *exterior storage* and all the material is stored inside *buildings* with impervious floors, the use shall be considered light industry.

#### Sec. 14.208 Special Uses

- A. **Airports.** This use includes all airports (NAICS 481) and flight training schools (NAICS 611512), excluding those for the *private use* of an individual.
- B. **Commercial Wireless Telecommunication Facilities and Towers.** This category includes radio or television broadcasting towers, telecommunications towers, and *antenna* arrays (except residential *satellite dishes*) (NAICS 513).

#### Sec. 14.209 Temporary Uses

- A. **Contractor's Office.** This includes watchmen's trailers, *construction* equipment sheds, contractors' trailers, and similar uses incidental to a construction project. Sleeping and/or cooking facilities may also be permitted.



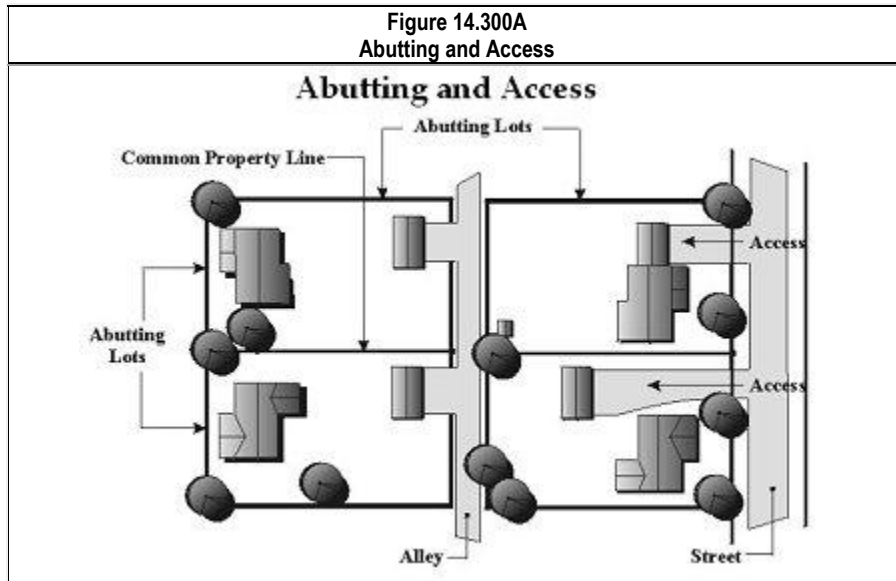
- B. **Commercial Temporary Outdoor Sales.** Outdoor sales for seasonal goods in an area designated on the plan for exterior sale, which may be permanently or temporarily delimited by a fence of some sort.
- C. **Public Interest Event and Special Events.** Outdoor gatherings, auctions, art sales, and bake sales for the benefit of the community, or community service or nonprofit organizations. These events may also include, but are not limited to, outdoor concerts, auctions, carnivals, circuses, outdoor religious meetings, and special entertainment at commercial properties. Such uses often travel to various communities or involve noisy events regardless of purpose.
- D. **Model Homes/Sales Office.** A *dwelling unit* in a subdivision used as a sales office or a modular unit used as a sales office for a subdivision.
- E. **Farm Stand.** This is a temporary or permanent structure or vehicle used in the sale of agricultural produce in season, some portion of which is grown by the seller. More than one *farm* may sell at a single stand.
- F. **Sidewalk Sale and Farmer's Market.** Sales conducted by either the store owner/occupant outside the store in question or by a commercial *farm* on either the public *sidewalk*, a private *sidewalk*, or pedestrian area adjacent to the *sidewalk*.
- G. **Concrete/Asphalt Batch Plant.** A concrete or asphalt batch plant assembled on a site for the *construction* of a particular road improvement, located no more than one mile from the site. This facility shall be removed within one year.
- H. **Garage Sales.** This is a sale of various used goods that are owned by the occupants of the residential unit holding the sale.
- I. **Temporary Miscellaneous Sales.** This is the sale of various goods by persons who are not employed by the *owners* or managers of the *parcel* on which the sale occurs. This is not an accessory use to the *principal use*.



**Division 14.300 Other Definitions**

**A**

**Abutting.** Two lots sharing the same or common property lines, including lots separated by an alley.



**Abandonment.** That the use, structure, or sign is not used, occupied, or otherwise operated for the intended nonconforming activity for the period specified in Section 6.202, *Abandonment or Discontinuance*. Periods of active remodeling during which the use is closed for repairs should not be considered in determining abandonment, provided the remodeling is completed within a reasonable time period as indicated on the zoning permit issued for remodeling a nonconforming use. Abandonment of signs shall mean having electricity disconnected for lighted signs, no message, or the failure to repair damaged signs.

**Access.** An area designated as a way for vehicles to enter or leave a property or lot to a public or private street or alley. Access is intended to permit residents to bring their vehicles onto the property, to allow customers or tenants to park, and to provide for public access in emergencies. See Figure 14.300A, *Abutting and Access*.

**Access Easement.** That portion of a lot used for ingress/egress to an *abutting* lot and shown on a final plat by a recorded easement declaration. In no case shall a street right-of-way be construed to mean an easement.

**Accessory Building.** A *building* detached from a principal building located on the same lot and which is incidental and subordinate to the principal use or building.

**Accessory Dwelling Unit.** A small living unit added to a primary dwelling unit under common ownership. Such units may be an extension or addition to the primary dwelling unit or located in an accessory building.



**Accessory Structure.** Structures which are on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure (such as garages and storage sheds).

**Accessory Use.** A use of land or a *building*, or portion thereof, incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**Active Recreation.** Recreational uses, areas, and activities oriented toward potential competition and involving special equipment. Playgrounds, sports fields and courts, swimming pools, picnic areas, and golf courses are examples of active recreation uses. Also see *Passive Recreation*.

**Addition.** Any construction that adds or enlarges the size of an existing *building*. Additions also include any extension or increase in floor area or height of a building or structure. Examples of an addition are a porch, carport, new room, roof configuration, etc. Also see *Conversion, Building or Use* and *Structural Alterations*.

**Adequate Infrastructure.** This includes water, sewer, roads, and stormwater facilities. To be adequate, they shall meet all construction requirements of this Ordinance and the County. In addition, the County shall require that there is adequate capacity where the connection is made to the system and in mains, interceptors, or other off-site facilities, including treatment facilities and storage facilities.

**Administrator.** Refers to the Planner, designated by the County Commission, who shall enforce and interpret the provisions of this Ordinance.

**Adult Use.** See Section 14.206A, *Adult Uses and Gambling*.

**Adult Use License.** A license issued by the County authorizing the running of an adult use. See Section 14.206A, *Adult Uses and Gambling*.

**Affordable Housing.** Housing that is designed to serve certain income groups, either by having income limits for eligible occupants or having maximum house sales price or monthly rental amount set by an agency of the local, state or federal government or having such limits placed upon it as a result of financial or other direct assistance provided by another entity besides the owner or *developer*. Such housing may include workforce housing constructed by a *developer* as required by Article 5, *Incentives*, of this ordinance.

**Agricultural Use.** The use of land for a bona-fide farming operation. This includes: commercial agricultural enterprise; agriculture, ranching; aquaculture; apiculture; horticulture; viticulture; fish, meat, poultry and game birds processing, provided that fifty percent (50%) of the meats is processed must be raised on the site farm of the processing facility for minimum periods of three (3) months for beef and pork and two (2) for lamb and poultry; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry, game birds and poultry products; dairy production and processing of dairy products; horse breeding, boarding, riding and training facility; the production of field crops including but not limited to tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, mushrooms, timber, pasturage, Christmas trees, maple sap, woody biomass, compost; pick your own farm products; agricultural tourism; farm vacation and farm related experience, provided that there are not more than 5 lodging units; farm brewery and winery provided that all structures associated with the operation do not exceed 10,000 square feet; rental of garden plots; community supported agriculture; the warehousing, processing, value added, drying, storage, distribution and marketing of agricultural products when those



activities are conducted in conjunction with husbandry or production; and rental of existing farm building, for commercial storage (structure must have existed for 5 years).

**Airport or airstrip, private use.** Any airport licensed by the state as a private airport, used primarily by the airport licensee, but available for use by others upon specific invitation of the licensee.

**Alley.** See *Street, Service*.

**Alter or Alteration.** A change in the appearance of a *building*, structure, site, or object, which is not otherwise covered by the definition of demolition, or any other change for which a permit is required pursuant to this Ordinance.

**Antenna.** This refers to any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals.

**Apartment.** A multi-family dwelling unit contained in a *building* comprised of three or more dwelling units, each having an entrance to a hallway, stairway, or balcony in common with at least one other dwelling unit. See Figure 3.303F, *Multiplex and Multi-Family*.

**Appeal.** A way to obtain review of a decision, determination, order, or act of an administrator or administrative agency pursuant to the terms of this Ordinance.

**Applicant.** A person, firm, or governmental agency that executes the necessary forms to obtain *approval* or a permit for any zoning, subdivision, land development, *building*, land disturbance, or other activity regulated by this Ordinance.

**Approval.** Approval shall mean final action granting an application given by the appropriate administrative body specified in Article 11, *Administrative Bodies*, as having final approval responsibility.

**Area of Special Flood Hazard.** The land in the floodplain within a community subject to a one percent or greater chance of *flooding* in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the *FIRM*, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

**Arterial Street.** See *Street, Arterial*.

**Atrium House.** An attached, one-story dwelling unit with private individual access for a single family. Each unit shall have a private yard called an atrium. The entire *lot area* of atrium and house shall be enclosed by a wall. All living spaces (that is, living rooms, dens, or bedrooms) shall face an atrium. An atrium house is permitted only in planned developments as provided in Article 2, *Land Uses* and Article 3, *District and Bulk Standards*. See Figure 3.303C, *Patio and Atrium Houses*.

**Attic.** The area between roof framing and the ceiling of the rooms below and that is not habitable, but may be reached by ladder and used for storage or mechanical equipment. Improvement to habitable status shall make it a story.

**Awning or Canopy.** A structure partially attached or entirely supported by a wall and which is covered by canvas, cloth, plastic, other similar material used as a protective cover for a door, entrance, window, walkway, or service area.



**B**

**Back Office Operational Facilities.** Office facilities that include, administrative functions that support but are not directly involved in the operations of a business. Back office operations include the internal operations of an organization that are not accessible or visible to the general public. Typically, back offices are located in office space that is away from prime real estate, where the company’s headquarters may be located. They may include, but not be limited to, offices that manage a company’s accounting, administrative, information technology, and trading settlement operations. Such offices typically support the firms trading and underwriting activities but do not interact with clients.

**Base Flood.** The flood having a one percent chance of being equal to or exceeded in any given year.

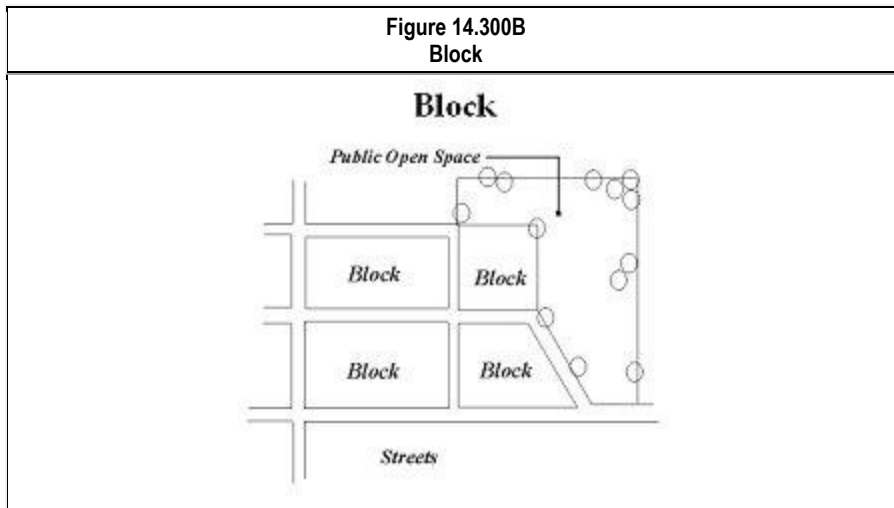
**Base Flood Elevation.** The elevation in Mean Sea Level of the Base Flood.

**Basement.** See *Story, First*.

**Base Site Area.** A calculated area obtained by subtracting various land areas from the gross site area. See Division 4.300, *Site Capacity Calculations*.

**Best Management Practices.** That combination of conservation measures, structures, vegetation, or management practices that reduces or avoids adverse impacts of development on an adjoining site's land, water, or waterways and water bodies.

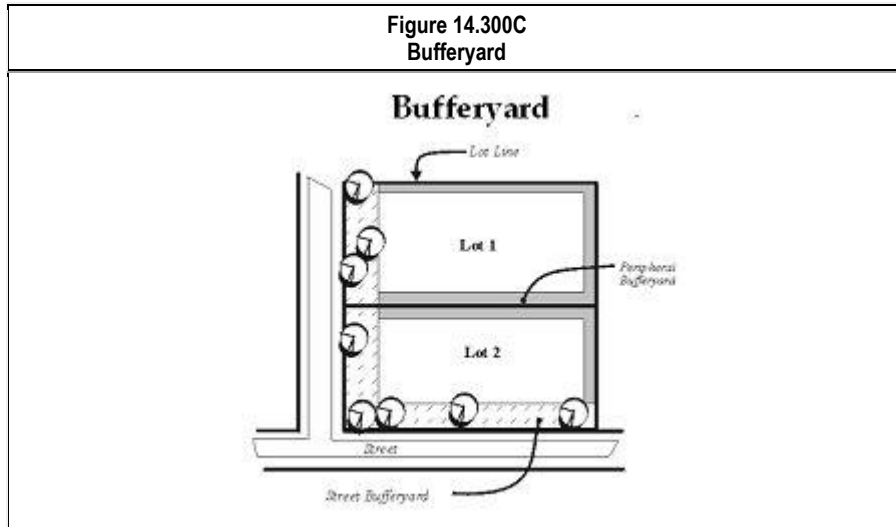
**Block.** A piece of land surrounded on all sides by streets or other transportation rights-of-way or by physical barriers such as water bodies or public open spaces. Blocks are normally divided into lots.



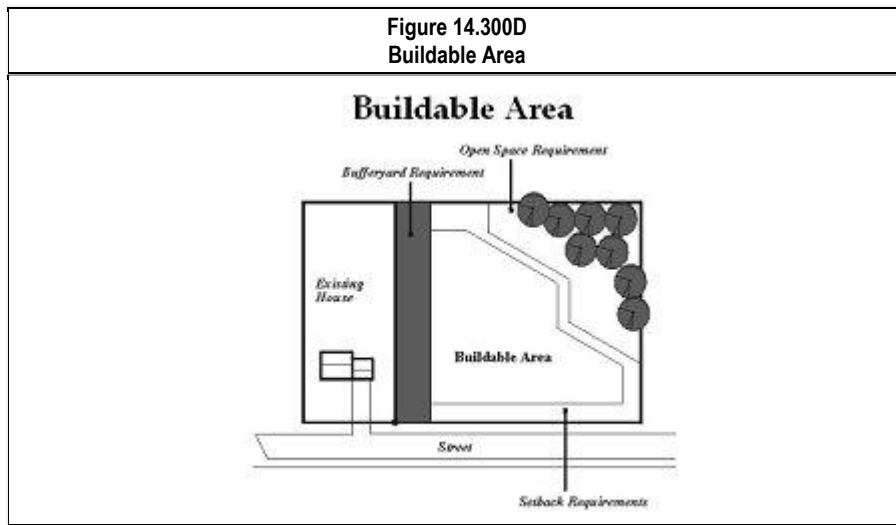
**Buffer.** A designated area between two uses deemed incompatible with each other, or along the perimeter of a natural feature to be protected from an incompatible use, or along the perimeter of that use, which will absorb or otherwise mitigate such incompatibility by some combination of construction design, vegetative plantings, fences, and/or maintenance practices which shall be permanently maintained.



**Bufferyard.** A strip of land on the periphery of a property created to separate one type of land use or zoning district from another when they are incompatible or in conflict. Bufferyards include street bufferyards that protect the use from road related nuisances or that screen undesirable uses.



**Buildable Area.** The space remaining on a lot after the minimum open space or landscape surface requirements, *bufferyards*, and setbacks have been met. See *Net Buildable Site Area*.



**Building.** A structure built on a lot, having a roof, and intended to shelter people, animals, property, or business activity. Any structure used or intended to be used for supporting or sheltering any use or occupancy. The word "building" shall be construed as if followed by the words "or part or parts thereof and all equipment therein."



**Building Front.** That exterior wall of a *building* which faces the front lot line.

**Building Height.** See *Height, Building*.

**Building Line.** That line formed by the rear, side, and street setbacks. Also see *Buildable Area*.

**Building Official.** The official who is responsible for the administration and enforcement of the County's technical building codes.

**Bulk Regulations.** Controls that establish the maximum size, height, and setback of a *building* on its lot. See Division 3.300, *Bulk Regulations*.

**Bulletin Board.** See *Sign, Bulletin Board/Marquee*.

**Business Park.** A development that contains a number of separate businesses, supporting uses, and open space designed, planned, constructed, and managed on an integrated and coordinated basis.

## C

**Calendar Day.** Consecutive days including Saturday, Sunday, or holidays. See also *Days*.

**Caliper.** The diameter of new landscape plantings measured six inches above ground.

**Canopy Tree.** See *Tree, Canopy*.

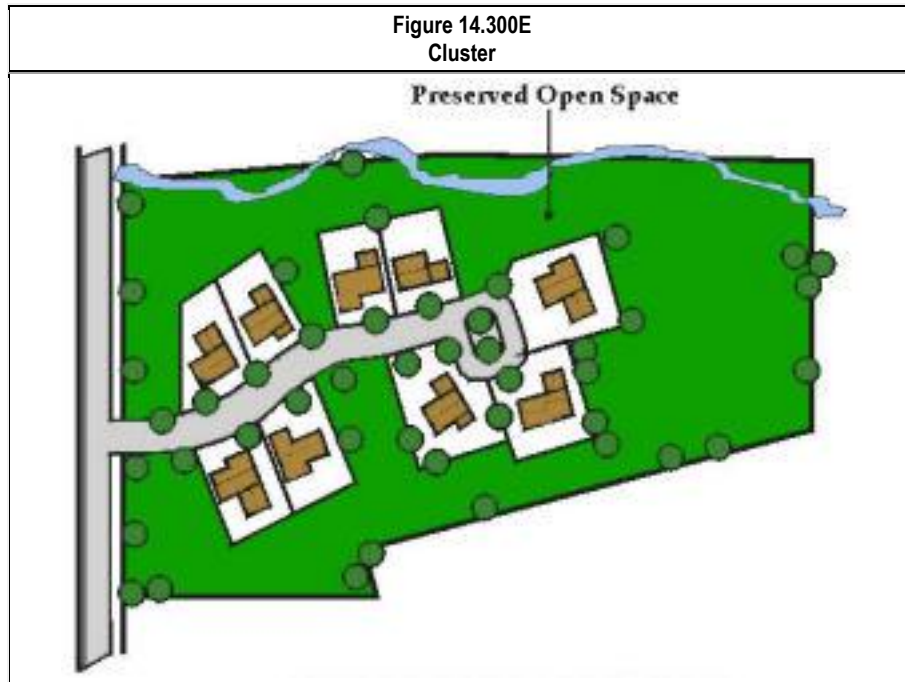
**Centralized Sewer System.** See *Sewer System, Centralized*.

**Certificate of Occupancy.** A statement signed by the Building Official setting forth that a *building*, structure, or use legally complies with this Zoning Ordinance and the applicable Building Codes and that the *building*, structure, or use may be used for the purposes stated therein.

**Clean Fill.** A non-decomposable, environmentally inert solid such as rock, soil, or gravel.

**Closing Costs.** The statutory charges for transferring title, fees for obtaining necessary financing, title examination fees, title insurance premiums, house location survey charges, and fees for preparation of loan documents for deeds of conveyance.

**Cluster.** A development pattern or design technique in which lots are grouped together, rather than spread evenly throughout a parcel as in conventional subdivision development. *Cluster* development allows the remaining land to be used for recreation, open space, and the preservation of natural resources. See Section 14.202B, *Single-family Cluster*.



**Collector Street.** See *Street, Collector*.

**Collector, Residential.** See *Street, Residential Collector*.

**Commencement of Construction.** Commencement of construction means that a building permit or other written permit required to be issued by the Building Official has been issued and work has commenced under such permit. This is recognizable upon an inspection of the property and which work is of a nature and character that reflects a good faith intention to continue the work until completion, such as the clearing of rights-of-ways, rough-grading of the roadway, the installation of a *drainage* system or stormwater management facilities, and the placement and active maintenance of erosion and sediment control measures.

**Commercial Vehicle.** A commercial vehicle shall be considered to be any truck, van, or automobile with lettering or other painting that advertises the company or business. Police and emergency service vehicles taken home by employees on call for service shall be excluded.

**Communications Antenna.** Any structure or device used to collect or radiate electromagnetic waves, including directional antennae, microwave and satellite dishes, and omni-directional antennae.

**Communications Tower.** A structure erected to support communications antennae.

**Communications Tower Height.** A communications tower shall be measured from the base on which the tower is mounted to the top of the tower or the antenna, whichever is greater.

**Community Impact Statement.** A community impact statement is a report on the projected impacts of a proposed development on the community. It includes:



- A. Basic descriptive information about the proposed development and the land upon which it is proposed to be situated.
- B. A tentative schedule for development.
- C. A study demonstrating market feasibility or, in the case of utility applications, the need for additional utility capacity.
- D. A study of the physical impacts of the proposed development on:
  - 1. *drainage*
  - 2. farmland
  - 3. wildlife
  - 4. *groundwater*
  - 5. surface water
  - 6. community character
  - 7. traffic
  - 8. public utilities
- E. A study of the economic impacts of the proposed development.
- F. A study of the social impacts of the proposed development.

**Community Sewer System.** See *Sewer System, Community*.

**Completeness Review.** The completeness review determines not only whether the applicant has submitted all required information, but also includes the technical review of the material to determine whether the plan and infrastructure is properly designed and will function adequately. A submission requires impact fees, roads, sewer, water, and zoning that only a thorough review by agencies responsible for these items can determine whether the information is present and correct. The drawing, engineering and otherwise, must work when built in the field on the conditions of the site. Agency reports on the plan are part of the required application to the Planning Commission. The developer's submission and agency review are essential to provide a complete application that can be reviewed by the Planning Commission and citizens.

**Comprehensive Amendment.** Any *map amendment* affecting all land in a district or any change in a map affecting more than 100 lots or parcels of land.

**Comprehensive Plan.** A plan for physical development, including land use, adopted by a governing body, setting forth guidelines, goals and objectives for all activities that affect growth and development in the governing body's jurisdiction. (*Source: W.Va. Code §8A*)

**Comprehensive Rezoning.** A County initiated rezoning intended to guide and control future growth consistent with the spirit and intent of the Comprehensive Plan.

**Conditional Use.** A use, which because of special requirements or characteristics may be permitted in a particular zoning district only after review by the Board of Zoning Appeals and upon issuance of a conditional use permit, and subject to the limitations and conditions specified in the Zoning Ordinance. (*Source: W.Va. Code §8A.*)



**Conservation.** The planned management of a natural feature to prevent its exploitation, destruction, or neglect.

**Conservation Area.** An area designated on the land development plan intended to preserve and protect natural resources or a public or private land use that preserves an area in a natural condition.

**Conservation Easement.** A conservation easement is a recorded document that restricts the use of land to uses that are compatible with environmental conservation, historic preservation, or *open space* preservation. Conservation *easements* do not involve transfer of fee simple title to the property to be conserved.

**Constructed Wetland.** A low-lying area, artificially created by dredging, damming, or berming of earth for the retention of water and the establishment of a hydrophytic vegetative community.

**Construct or Construction.** The erection of a new *building*, structure, or object upon a site.

**Contiguous.** Lots, parcels, municipal boundaries or county boundaries that are next to, abutting and having a boundary, or portion thereof, that is coterminous. Streets, highways, roads or other traffic or utility *easements*, streams, rivers, and other natural topography are not to be used to determine lots, parcels, municipal boundaries or county boundaries as contiguous. (Source: W.Va. Code §8A)

**Conversion, Building or Use.** The process by which the original use of a *building* or land is changed to a different use. Also see *Addition* and *Structural Alterations*.

**Copy, Changeable.** A sign message where the copy may be changed, manually or electrically.

**Copy Area.** Includes the entire sign area, excluding trim, moldings, battens, cappings, and nailing strips.

**Covenant or Restrictive Covenant.** A restriction on the use of land set forth in a formal binding agreement. Restrictive covenants run with the land and are binding upon subsequent owners of the property.

**Creative worker.** *Creative workers* are those workers that produce cultural goods and services. They include those engaged in producing primary creative output; those engaged in interpretive activity; and those supplying creative services to support arts and cultural production. Those in the first group those who produce objects or services include, but are not limited to writers (for all media); musicians; visual artists; film, television and video makers; sculptors, jewelry makers, and craftspeople; and so on. Those in the second group could also be classified according to the end-product, i.e. as performers interpreting works of drama, dance, music etc. in a wide variety of media from live performance to digital transmission via the internet. The third group, comprising those supplying creative services in support of arts and cultural production, would include workers such as book editors, lighting designers, music producers and so on, in all of whose work some creative input is required.

**Critical Feature.** An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**Cut-off.** The point at which all light rays emitted by a lamp, light source, or *luminaire* are intercepted by a shield preventing their continuation. For signs, the term "cut-off" simply refers to the use of shields to direct the light so light rays shine exclusively on the sign.

**Cut-off Angle.** The angle, formed by a line drawn from the light source to the ground and a line perpendicular to the ground from the light source, above which no light is emitted.



**Cut-off-type Luminaire.** An outdoor lighting fixture, or luminaire, with shields, reflectors, or refractor panels which direct and cut off the light at an angle that is less than 90 degrees. See Section 7.403, *Nonresidential Lighting Standards*.

**Cutout.** An appendage to a sign extending outside of the regular square or rectangular sign area. The area of a cutout shall not exceed 10 percent of the sign area. Cutouts shall be included in sign area calculations for the purposes of this Ordinance.

## D

**Day-Night Level (DNL).** A measure of noise that is an outdoor, day-night average, A-weighted sound level.

**Days.** Working days meaning a day of the week, excluding Saturday, Sunday, and designated holiday observances, on which the office of the County Clerk is open during its customary hours of 9:00 a.m. through 5:00 p.m.

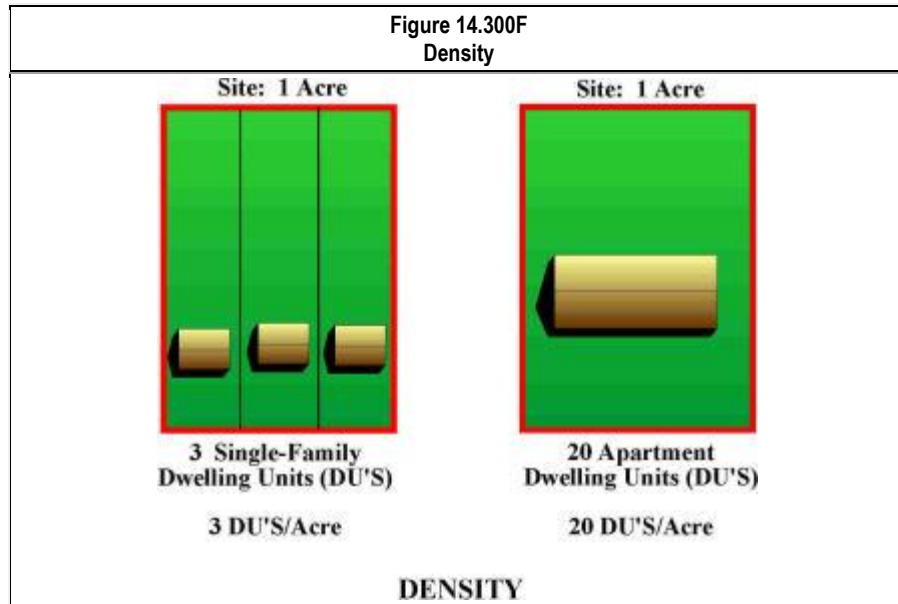
**dBA.** Means the sound pressure level in decibels measured using the “A” weighting network on a sound level meter.

**Dedication.** The transfer of private property to public or common ownership for a public purpose. The transfer may be in fee simple interest or less than fee simple interest, including *easements*. Dedication requires the acceptance of the interest to be complete.

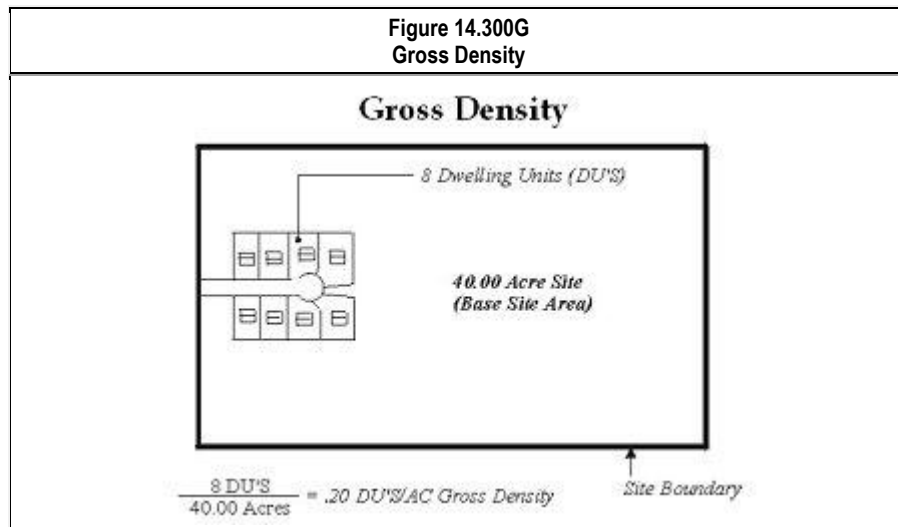
**Deed Restriction.** A restriction placed within a deed that controls the use of the property. Deed restrictions travel with the deed, and therefore with the property, and cannot generally be removed by new owners.

**Demolish.** Demolition or demolish means the razing or destruction, whether entirely or in significant part, of a *building*, structure, site, or object. Demolition includes the removal of a *building*, structure, or object from its site, the removal or destruction of the *facade* or surface, or the *alteration* to such an extent that repair is not feasible or is so costly so as to be prohibitive, rendering the property unfit for use. Demolition shall also include demolition by neglect.

**Density.** The average number of dwelling units allowed on an acre of land. It may also measure the families, housing units, rental rooms, or persons. For example, the figure below shows two types of land uses on an acre of land. The first shows a density of three homes per acre. The second shows a density of 20 *apartment* units per acre.

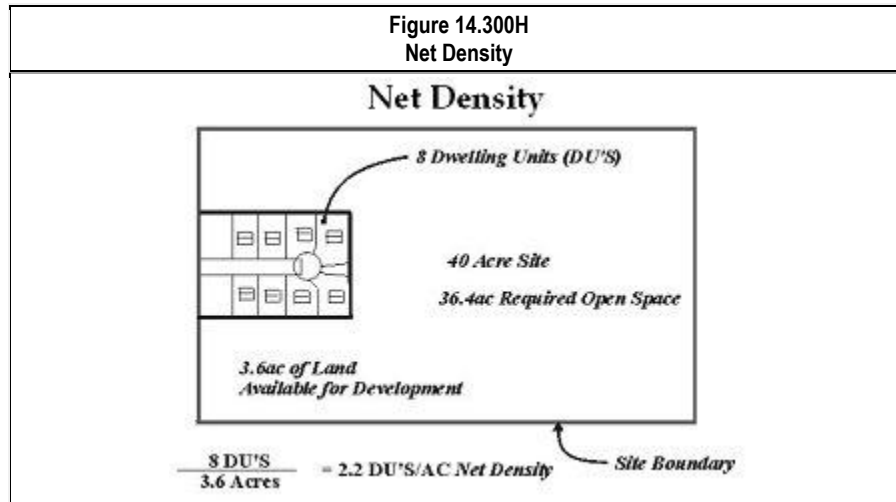


**Density, Gross (GD).** The total number of dwelling units on a site divided by the *base site area*.





**Density, Net (ND).** The number of units per net *buildable area* of the site.



**Department.** See Section 14.101, *Word Usage*.

**Design Storm Frequencies.** Time interval in years at which a storm occurrence has a chance to exceed or equal the storm of specific duration and *intensity* used in design of *drainage facilities*.

**Detention/Retention Basin.** A natural or man-made structure designed as a temporary holding basin for water. Water may be detained to minimize *flooding* downstream or retained to increase aquifer recharge.

**Developer.** A person seeking to build or develop as defined in this Ordinance.

**Development.** Construction of a new building or other structures on a lot, the relocation of an existing building on another lot, or the use of open land for a new use. In addition, it also means any man-made change to improved or unimproved real estate, including, but not limited to, parking, fences, pools, signs, temporary uses, clearing of land, dredging, *filling*, grading, paving, or excavation. (See Section 1.103 *Land Use Patterns and Community Character*).

**Diameter at Breast Height (DBH).** A measurement of the size of tree equal to the diameter of its trunk measured four and one-half feet above the adjacent natural *grade*. See also *Caliper*.

**Disposal Field.** A system of open jointed or perforated pipes laid in the upper strata of the soil to distribute sewage effluent into the soil for absorption and vaporization.

**Domestic Animals.** The normal farm animals and house pets. Wild animals, birds, reptiles, or other species are expressly excluded.

**Dormitory.** A *building* with many rooms providing sleeping and living accommodations for a number of usually unrelated persons; usually associated with an educational institution. See Section 2.414, *College or University*.

**Drainage.** The process by which surface water (usually from rainfall) moves across the land surface. See Division 22.400, *Drainage*.



**Drainage Areas.** The delineated areas that currently contribute or are proposed to contribute runoff to a specific location or point.

**Drainage Facility.** Any system of artificially constructed drains, including open channels and separate stormwater sewers, used to convey stormwater, surface water, or groundwater, either continuously or intermittently, to natural water courses.

**Drip-line.** A generally circular line, the circumference of which is determined by the outer reaches of a tree's widest branching points.

**Driveway.** A private accessway, primarily for vehicles, leading from a street to a parking or loading area.

**Dry Waste.** Includes clean fill, plastics, lumber, trees, stumps, vegetative matter, asphalt pavement, asphaltic products incidental to construction/demolition debris, or other materials which have reduced potential for environmental degradation and leachate production.

**Duplex.** A form of multi-family dwelling with no more than two units per structure, located one over the other. See Section 3.303B, *Twin Houses and Duplexes*.

**Duplex Townhouse.** A townhouse where there are units on separate floors. See *Duplex*.

**Dwelling.** A *building*, or portion thereof, used as a place of residence, containing sleeping, cooking, and sanitary facilities, excluding commercial lodging facilities.

**Dwelling, Attached.** Two or more *dwelling units* in a single structure or attached structures, each of which could have a single lot, which are separated from each other by a dividing wall. Such units may be side-by-side, back-to-back, or both. This includes two-family dwellings.

**Dwelling, Multiple-Family.** A structure containing more than one *dwelling unit* with either direct access to the outside or through a common hallway, with a separate kitchen facility and living quarters in each unit.

**Dwelling, Single-Family Detached.** A *dwelling unit*, designed for and occupied by not more than one family and having no roof, wall, or floor in common with any other dwelling unit.

**Dwelling Unit.** One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family, with separate facilities for all of the following: sanitation, living, sleeping, cooking, and eating.

## E

**Earthen Berm.** A man-made mound of earth in excess of two feet in vertical height used to shield or buffer properties from adjoining uses, highways, or noise or to control the direction of surface water flow.

**Easements.** Any portion of a parcel subject to an agreement between the property owner and another party which grants the other party the right to make *limited use* of that portion of the property for a specified purpose. See *Conservation Easement*.

**Elderly.** A person who meets the criteria set forth in the *Older Americans Act of 1965*, as amended.

**Elevated Building.** A non-basement building:



- A. Built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor or, in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and;
- B. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

**Elevation Certificate.** A FEMA form to be completed by a professional engineer or surveyor to document the elevation of the *lowest floor*, including basement, of all new and substantially improved structures.

**Endorsement.** The signature of the Zoning Administrator appended to the final plat to signify *approval* thereof.

**End Use Plan.** A plan for the use of a quarry or landfill or similar use for its use after the primary use is closed.

**Engineer, Professional.** An individual technically and legally qualified to practice the profession of civil engineering and who is registered to do so in the State of West Virginia.

**Environmental Report.** Any study, report, or application required by this Ordinance, such as critical natural areas, floodplains, riparian buffers, *steep slopes*, water resource protection areas, and wetlands.

**Erosion.** The wearing away of soil or rock fragments by water, rain, wind, or earth gravity.

**Essential Access.** An access that must cross a resource restricted area, such as a wetland or steep *slope*, to reach an area of the site that is otherwise buildable and would result in damage to the restricted resource.

**Existing Construction.** For the purposes of determining rates, this means structures for which the "*start of construction*" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

**Expressway.** A limited access highway designed to carry regional traffic. All intersections shall be *grade* separated.

**Exterior Architectural Features.** The architectural character and general composition of the exterior of a *structure*, including, but not limited to, the kind, color and texture of the building material, and the type, design and character of all windows, doors, massing and rhythm, light fixtures, signs, other appurtenant elements and natural features when they are integral to the significance of the site, all of which are subject to public view from a public street, way or place. (*Source: W.Va. Code §8A*)



**Exterior storage.** Outdoor storage of fuel, raw materials, products, equipment, and other materials used in commercial, office, or industrial activities. Exterior storage includes all building materials or waste or scrap materials stored outdoors.

## F

**Facade.** See *Building Front*.

**Family.** Any number of individuals legally related through blood, marriage, adoption, or guardianship, including individuals placed for foster care by an authorized agency, or up to four unrelated individuals living and cooking together and functioning as a single housekeeping unit using certain rooms and housekeeping facilities in common.

**Family Child Care Home.** A facility which is used to provide nonresidential child care services for compensation in a provider's residence. The provider may care for four to six children, at one time including children who are living in the household, who are under six years of age. No more than two of the total number of children may be under twenty-four months of age.

**Family Child Care Facility.** A facility which is used to provide nonresidential child care services for compensation for seven to twelve children, including children who are living in the household, who are under six years of age. No more than four of the total number of children may be under twenty-four months of age. A facility may be in a provider's residence or a separate building.

**Farm.** See Section 14.201, *Agricultural Uses*.

**Farmstead.** See Section 14.201, *Agricultural Uses*.

**Fascia.** A band located at the top edge of a *building*, but below the actual roofline and above the building wall. Fascia material is often of a different type than either the actual roof or the building wall.

**Filling.** The depositing on land, whether submerged or not, of sand, gravel, earth, or other materials. Biodegradable materials and other materials subject to decomposition or significant settling (such as garbage and other organic matter) shall not be considered filling.

**Final plat.** A complete and exact subdivision plan prepared in conformity with the provisions of this Article and in a manner suitable for recording with the County Clerk of the county in which the subdivision is located.

**Flag.** A flexible piece of fabric, normally rectangular and attached on one side to a pole or rope, with printed or embroidered insignia that symbolizes a nation, state, or organization. A picture or replica of a flag shall be excluded from this definition.

**Flag Lot.** See *Panhandle Lot* or Section 21.302, *Flag Lots*.

**Flood Insurance Rate Map (FIRM).** An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study.** The official report provided by the Federal Emergency Management Agency. The report contains flood profiles and *water surface elevation* of the base flood, as well as the Flood Boundary-Floodway Map.

**Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from:



- A. The overflow of inland and tidal waters.
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Proofing.** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

**Flood Protection System.** Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, *levees*, or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**Floodway.** The channel of a river or other *watercourse* and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the *water surface elevation* more than a designated height.

**Floodplain or Flood Prone Area.** A relatively flat or low-lying land area adjoining a river, stream, or *watercourse* which is subject to periodic partial or complete inundation (see *Flood* or *Flooding*). It includes:

- A. Those areas identified by the Federal Emergency Management Agency's (FEMA) *Flood Insurance Rate Maps* (FIRM) as being subject to periodic inundation by a 100-year storm, including the floodway, flood fringe and areas for which no base flood elevations area available as depicted in the FEMA Flood Insurance Rate.
- B. Those lands where a detailed study has not been performed, but where a 100-year flood boundary has been approximated. All land subject to inundation by the 100-year flood shall be considered floodplain. The actual elevation shall be established after consideration of any flood elevation, flood line, or floodway data available from federal, state, local, or other sources. The approximate floodplain appears on *Flood Insurance Rate Maps* and flood boundary and floodway maps, where it may appear as Zone A.
- C. The annual floodplain based on annual floodplain soils based on the Jefferson County Soils Survey.
- D. Historical floodplains as determined by historic records.

**Floodplain Administrator.** A person accredited by the Board and assigned by the County to administer and implement laws and regulations relating to the management of the floodplains.

**Floodplain or Flood-Prone Area.** Any land area susceptible to being inundated by water from any source. (See *Flood* or *Flooding*).

**Floodplain Management.** The operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain Management Regulations.** The zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance,



and erosion control ordinance), and other applications thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing.** Any combination of structural and nonstructural *additions*, changes, or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of *buildings*.

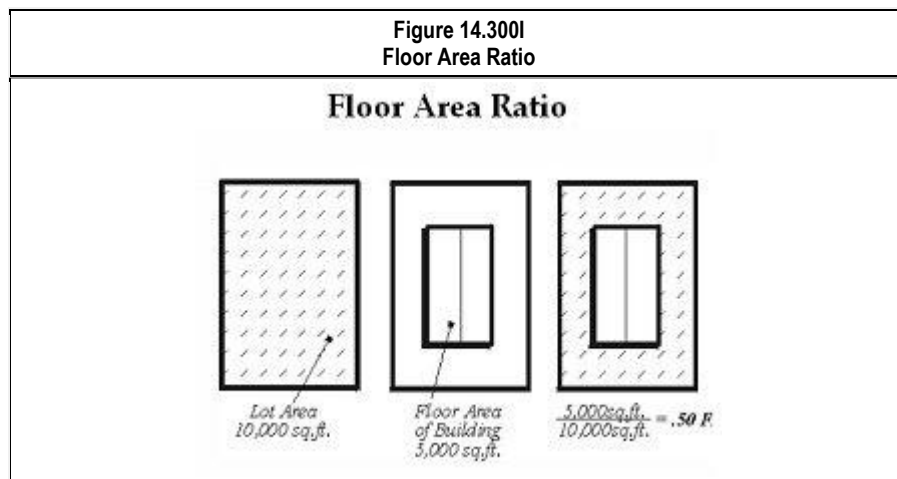
**Floodproofing Certificate.** A FEMA form to be completed by a professional engineer or surveyor to certify that a floodproofed, nonresidential *building* has been constructed in accordance with NFIP requirements.

**Flood Protection Elevation.** A point two feet above the *water surface elevation* of the 100-year flood.

**Floodway.** The portion of the floodplain where water velocities are high and the majority of the discharge the waters of the 100-year flood occurs as delineated on the Federal Emergency Management Agency's (FEMA) *Flood Insurance Rate Maps* (FIRM).

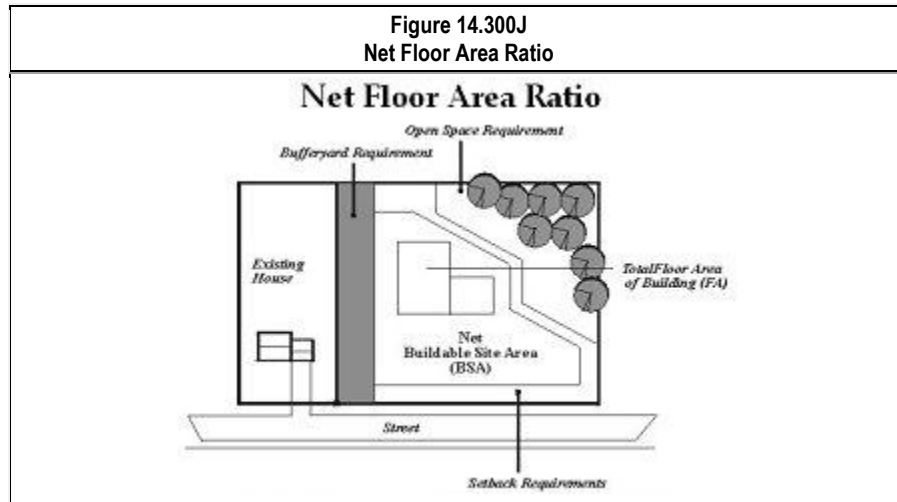
**Floor Area, Gross.** See *Gross Floor Area (GFA)*.

**Floor Area Ratio (FAR).** A measure of the allowable size of floor area on a lot compared to the size of the lot. FAR gives developers flexibility in deciding whether to construct a low *building* covering most of the lot or a tall building covering only a small part of the lot, as long as the total allowable floor area coverage is not exceeded.



**Floor Area Ratio, Gross (GFAR).** The *total floor area* (FA) of a *building* or structure divided by the *base site area*.

**Floor Area Ratio, Net (NFAR).** The *total floor area* (FA) of a *building* or structure divided by the *net buildable site area (BSA)*.



**Footcandle.** A unit measuring the amount of illumination produced on a surface. One footcandle is the amount of illumination falling on all points which are one foot from a uniform point source of one candle.

**Forester.** A person possessing a Bachelor's Degree in forestry or closely related field.

**Forest Management Practices.** That combination of generally accepted methods for preserving, promoting, and protecting silviculture, which may include selective cutting, burning, and removal of trees.

**Freeboard.** Vertical elevation between 100-year flood elevation level and the *top of bank* or grade.

**Front Lot Line.** See *Lot Line*.

**Front Street Yard.** Open space extending across the full width of the lot between the *front lot line* and the nearest line of the building or any enclosed portion thereof.

**Frontage.** The horizontal distance between the side lot lines measured at the point where the side lot lines intersect the street right-of-way. On curvilinear streets, the arc between the side lot lines shall be considered the lot frontage.

**Functionally Dependent Use.** A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**G**

**Garage, Private.** A garage accessory to a principal *building*, used for storage purposes only and in which no business, service, or industry is conducted.

**Garage, Public.** A garage available to the public for free or for fee.

**Garage Sales.** See Section 14.209, *Temporary Uses*.



**Garden Apartments.** See *Apartment*.

**Glare.** Light emitting from a *luminaire* with an *intensity* great enough to reduce a viewer's ability to see and in extreme cases to cause momentary blindness.

**Grade.** The natural level of the ground adjoining the object whose height is to be measured. Where grade refers to a street or road, it is the existing grade at that point.

**Grading.** The excavating, filling (including hydraulic fill), or stockpiling of earth materials, or any combination thereof, including the land in its excavated or filled condition.

**Gross Area.** The total land and water surface area contained within the boundaries of a lot or tract.

**Gross Floor Area (GFA).** The sum of the total horizontal areas of every floor of every *building* on a lot. The measurement of gross floor area shall be computed by applying the following criteria:

- A. The horizontal square footage is measured from the outside face of all exterior walls.
- B. Cellars, *basements*, penthouses, *attics*, covered or uncovered porches, balconies and decks, enclosed storage or mechanical areas, mezzanines, and similar structures shall be included as GFA wherever at least seven feet are provided between the finished floor and the ceiling.
- C. No deduction shall apply for horizontal areas void of actual floor space (for example, elevator shafts and stairwells). The protected upper floors of open atriums and foyers shall not be included.

**Gross Vehicle Weight.** The weight of the vehicle without passengers.

**Ground Sign.** See *Sign, Ground*.

**Groundwater.** A portion of the subsurface water that occurs beneath the water table in soils and geologic formations that are fully saturated.

**Guyed Tower.** Any communications tower using wire guys connecting above-grade portions of a communications tower diagonally with the ground to provide support for tower, antennae, and connecting appurtenances.

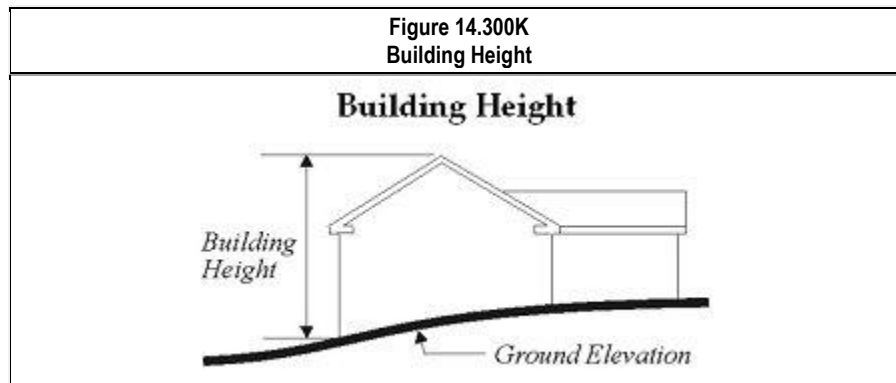
## H

**Hamlet.** See Division 10.200, *Hamlet Design*.

**Hamlet Transit Area.** All portions of any proposed hamlet that are located within a 2,000 feet radius of a train depot or station and/or any parking area associated with such station.

**Hazardous Substance.** Any substance as found in the federal regulation 40 CFR 116, Designation of Hazardous Substances.

**Height, Building.** The maximum height of a *building* permitted on a lot. Building height is determined from the vertical distance as measured from the lowest ground elevation on the building to the highest point on the *building*, excluding chimneys and antenna.



**Height, Sign.** The vertical distance measured from the highest of the adjacent sidewalk grade, adjacent street grade, or upper surface of the street curb to the highest point of the sign. Elevated roadways shall not be used to measure sign height.

**Highest Adjacent Grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Highly Vulnerable Area.** An area where the combination of soils, subsurface conditions, geologic features, hydrology, population density, and Source Water Protection Areas makes the aquifer and groundwater highly vulnerable to contamination.

**Highway.** Any road thoroughfare, street, *boulevard*, lane, court, trailway, right-of-way, or easement used for, or laid out and intended for, public passage of vehicles or persons.

**Historic District.** A geographically definable area, designated as historic on a national, state or local register, possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development.

**Historic Resource.** Any Historic Structure or Historic Site.

**Historic Site.** The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure whether standing, ruined or vanished, where the location itself possesses historical, cultural or archaeological value regardless of the value of any existing *structure* and designated as historic on a national, state or local register, or individually listed on a local inventory of historic places. (Source: *W.Va. Code §8A*)

**Historic Structure.** Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;



- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - 1. By an approved state program as determined by the Secretary of the Interior, or
  - 2. Directly by the Secretary of the Interior in states without approved programs.

**Home Occupation.** See Section 14.203, *Home Uses*.

**Homeowner.** Homeowner shall mean and refer to those individuals who accept a deed to a lot or dwelling unit.

**Housing Initiative Fund.** A fund established by the County Commissioners to facilitate affordable housing.

**Hotel.** See Section 14.205, *Commercial Uses*.

**Hydric Soils.** Soils which, in their natural, undrained state, are wet frequently enough at or near the surface to periodically produce anaerobic conditions, thereby influencing plant species' composition and/or growth.

**Hydrophytic Vegetation.** Those plants which are adapted to life in saturated soil conditions.

**I**

**Impervious Surface Ratio (ISR).** The proportion of a development that is impervious surface. It is determined by dividing the area in impervious surface by the *base site area*.

**Impervious Surfaces.** Areas that do not allow significant amounts of water to penetrate.

**Individual Sewer System.** See *Sewer System, Individual*.

**Infiltration.** The passage or movement of water through the soil profile.

**Institution.** A public charitable, religious, or educational organization or entity which shall include such uses as any church, school, college, hospital, YMCA, YWCA, civic use, library, museum, park, or playground.

**Intermittent Stream or Ephemeral Stream.** A well-defined channel with banks and a bed within which concentrated water flows only part of the year during normal hydrologic conditions.

**Intensity.** The degree to which land is allowed to be used for development. See *Density* and *Floor Area Ratio*.

**J**

**Jefferson County Comprehensive Plan.** The Jefferson County Comprehensive Plan refers specifically to Jefferson County's comprehensive, long-range plan intended to guide the growth and development of the County, which includes goals, objectives, policies, and actions for land use, transportation, utilities, communications technology, parks and recreation, corridor design, economic development, and public facilities, as amended from time to time. (For the generic definition of "comprehensive plan" specified by Chapter 8A of West Virginia Code, see the definition of "comprehensive plan.")

**K**

**Karst Feature.** Karst topography is a landscape created by groundwater dissolving sedimentary rock such as limestone. Karst features include sinkholes, fissures enlarged by dissolution, and caves. Karst features may be open or filled and may have standing water or stream flow. There may be one feature alone or in groups, usually trending in linear groups along fractures or fissures.

**L**

**Land Development Plan, Major.** See *Major Land Development Plan*.

**Land Development, Minor Plan.** See *Minor Land Development Plan*.

**Land Grading.** See *Grading*.

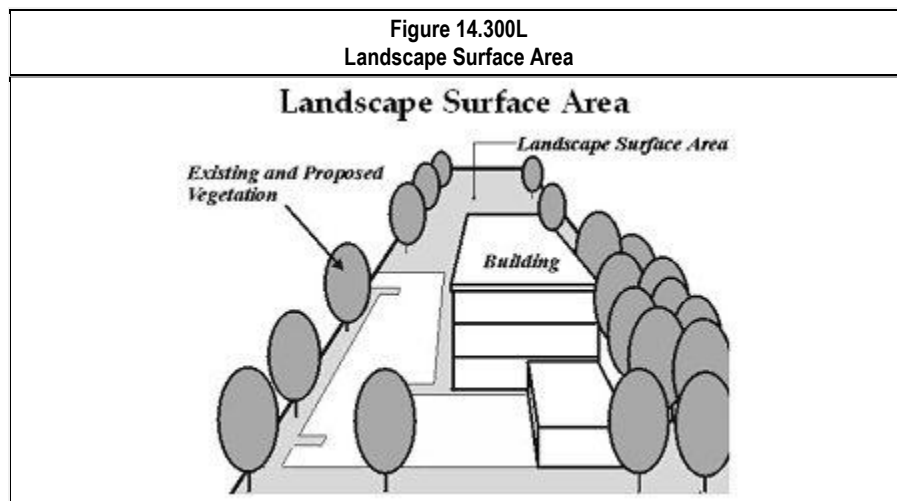
**Land, Improved.** Vacant land that has been provided with power, water, sewage, streets and sidewalks, and other infrastructure.

**Landowner.** The holder of legal title to the land as recorded by the County Recorder.

**Landscape Architect.** An individual registered by the State to practice the profession of landscape architecture.

**Landscape Plan.** A plan associated with a subdivision, land development, or parking facility plan indicating the placement of trees, shrubs, groundcover, and affiliated structures and improvements, including specifications, species, quantities, and installation as prepared by a West Virginia registered Landscape Architect.

**Landscape Surface Area.** Surface area of land not covered by any *buildings*, storage areas, or impervious surface. These areas shall be maintained as lawn or a natural area and may be left undisturbed.



**Landscape Surface Ratio (LSR).** The area of landscaped surface divided by the *base site area*.



**Landscaped Area.** The modification of the landscape for an aesthetic or functional purpose in an area, which includes the preservation of existing vegetation and continued maintenance, together with grading and installation of minor structures and appurtenances.

**Landscaping.** The design and installation of plant material such as lawns, groundcover, trees, bushes, etc., in formal, informal, or natural arrangements.

**Lattice Tower.** A structure which consists of vertical and horizontal supports and metal crossed strips or bars to support antennae and connecting appurtenances. Lattice towers may be freestanding or supported by wire guys. (See *Guyed Tower*.)

**Leachable Wastes.** Waste materials including, without limitation, solids, sewage sludge, and agricultural residue, which may release water-borne contaminants to the surrounding environment.

**Leachate.** Liquid that has passed through, contacted, or emerged from dry waste and contains dissolved, suspended, or miscible materials, chemicals, and microbial waste products removed from the dry waste.

**Lessee.** Any person who leases all or a portion of a premise on a day-to-day, week-to-week, or month-to-month basis.

**Levee.** A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**Levee System.** A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**Level of Service (LOS).** A measure of traffic on a roadway segment or intersection being used during peak hours, as determined by the most current version of Report 209, the Highway Capacity Manual, prepared by the National Research Council's Transportation Research Board. Level of service is expressed on a scale of "A" to "F" with "A" indicating the best level of service and "F" indicating the worst. The definitions of levels of service "A" through "F" shall be those contained in the references cited in this definition.

**Limited Use.** A permitted use that has a number of special restrictions that may prohibit the use being developed on every property or control its design in detail.

**Limited Use Permit.** A permit indicating the use has been approved as meeting all the standards of this code.

**Loading Space.** A durably paved, properly designed for drainage, off-street space used for the loading and unloading of vehicles, except passenger vehicles, in connection with the use of the property on which such space is located.

**Local Street.** See *Street, Local*.

**Local Residential Access Street.** A street that provides access to individual residential lots.

**Lot.** A parcel of land whose boundaries have been established by a legal instrument such as a recorded deed, court order, or a recorded plat, which is recognized as a separate legal entity for purposes of transfer of title.



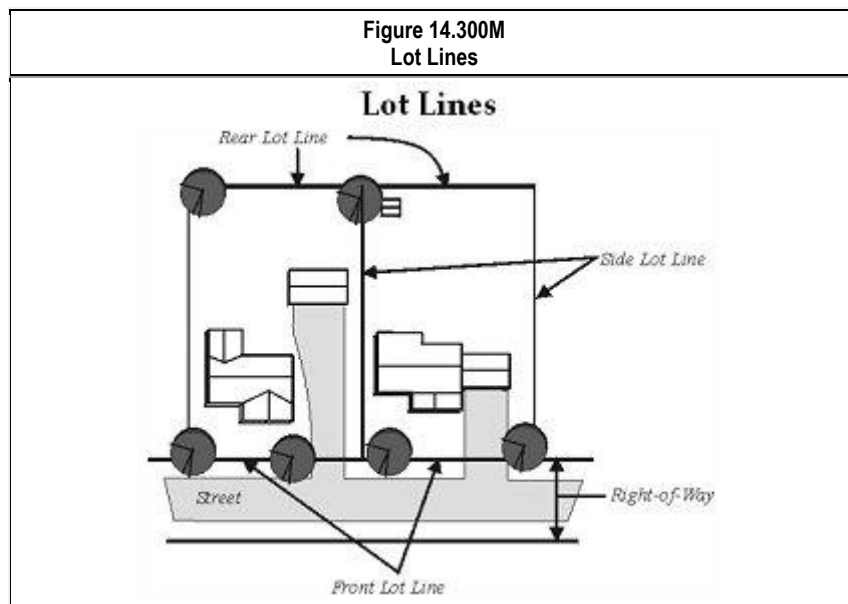
**Lot Area.** The area of a lot taken at its perimeter exclusive of any portion within a public or private street right-of-way.

**Lot Coverage.** That portion of the lot area that is covered by *buildings*.

**Lot, Depth.** The average depth measured in the mean direction of the side lot lines from the front street line to the rear lot line. The rear line shall be deemed to be not farther back than a line drawn parallel with the front *street line*, entirely on the lot, and not less than 10 feet long.

**Lot Line.** A line, including property line or a lease line, dividing one lot from another or from a street or other public place. There are basically four types of lot lines -- front, rear, side, and street.

- A. **Front lot line.** The street lot line from which the unit takes access or, where more than one street yard could safely provide this access, the street serving the smallest traffic volume.
- B. **Rear lot line.** The *lot line* opposite the front lot line.
- C. **Side lot line.** The *lot line* that runs generally perpendicular or at angles to the street or any line that is not a front, street, or rear lot line.
- D. **Street lot line.** Any *lot line* that is also a street right-of-way line.



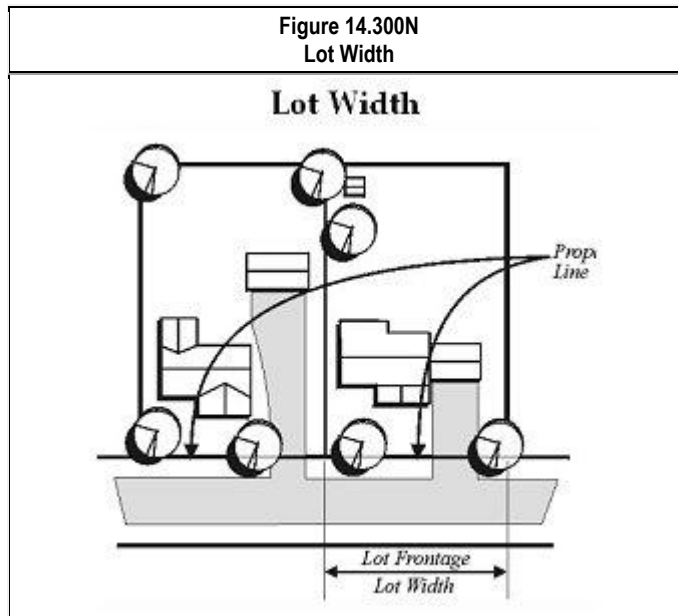
**Lot-Line House.** A dwelling type consisting of a single-family, fully detached residence located on an individual lot with only one side yard. No windows are permitted on the zero lot line wall of the house. The zero lot line may be achieved by:

- A. Placing the house on a side lot line and providing a maintenance easement six feet wide on the adjoining lot; or
- B. Locating the house so as to provide two *side yards*, one of which shall be a six-foot side yard with a use easement for the neighboring property.



**Lot, Panhandle.** See *Panhandle Lot*.

**Lot Width.** The distance across the lot (side lot line to side lot line) at the minimum front setback line or at the midpoint of the *buildable area*, whichever is less. Lot width is also the measure of frontage for lots (see *Frontage*).



**Low Income.** The levels of income within the income range for "very low income families" established from time to time by the U.S. Department of Housing and Urban Development for Jefferson County, West Virginia under federal law.

**Low-Quality Woodland.** A small (less than 20 acres) or edge-dominated (less than 200 feet wide) woodland that is dominated by invasive or exotic species or contains a majority of diseased or dead trees.

**Lowest Floor.** The lowest habitable floor of the lowest enclosed area, including *basement*, intended for human occupancy, excluding storage, mechanical, and parking.

**Luminaire.** A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts ready to be mounted on a pole or other location.

**Luminaire, Cut-off-type.** See *Cut-off-type Luminaire*.

**M**

**Maintenance Corporation.** Maintenance Corporation shall mean and refer to a body of persons legally responsible for the maintenance of private open spaces and/or common facilities.

**Maintenance Guarantee.** A guarantee of facilities or work to ensure the correction of any failures of any improvements required pursuant to this Ordinance or to maintain same.



**Major Change.** A change to the plan that increases *density* or floor area, decreases open space, *bufferyards*, or parking, or which *alters* the alignment or layout of streets by more than five feet. For conditional *approvals* granted prior to the effective date of this Ordinance, any use proposed not contained in the original advertisement shall be considered a major change.

**Major Collector Street.** A street intended to gather traffic from local nonresidential access streets and convey it to higher level streets. Note: This street does not serve individual nonresidential lots. Located in nonresidential areas or developments, this street type collects and moves a high volume of traffic from local nonresidential access streets.

**Major Land Development Plan.** A plan that proposes one or more of the following:

- A. A new public or private street or dedication to public use of an existing street.
- B. *Building(s)* of 20,000 square feet or more of GFA on an undeveloped site.
- C. *Addition(s)* to existing development of 10 percent or more of existing GFA or *additions* of 50,000 square feet or more of GFA.
- D. Subdivision of five lots or more.
- E. *Apartment* or multi-family development of 10 or more dwelling units.

**Manufactured Home.** See *Mobile Manufactured Home*.

**Map Amendment.** An amendment to zoning that involves a change of one or more district boundaries as shown on the Zoning Maps and/or a change in the zoning classification of specific property.

**Marina.** A facility for storing, servicing, fueling, berthing, securing, and launching private boats. It may include supporting facilities and services.

**Marl Wetland.** See *Wetland, Marl*.

**Marquee.** A hood, *awning*, or permanent roof type construction which projects from the wall of a *building* above an entrance for movie theaters and similar uses.

**Mature Woodland.** See *Woodland*.

**Maximum Aggregate.** The total of the sign area of all signs located on a parcel, excluding wall signs.

**Maximum Gross Density.** See *Density, Gross* (GD).

**Maximum Net Density.** See *Density, Net* (ND).

**Maximum Permitted Illumination.** The most illumination, measured in footcandles, that is allowed at the interior lot line or *bufferyard* line, if a *bufferyard* is required, at ground level.

**Mean Sea Level.** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum to which base flood elevations shown on a community's flood Insurance Rate Map are referenced.

**Mean Surface Water Elevation.** The observed limit of dry weather flow elevation in a *watercourse* or mean high water level in tidal areas.

**Minimize.** To reduce to the smallest amount possible using *Best Management Practices*. "Minimize" shall not mean complete elimination, but shall require that the most substantial efforts possible under the



circumstances have been taken to reduce the adverse effect of the action required to be minimized. With respect to activities, the conduct of which is adverse to the *conservation* of the natural features of land, the requirement to "minimize" shall include, but not be limited to, the requirement that the placement of dwellings and other structures and the locations of roads, sedimentation and erosion control devices, and earthmoving activities shall be planned and designed so as to permit the adverse effect of the activity in question to be reduced to the smallest amount possible under the circumstances consistent with the otherwise permitted development.

**Minor Change.** A change to the plan that does not increase *density* or floor area, does not decrease open space, *bufferyards*, or parking, or does not *alter* the alignment or layout of streets by more than five feet.

**Minor Collector Street.** A street intended to gather traffic from local nonresidential access streets and convey it to higher level streets. Note: This street does not serve individual, nonresidential lots. Located in nonresidential areas or developments, this street type collects and moves a low volume of traffic from local nonresidential access streets.

**Minor Land Development Plan.** A plan that will not require the development of new or the extension of existing off-tract infrastructure, that proposes one or more of the following:

- A. *Building(s)* less than 20,000 square feet Gross Floor Area (GFA) on an undeveloped site.
- B. *Addition(s)* to existing development of less than ten percent of existing GFA or *additions* less than 50,000 square feet GFA.
- C. Subdivision that creates less than five lots.
- D. *Apartment* or multi-family development of less than ten dwelling units.

**Mitigation.** Any action taken to lessen the specified undesirable impacts of a proposed land use or land disturbance activity, including those which would adversely affect the health or longevity of a natural feature, pose a visual intrusion or conflict, or otherwise be deemed incompatible with surrounding properties.

**Mixed Use.** See Section 2.428, *Mixed Use*.

**Mobile Manufactured Home or Mobile Manufactured Dwelling Unit.** A structure, transportable in one or more sections, on a permanent chassis, which in traveling mode is eight (8) body feet or more in width or forty (40) or more feet in length, and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. This definition does not include modular homes as defined under separate definition of this Ordinance.

**Mobile Manufactured Home Park or Subdivision, Existing.** A mobile manufactured home park or subdivision for which the construction of facilities for servicing two or more lots on which the mobile manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this Ordinance.

**Mobile Manufactured Home Park or Subdivision, Expansion of Existing.** The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).



**Mobile Manufactured Home Park or Subdivision, New.** A mobile manufactured home park or subdivision for which the construction of facilities for servicing two or more lots on which the mobile manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this Ordinance.

**Moderately Vulnerable Area.** An area where the combination of soils, subsurface conditions, geologic features, hydrology, population density, and Source Water Protection Areas makes the aquifer and groundwater moderately vulnerable to contamination. This area contains a lower intensity of the conditions than a *highly vulnerable area*.

**Modular Home or Modular Dwelling Unit.** Any structure that is wholly, or in substantial part, made, fabricated, formed or assembled in a factory for installation or assembly and installation on a building site and designed for long-term residential use and is certified as meeting the standards contained in the state fire code encompassed in the legislative rules promulgated by the state fire commission pursuant to sections of the West Virginia Code and the standards adopted by the Jefferson County Building Code, excepting sections of that ordinance addressing manufactured housing or defined in this Zoning Ordinance as mobile manufacture home or dwelling unit.

**Modulation.** Adjustments in design or layout of lots or infrastructures that are determined by staff or the Planning Commission to improve the quality of development.

**Monopole Tower.** A structure which consists of a single, freestanding pole structure to support antennae and connecting appurtenances.

**Monument.** A stone or concrete boundary marker, as required by this Ordinance, intended to fix the physical location of property lines.

**Motel.** See Section 14.205, *Commercial Uses*.

**Multi-family Dwelling.** A *building* arranged, intended, or designed to be occupied by three or more families living independently of each other. This includes *apartments* and multiplex units.

**Multiplex.** A multiple-family building type. Units may have either private or shared access. The units may be arranged in a variety of configurations, including back-to-back, side-to-side, or vertical. However, no fewer than two and no more than eight units shall be attached in any single *building*. A multiplex is permitted only in planned developments.

**Museum.** A building having public significance by reason of its architecture or former use or occupancy or a building serving as a repository for a collection of natural, scientific, historical or literary curiosities or objects of interest, works of art, and arranged, intended and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of objects, crafts works and artwork and holding of meetings, educational programs, and events.

## N

**National Geodetic Vertical Datum (NGVD).** Elevations referenced to mean sea level datum of the 1929 or 1988 U.S. Geological Survey.

**Native Groundcover Plants.** Any locally indigenous herbaceous species that is not a weed.

**Natural Areas.** Natural areas are areas of private lots or public land that have been created, recreated, restored, or preserved with locally indigenous plant species and are being maintained through the



encouragement of locally indigenous plant species and elimination of noxious weeds as determined by West Virginia State Code.

**Net Buildable Site Area.** A calculated value determined by the calculations specified in Division 4.300, *Site Capacity Calculations*.

**New Construction.** For the purpose of determining insurance rates, structures for which the "*start of construction*" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "*start of construction*" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**Nonconforming Building.** A *building*, structure, or parts thereof lawfully existing at the time this Ordinance or a subsequent amendment to this Ordinance became effective which does not conform to the dimensional requirements of the district in which it is located.

**Nonconforming Lot.** A lot, legally established prior to the effective date of this Ordinance, which does not meet the standards of the district in which it is located. This can involve minimum area, *buildable area*, or dimensional requirements of the lot.

**Nonconforming Sign.** Any sign, legally established prior to the adoption of this Ordinance, which does not fully comply with the standards of this Ordinance.

**Nonconforming Situation.** A *building* or structure or the use of a lot lawfully existing at the time this Ordinance or a subsequent amendment to this Ordinance became effective, which does not conform to the dimensional use requirements of the district in which it is located.

**Non-delineated Floodplain.** An area subject to a 100-year flood, adjacent to a *watercourse* that is identified by a blue line on the current United States Geological Survey (USGS) topographic maps of the County or in the detailed maps of the Jefferson County Soil Survey for which FEMA has not delineated a floodplain.

**Nonconforming Use.** A use of land or use of a *building* or structure lawfully existing at the time this Ordinance or a subsequent amendment to this Ordinance became effective which does not conform to the use requirements of the district in which it is located.

**North American Industry Classification System (NAICS).** The federal classification system of business establishments.

## O

**Occupancy.** The use of land, *buildings*, or structures.

**Old Field.** An area historically used for agricultural purposes which has been *abandoned* and now evidences secondary succession. In particular, areas covered by woody plants eight or more feet in height which either cover 40 percent or more of a property or cover 80 percent of a contiguous area one acre or greater in size.

**Opacity.** The measurement of the screening effectiveness of a *bufferyard* or fence expressed as the percent of vision that the screen blocks.



**Open Space.** Land area to be left undeveloped as part of a natural resource preservation, recreation, *bufferyards*, or other open space provision of this Ordinance. Open space excludes areas in lots, street rights-of-way, or parking. Private open space is designed and intended for common use and the enjoyment of the residents. Public open space is designed and intended for common use and the enjoyment of the residents of Jefferson County.

**Open Space Ratio (OSR).** The proportion of a development required to be left in open space. It is determined by dividing the area in open space by the *base site area*. When applied to resource protection, the open space ratio shall mean that percentage of the resource feature to be protected and/or preserved in the total land area in that resource.

**Open Storage.** Goods, equipment, or supplies held for safekeeping or eventual sale or distribution, not entirely within totally enclosed *buildings*. T-structures, lean-to type structures, or roofed-over, fenced-in areas shall not be considered totally enclosed buildings.

**Ornamental Planting Areas.** Ornamental planting areas of private lots or public lands that are used for the growing of herbaceous or woody plantings for ornamental purposes. Determination of plant species that may be considered ornamental is to be made by a landscape architect. Ornamental planting areas shall be free of weeds.

**Outdoor Storage.** The storage of any material, personal or business property, or motor vehicles for a period greater than 24 consecutive hours, including items for sale, lease, processing, and repair not in an enclosed building.

**Outer Ring.** This term is used in the Industrial District. It includes the exterior 300 feet of all industrial districts and 300 feet on either side of major collector or arterial roads that run through an industrial district.

**Outflow Hydrograph.** Graphical representation of the runoff rate versus time for flow exiting a stormwater management facility.

**Outfall Point.** A specific location, as defined by local topography, where stormwater runoff exits a specific land area.

**Outlot.** A portion of a subdivision reserved for future development by a conservation easement.

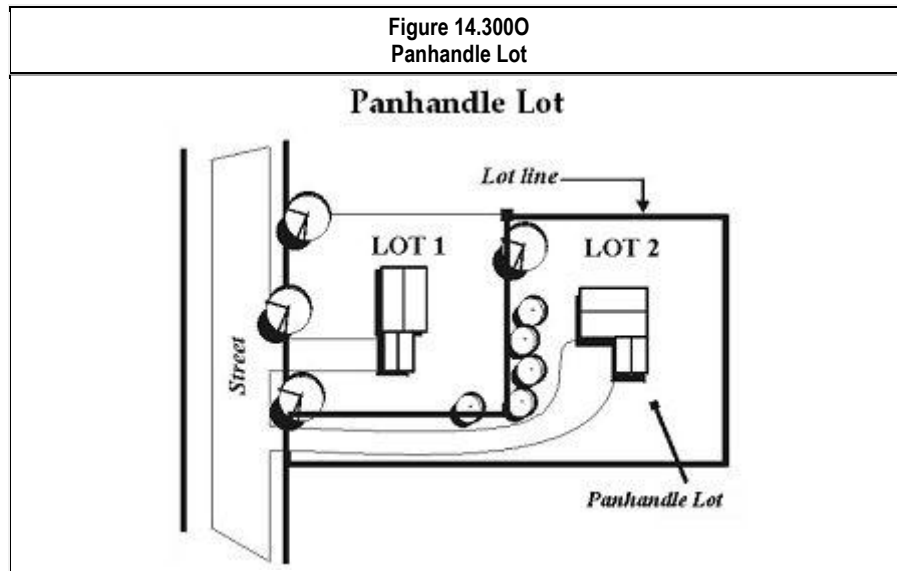
**Outparcel.** A lot used for drainage, detention, agriculture, or open space, with distinct boundaries, which shall not be used for residential or nonresidential uses, that is created in the process of subdivision.

**Overlay District.** A district that is applied over other zoning districts and which may modify the permitted uses or intensity of use.

**Owner.** See *Landowner* or *Property Owner*.

## P

**Panhandle Lot.** A tract of land having insufficient lot width along a road or at the minimum setback line to meet the requirements of Article 3, *District and Bulk Standards*, but with sufficient area to meet all lot requirements further back on the lot. Sometimes referred to as a "*flag lot*."



**Parcel.** See *Lot*.

**Park.** An area open to the general public and reserved for recreational, educational, or scenic purposes.

**Parking Space.** An area of land designated for the parking of motor vehicles and connected to a street or private accessory. See Section 7.201, *Parking Space Standards*.

**Parking Structure.** A structure designed to accommodate vehicular *parking spaces* that are fully or partially enclosed or located on the deck surface of a *building*. This definition shall include parking garages, deck parking, and underground or under-building parking areas.

**Passive Recreation.** Recreational uses, areas, or activities oriented to noncompetitive activities that either require no special equipment or are natural areas. Bicycle riding, hiking, and bird watching are examples of passive recreation activities.

**Pastures.** Pastures are areas engaged in the grazing of livestock for recreational use or for the sale of livestock or livestock products.

**Patio House.** A dwelling type that is a detached or semi-detached unit (i.e. attached by a common wall to another dwelling unit) for a single family, with one dwelling unit from ground to roof. Each dwelling unit's lot shall be fully enclosed by a wall located at the lot line, thus creating a private yard, referred to as a patio, between the house and the wall. A "minimum patio area," rather than setbacks, is used to determine minimum yard area. All living spaces, such as living rooms, dens, and bedrooms, shall face into the yard or patio. A patio house is permitted only in planned developments as provided in Division 3.300, *Bulk Regulations*.

**Paved Area.** See *Impervious Surfaces*.



**Peak Hours or Peak Periods.** In general, periods from 7:00 a.m. to 9:00 a.m. and from 4:00 p.m. to 6:00 p.m. on weekdays. A peak hour is a 60-minute period occurring within a peak period. Different peak hours may be established by the Zoning Ordinance based on type of development or traffic counts on a street.

**Pedestrian Precinct.** A paved or largely paved area set aside for pedestrian circulation and providing a full range of pedestrian amenities. Amenities include seating areas and other street furniture, lighting, landscaping, fountains or water features, art, or other appropriate amenities.

**Pedestrian Way.** A publicly or privately owned right-of-way or easement for pedestrian or bicycle use.

**Pennant.** See *Sign, Banner*.

**Percolation Tests.** See *Soil Borings and Percolation Tests*.

**Perennial Stream.** A channel with banks and a bed within which concentrated water flows year-round but may stop flowing during prolonged drought.

**Performance Guarantee.** See *Surety*.

**Permit.** Documents issued by the County allowing a person to begin an activity provided for in this Ordinance or other codes, ordinances, and regulatory provisions adopted by the County Commission.

**Permitted Use.** Any use allowed within a zoning district, subject to the restrictions applicable to that zoning district and is not a *conditional use*. (Source: *W.Va. Code §8A*)

**Pervious.** A description of a surface that presents an opportunity for precipitation to infiltrate into the ground.

**Petition.** A request for *text amendment* or a *map amendment* made by a *property owner*, a subject property owner, or by a group of property owners acting as a private citizens' group.

**Places of Assembly.** See Section 2.417, *Places of Assembly*.

**Plan, Concept.** An informal plan indicating salient existing features of a tract and its surroundings, including the general layout of a proposed subdivision or land development.

**Plan, Final.** A complete subdivision or land development plan, including all required supplementary data, which defines property lines, proposed streets and other improvements, and easements or a plan of private streets to be dedicated to public use.

**Plan, Minor Land Development.** A plan depicting a minor land development which may include the subdivision of land.

**Plan, Preliminary.** A plan of a subdivision or of a land development, including all required supplementary data, showing the approximate proposed street and lot or site layout, or a plan of existing private streets to be dedicated to public use, as a basis for consideration by the County prior to the preparation of a final plat.

**Plan, Record Conversion.** A plan and supporting documentation describing the proposed conversion of a multi-family dwelling or single-family group dwellings from rental dwelling units to condominium or cooperative dwelling units.

**Planned Development.** A form of cluster development and a residential use type.



**Planning Commission.** See Section 11.202, *Planning Commission*.

**Plans, Construction.** The architectural or engineering drawings showing the construction details and the types of material for the physical structures and facilities, excluding dwelling units, to be installed in conjunction with the development of the project.

**Plant Units.** This consists of three layers of plant material: *canopy* trees at the upper layer, *understory* or ornamental trees at the intermediate level, and shrubs at the ground level. Both evergreen and deciduous trees are specified in the plant unit options. The plant units are specified in Table 8.202, *Plant Unit Options*. Plant units may be expressed as the number and type of plants per acre, per lineal feet, or within a specified buffer width.

**Plat.** A document, prepared by a registered land surveyor or engineer, which delineates property lines and shows *monuments* and other landmarks for the purpose of identifying property.

**Plot.** See *Lot*.

**Primary Access.** The manner in which a property takes access to the public street system, ordinarily by a drive that intersects the street. Where there are several possible accesses, the one located or configured to have the most traffic is the primary access.

**Principal Structure.** A structure in which the principal use of the lot on which it is located is conducted.

**Principal Use.** The main use to which a premise is devoted and the primary purpose for which a premise exists.

**Private Utility.** A privately owned entity regulated by West Virginia Public Service Commission and West Virginia Department of Environmental Protection, providing utility service to the general public (e.g.: water, wastewater, gas, electric, telephone, solid waste and cable).

**Proffer.** A voluntary offer in writing, which may be made by the owner or contract purchaser, of reasonable conditions in support of an application for rezoning, subdivision or land development approval, made prior to a public hearing before the governing body or *planning commission*, in addition to the regulations provided for the zoning district or requirements for subdivision or development, provided that (1) the rezoning or subdivision itself gives rise to the need for the conditions; (2) the conditions have a reasonable relation to the rezoning or impacts associated with the proposed subdivision or development; (3) all conditions are in conformity with the Jefferson County Comprehensive Plan.

Reasonable conditions may include the payment of cash for, any off-site road improvement or any off-site transportation improvement that is consistent with the comprehensive plan and/or incorporated into the capital improvements program, provided that nothing herein shall prevent a locality from accepting proffered conditions which are not normally included in a capital improvement program. For purposes of this section, "road improvement" includes construction of new roads or improvement or expansion of existing roads as required by applicable construction standards of the West Virginia Department of Highways to meet increased demand attributable to new development. For purposes of this section, "transportation improvement" means any real or personal property acquired, constructed, improved, or used for constructing, improving, or operating any (i) public mass transit system or (ii) highway, or portion or interchange thereof, including parking facilities located within a district created pursuant to this title. Such improvements shall include, without limitation, public mass transit systems, public



highways, and all buildings, structures, approaches, and facilities thereof and appurtenances thereto, rights-of-way, bridges, tunnels, stations, terminals, and all related equipment and fixtures.

**Program Deficiency.** A defect in the County's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the standards contained in this Zoning Ordinance.

**Property Line.** See *Lot Line*.

**Property Owner.** A person or persons having an ownership interest in real property located within the geographic boundaries of Jefferson County, West Virginia.

**Principal Building or Use.** The main use on a property in terms of size, area, and function. See *Accessory Building* or *Accessory Use*.

**Public Improvement.** Any improvement, facility or service, together with customary improvements and appurtenances thereto, necessary to provide for public needs such as: streets, alleys, pedestrian walks or paths, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, and public utility and energy services.

**Public Sewer System.** See *Sewer System, Public*.

**Public Utility.** A publicly owned entity regulated by West Virginia Public Service Commission and West Virginia Department of Environmental Protection, providing utility service to the general public( e.g.: water, wastewater, gas, electric, telephone, solid waste and cable).

**Public Water Supply Well.** A well from which the water is used to serve a community water system.

## R

**Rare Species.** A species which exists in lower numbers or in isolate areas and may be threatened or endangered.

**Rational Method.** An engineering method of predicting peak runoff rates.

**Rear Yard.** Open space extending across the full width of the lot between the rear line of the lot and the nearest line of the building, porch or projection thereof.

**Recreation, Active.** See *Active Recreation*.

**Recreation, Passive.** See *Passive Recreation*.

**Recreational Vehicle.** A vehicle designed or used as living quarters for recreational, camping, vacation, or travel use, such as house trailers, travel trailers, trucks, trailers, pickup trucks, and vans. For the purposes of this definition, all recreational vehicles staying on a park shall display stickers from RVIA (the Recreational Vehicle Industry Association) or the RPTIA (the Recreational Park Trailer Industry Association) signifying compliance with generally accepted industry standards for safety, size, and construction.

**Recreational Vehicle Park.** A use that provides for the parking and use of Recreational Vehicles on a temporary basis, with hookups for water, sewer, and electricity provided.

**Reforestation.** Replanting or planting of forest plant materials. Also includes planting in areas not originally forested for mitigation purposes.



## Remedy a Violation.

- A. To take action to correct a violation. This could entail stopping or discontinuing an illegal use, tearing down or altering a structure, or seeking a variation or other action to make the use legal.
- B. Bring the violating structure or other development into compliance with state or local floodplain management regulations or move the use or demolish the structure.

**Required Street Yard.** The street yard required by this Ordinance that lies between the street and the setback line from any street -- front, side, or rear.

**Reserved Land(s).** Lands set aside as undeveloped, with the exception of agricultural uses, unless and until such time as they may be rezoned.

**Reserve Strip.** A parcel of ground in separate ownership separating a street from other adjacent properties or from another street.

**Residential Collector Street.** A new street intended to gather traffic from local residential access streets and convey it to higher level streets. Note: This street does not serve individual residential lots. Located in residential areas or developments, this street type collects and moves the traffic from local residential access streets whose total dwelling unit count exceeds 240.

**Resource.** A natural area or physical feature that is protected.

**Restoration.** The reasonable rehabilitation of the affected land for useful purposes and the protection of the natural resources of the surrounding area, including surface water and groundwater.

**Retaining Wall.** A structure which holds an earthen embankment in place.

**Reverse Frontage Lot.** A lot extending between and having frontage on two generally parallel streets.

**Rezoning.** An amendment to the *Zoning Map*.

**Right-of-Way.** An area of land not on a lot that is dedicated for public or private use to accommodate a transportation system. In no case shall a right-of-way be construed to mean an easement.

**Riparian Buffer.** A transition zone between water and upland environments to protect the aquatic environment from pollution and sedimentation. It is measured from the top of the bank of the stream, or the wetland boundary. If wetlands or *steep slopes* abut or are within the riparian buffer in A to D below, then they shall be included even when the distance exceeds the buffer in A- to D below. The buffer width is as follows:

- A. Lakes and Ponds - 75 feet.
- B. Ephemeral Streams with stream channels - 50 feet (100 feet when located in the Elk Run and Elk Branch watersheds).
- C. Potomac River and Shenandoah Rivers - 300 feet (100 feet when located within the Townscape boundary).
- D. Opequon Creek and Perennial Streams - 100 feet.
- E. *Wetlands Marl* - 75 feet.
- F. *Wetlands*, Farmed - 10 feet.
- G. *Wetlands* - 50 feet.



- H. *Steep slopes* 15 to 25 percent - to the top of the slope where it falls below 15 percent or 400 feet, whichever is less.
- I. *Steep slopes* 25 percent or more - to the top of the slope where it falls below 15 percent or 600 feet, whichever is less.

**Road, Arterial.** See *Street, Arterial*.

**Road, Collector.** See *Street, Collector*.

**Road, Local.** See *Local Residential Access Street*.

**Road, Major Collector.** See *Major Collector Street*.

**Road, Minor Collector.** See *Minor Collector Street*.

**Roadway.** The portion of a highway including the cartway and shoulders within a *right-of-way*.

**Roof Deck Townhouse.** See Section 3.303E, *Roof Deck and Duplex Townhouses*.

**Roofline.** The top of a roof or *building* parapet, excluding any cupolas, pylons, chimneys, or other minor projections.

**Runoff.** That portion of precipitation or snow melt that has not evaporated or infiltrated into the soil, but flows on the land surface.

## S

**Salvage Yard.** Any place which is maintained, operated or used for the storing, keeping, buying, selling, or processing of salvage, or for the operation and maintenance of a motor vehicle graveyard, and the term shall also include garbage dumps and sanitary landfills. Any collection of three or more junked motor vehicles, or combination of ferrous or nonferrous materials together with one or more junked motor vehicles, or a collection of any salvage contained in an area more than one quarter acre in size, shall be considered a salvage yard.

**Sanitary Sewage.** Any liquid discharge from a structure or animal containment area, except roof drains.

**Sanitary Sewer Line.** A sanitary sewer collection system in which sewage is carried from individual lots, by a system of pipes, to a central treatment and disposal plant, or to other pipes that run to a central treatment and disposal plant.

**Satellite Dish.** A type of antenna for receiving communications via satellite relay.

**Scale.** A measure of intensity that relates to the size (scale) of the use.

A. **Uses.** Scale indicates traffic volumes associated with the use and, for some uses, the distance people will travel to the use. Location of uses may be regulated by their scale.

B. **Design.** Design standards for commercial uses are related to scale.

**SCS Method.** A method of estimating runoff and peak discharges in a *watershed*, including Technical Release 20 and Technical Release 55, promulgated by the U.S. Department of Agriculture.

**Sediment.** Soils or other surface materials transported and/or deposited by the action of wind, water, ice, or gravity as a product of erosion.



**Sediment and Stormwater Management Plan.** A plan for the control of soil erosion, sedimentation, stormwater quantity, and water quality impacts resulting from any land disturbing activity.

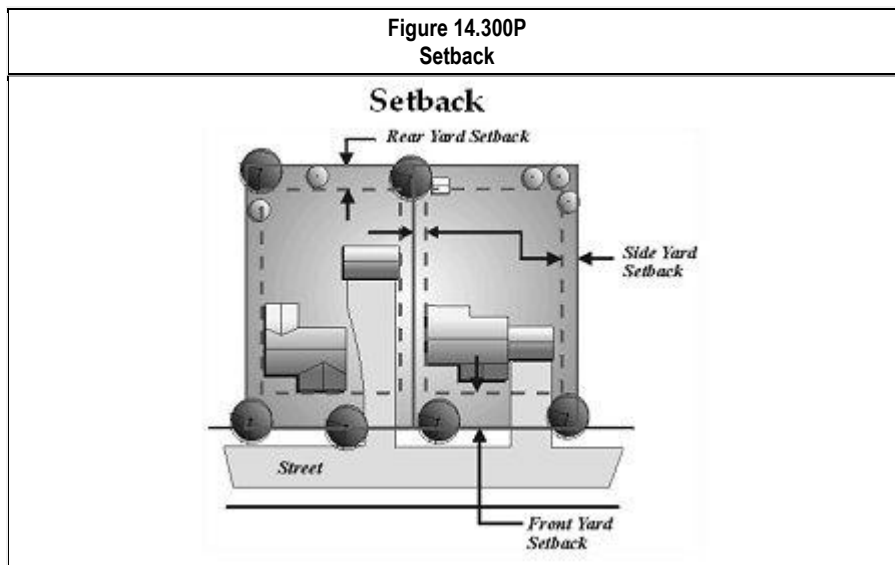
**Selective Cutting.** The felling of certain, but not all, trees in an area for the purpose of:

- A. Removing dead, diseased, damaged, mature, or marketable timber;
- B. Improving the quality of a tree stand or species; or
- C. Meeting personal domestic needs.

**Septic Tank.** A multiple compartment, watertight receptacle which receives sewage from a *building* and is designed and constructed so as to permit settling of solids from the sewage, digestion of the organic matter, and discharge of the liquid portion into a disposal area.

**Septic System, Individual.** See *Sewer System, Individual*.

**Setback.** A stated minimum distance on a lot as measured from a lot line.



**Sewer System, Centralized.** A sanitary sewage collection and treatment system in which sewage is carried from individual lots, by a system of pipes to a central treatment and disposal system generally serving a community and owned and/or operated and maintained by a Public or Private Utility.

**Sewer System, Community.** A sanitary sewage collection and treatment system in which sewage is carried from individual lots, by a system of pipes to a central treatment and disposal system generally serving a neighborhood and owned and/or operated and maintained by a Public or Private Utility.

**Sewer System, Individual.** A wastewater system that only serves the lot on which the sewage is generated, with the effluent disposed on that lot.

**Sewer System, Public.** A wastewater system serving two or more units that share common sewer lines and disposal facilities and owned and/or operated and maintained by a Public or Private Utility.



**Shallow Bedrock.** This is an area where bedrock is within three feet of the surface, as determined by the general soil classifications found in Jefferson County. Any area where rock outcrops appears on the surface shall be considered shallow bedrock areas regardless of soil type.

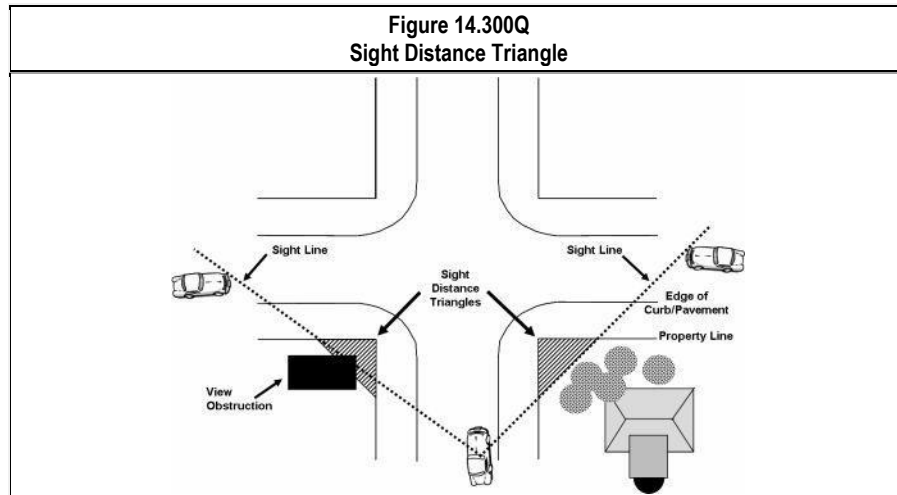
**Sheltered Care.** See Section 14.204, *Institutional Uses*.

**Shopping Center.** A group of retail, personal, or professional service establishments planned, developed, owned, or managed as a unit, with off-street parking provided on the property.

**Sidewalk.** A pedestrian way extending along, parallel to, and within an easement or the right-of-way of a public or private street.

**Side Yard.** A yard created by the setback distance of the building to a side lot line.

**Sight Distance Triangle.** The triangular area formed by a diagonal line connecting two points located on intersecting street right-of-way lines, or a right-of-way line and the curb or edge of a driveway.



**Sign.** A sign is any object, writing (including letters, words, or numerals), pictorial representation (including illustrations or decorations), emblem (including devices, symbols, or trademarks), flag, banner, streamer, pennant, string of lights, or display, visible outdoors, which is used to attract attention by any means, including to attract the attention of an object, person, institution, organization, business, religious group, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images of the public or any other figure of similar character which:

- A. Is a structure of any part thereof, or a portable display, or is attached to, or in any other manner represented on a *building* or other structure or on the ground; and
- B. Is used to announce, direct attention to, or advertise.

**Sign, Area.** A sign's area shall include the entire area within a single continuous perimeter enclosing the extreme limits of the sign, exclusive of the base on which it is mounted or from which it is suspended. If more than one side of a sign is utilized as a sign, then only the largest side shall be computed and shall



be counted as a portion of the gross area. On lots where more than one sign is located, the total area of all the signs shall not exceed the maximum area permitted by this Ordinance. For computing the area of any wall sign that consists of letters mounted or painted on a wall, it shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters.

**Sign, Banner.** A decorated or non-decorated flexible piece of fabric, plastic, or paper normally attached on one side to a *building*, pole, or rope.

**Sign, Bulletin Board/Marquee.** A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcement of persons, events, or activities occurring at the institution. Such sign may also present a greeting or similar message.

**Sign, Business.** A sign which directs attention to a business or profession conducted or to products, services, or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

**Sign, Canopy or Awning.** A sign that is located or printed on a canopy or awning.

**Sign, Contractor's.** A temporary sign indicating the names of the architects, engineers, landscape architects, contractors, and similar artisans involved in the design and construction of a structure, complex, or project. This sign is permitted only during the construction period and only on the premises on which the construction is taking place.

**Sign, Ground.** Any sign placed upon, or supported by, the ground, independent of the principal building or structure on the property, where the bottom edge of the sign is less than six feet above the ground.

**Sign, Height.** The distance measured from the ground elevation at the base of the sign to the highest element of the sign.

**Sign, Identification.** A sign giving the name and address of a *building*, business, development, or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.

**Sign, Illuminated.** A sign designed to give forth artificial light or designed to reflect light derived from any source.

**Sign, Metal.** Signs constructed of metal and illuminated by any means requiring internal wiring, including electrically wired accessory fixtures attached to a metal sign.

**Sign, Name Plate.** A sign giving the name and/or address of the owner or occupant of a *building* or premise on which it is located and, where applicable, a professional status.

**Sign, Nonconforming.** See *Nonconforming Sign*.

**Sign, Off-premise/Advertising/Billboard.** A sign that directs the attention of the public to any goods, merchandise, property, business, service, entertainment, or amusement conducted or produced that is bought or sold, furnished, offered, or transferred elsewhere than on the premises where such sign is located or to which it is affixed.

**Sign, Pole.** Any sign placed upon, or supported by, the ground, independent of the principal building or structure on the property where the bottom edge of the sign is six feet or more above the ground level.

**Sign, Portable.** Any sign that is not permanently affixed to a *building*, structure, or the ground.



**Sign, Projecting.** A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building. Projecting signs shall not extend above the parapet or eave line of the building, and the furthestmost extension of the sign shall not project more than four feet from the structure. The sides of a projecting sign shall be parallel back-to-back and shall not exceed 12 inches in thickness.

**Sign, Real Estate.** A temporary sign pertaining to the sale or lease of a lot or tract of land on which the sign is located, or to the sale or lease of one or more structures or a portion thereof on which the sign is located.

**Sign, Roof.** A sign totally supported on the roof of a structure. Roof signs shall not project more than 12 inches beyond the face of the building.

**Sign, Structure.** Any device or material that supports, has supported, or is capable of supporting a sign in a stationary position, including decorative covers or sign roofs.

**Sign, Temporary.** A sign or advertising display constructed of cloth, canvas, fabric, paper, plywood, or other light material. It shall be displayed for only a short period of time.

**Sign, Travelers Convenience.** A sign giving the distance and direction to customary travelers' services such as gasoline, lodging, and food.

**Sign, Wall.** A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface and which does not project more than 12 inches from such building.

**Sinkhole.** A landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater. A sinkhole may form by collapse into subterranean voids created by dissolution of limestone or dolostone or by subsidence as these strata are dissolved. A sinkhole is a depressional surficial feature and is generally circular in plan view. The boundary of a sinkhole is five feet beyond the point where the depression returns to the surrounding grades. Also included under the definition of sinkholes are karst features which include sinkholes and related features. See definition for *karst features*. There are several types of sinkholes.

- A. **Open sinkholes.** These are open to the potentiometric surface (water table) so that water is at the surface at the bottom of the sinkhole for at least a portion of the year. These are either directly connected or most likely to be directly connected to the aquifer. Any sinkhole open to a known cave system is also an open sinkhole.
- B. **Sinkhole with stream inflow.** This is a place where streams disappear into an open sinkhole that is obvious, or voids, fractures, or other areas that allow the stream volume to flow under ground. These are directly connected to the aquifer.
- C. **Large Sinkhole.** A depression that extends into the bedrock with a minimum opening into the bedrock of 20 feet diameter. A depressional area that is filled with soil does not count as a large sinkhole, even though there may be numerous filled sinkholes within it.
- D. **Filled sinkhole.** Any sinkhole not meeting definitions A through C above.

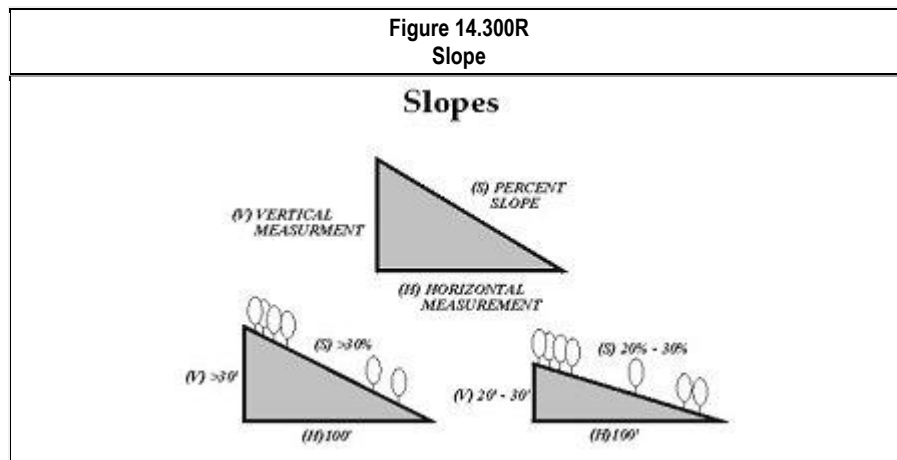
**Sinkhole Buffer (Karst Feature Buffer).** An area immediately around sinkholes and other karst features, extending outward for 100 feet from the sinkhole or karst feature boundary and along any linear trend of at least three or more features, including: open sinkholes, sinkholes with stream inflow,



and large sinkholes. The boundary of a sinkhole or surface visible karst feature is five feet beyond the point where the depression returns to the surrounding grades. The boundary of a subsurface karst feature is five feet beyond the point where the borings, or other data sources, such as underground surveys, show an absence of subsurface fissures enlarged by dissolution, caves, or other open voids. The drainage area may be entirely within or only partially within the sinkhole buffer. This buffer may be reduced if a geological or geophysical survey, as described in Section 4.516D, *Geotechnical Study*, indicates that such construction or earth disturbance is appropriate. After thorough investigation and written recommendation by a qualified geoscientist, including, but not limited to, soil test borings, test pits, air-track drill probe borings, and geophysics, the buffer may be reduced to 50 feet around portions of the sinkhole where so recommended.

**Sinkhole Drainage Area (Karst Feature Drainage Area).** This is generally a depressional area that drains to one or more sinkholes and/or *karst features*. It may, in some cases, be a watershed leading to a sinkhole or *karst feature* with stream inflow.

**Slope.** The change in the vertical measurement divided by the change in the horizontal measurement. The figure is written as a ratio or a percentage.



**Soil Borings and Percolation Tests.** Field tests conducted and used in judging the suitability of soil for on-site, subsurface sewerage and seepage systems. The borings indicate the soil formations penetrated and groundwater conditions. The percolation tests give an indication of the absorptive capacity of the soil and provide a basis for the design of seepage facilities.

**Sound Level Meter.** A device which measures sound pressure levels and conforms to Type 1 or Type 2 as specified in the American National Standards Institute.

**Specimen Tree.** Trees of the species listed in the species list on file with the Department of Planning that are in good health and are not in a *woodland*, but have diameters in excess of 24 inches *DBH*.

**Stabilization.** The prevention of soil erosion by surface runoff or wind through the establishment of vegetative or structural soil coverage measures. Examples include, but are not limited to, straw mulch with temporary or permanent vegetation, wood chips, and stone or gravel groundcover.



**Start of Construction.** See *Commencement of Construction*.

**Steep Slopes.** Steep slopes are areas that cover at least 3,600 square feet and have an overall vertical drop of 10 feet. There are two classes of steep slopes -- those over 30 percent and those with slopes of 15 to 25 percent. If two areas abut that have different slope categories, they shall be counted if, in combination, they meet the area and vertical drop standards.

**Stormwater Management.** The mitigation of the hydrologic impacts of lost natural runoff storage by the use of constructed storage facilities.

- A. For water quantity control, a system of vegetative, structural, and other measures that may control the volume and rate of stormwater runoff which may be caused by land disturbing activities or activities upon the land; and
- B. For water quality control, a system of vegetative, structural, and other measures that control adverse effects on water quality that may be caused by land disturbing activities or activities upon the land.

**Story, First.** The ground floor story of a *building*, provided its floor level is not more than four feet below the mean lot level adjacent to the foundation.

**Story, Half.** A story under a sloping roof at the top of the *building*, the floor of which is not more than two feet below the wall plate.

**Street.** A strip of land, comprising the entire area within the right-of-way, intended for use as a means of vehicular and pedestrian circulation to provide access to more than one lot. However, the establishment of a common driveway for access purposes for no more than three separate parcels contiguous to one another shall not be considered a street as this term is used in this Ordinance.

**Street, Arterial.** A street that serves, or is designed to serve, as a connection between uses which generate heavy traffic volumes or between other arterial streets.

**Street, Boulevard.** A street that is divided by a landscaped median which is continuous or exists at the development's entrance.

**Street, Collector.** A street that serves or is designed to serve as the connection from minor streets to the arterial street system, such as the main entrance street of a residential development, or as a secondary connection between *arterial streets*.

**Street, Cul-de-sac.** A short, independent, minor street having only one point of ingress and egress, terminating in a circular turn-around or other approved termination.

**Street Frontage.** The linear measurement of a parcel along a *street line*, private road, or right-of-way to which the parcel abuts.

**Street, Half (Partial).** A street, generally parallel and adjacent to a property line, having a lesser right-of-way width than normally required for improvement and use of the street.

**Street Line.** A property line of a lot which coincides with a line indicating the limits of an existing or proposed right-of-way.

**Street, Local.** A street which serves or is designed to serve primarily as *access* to *abutting* properties.



**Street, Marginal Access.** A local street, parallel and adjacent to an *arterial street*, but separated from it by a long strip, which provides *access* to *abutting* properties and control of intersections with the major street.

**Street, Private.** Any street right-of-way not dedicated to public use.

**Street, Public.** Any street right-of-way dedicated to public use or maintained by a federal, state, or local unit of government.

**Street, Residential Collector.** A street intended to gather traffic from local residential access streets and convey it to higher level streets. Note: This street does not serve individual residential lots. Located in residential areas or developments, this street type collects and moves the traffic from local residential access streets whose total dwelling unit count exceeds 240.

**Street Right-of-way.** See *Street* and *Right-of-Way*.

**Street, Service.** A public or private way permanently reserved as a secondary means of *access* to *abutting* property.

**Structural Alterations.** Any change in the supporting members of a *building*, such as bearing walls, columns, beams or girders and floor joists, ceiling joists, roof rafters, or stairways.

**Structure.** Any man-made object having an ascertainable stationary location on land or in water, whether or not affixed to the land.

**Structure, Permanent.** A structure placed on or in the ground or attached to another structure in a fixed position.

**Structure, Temporary.** A structure that is designed to be repeatedly erected or inflated (tents and inflatable structures) or buildings that are picked up and moved.

## **Subdivision.**

- A. The division or redivision of a lot, tract, or parcel of land, by any means, including by means of a plan or a description by metes and bounds, into two or more lots, tracts, parcels, or other divisions of land, for the purpose, whether immediate or future, of lease, of the transfer of ownership, or of *building* development, exempting, however, the division of land for agricultural purposes into parcels of more than 10 acres not involving any new streets or easements of access, divisions of property by testamentary or interstate provision, or divisions of property upon court order; or
- B. The division or allocation of land for the opening, widening, or extension of any street or streets, or the division or allocation of land as open spaces for common use by owners, occupants, or leaseholders, or as easements for the extension and maintenance of public sewer, water supply, storm drainage, or other public facilities.

**Subdivision, Major.** See *Major Land Development Plan*.

**Subdivision, Minor.** See *Minor Land Development Plan*.

**Subdivision Regulations.** The Jefferson County Subdivision and Land Development Ordinance, as may be amended from time to time.



**Submission Review.** A submission review is to determine whether all elements of a subdivision plan or land development plan required by the Ordinance are present. It is not a review of the merits of the submission, but an administrative determination that everything required by the Ordinance and application requirements for a technical review is present. A submission is complete when all material needed by all review agencies is in the submission.

**Substantial Construction.**

A. **Subdivisions.** Payment of *surety*, the clearing and grading of the site, installation of roads and utilities, and placing of initial foundations.

B. **Land Developments.** Installation of parking, circulation, stormwater facilities, and foundations.

**Substantial Damage.** Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement.** Any reconstruction, rehabilitation, *addition*, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the *start of construction* of the improvement. This term includes structures that have incurred *substantial damage*, regardless of the actual repair work performed. The term does not, however, include any project or improvement of a structure to correct existing violations of state or local health, sanitary, or safety ordinance specifications which have been identified by the Zoning Ordinance and which are the minimum necessary to ensure safe living conditions.

**Superblock.** An area bounded by *arterial* or collector streets or cut off by a body of water.

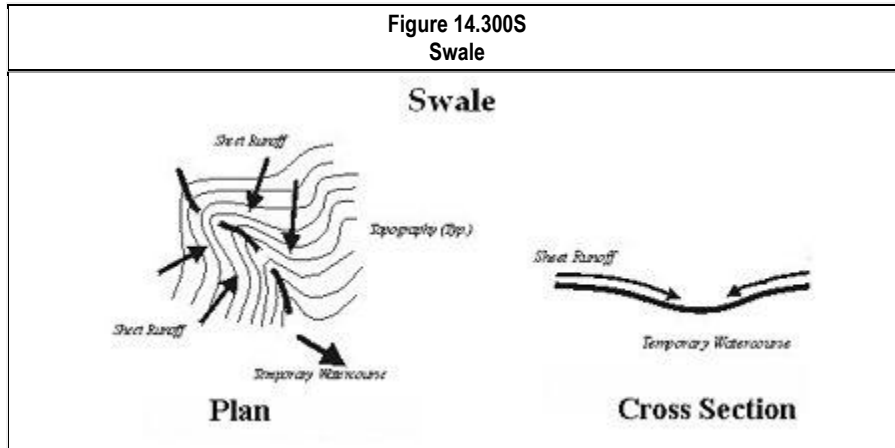
**Surety.** A form of financial guarantee that requires improvements will be made by providing the County with the resources to install the improvements should the developer fail to do so. These include bonds, cash, letters of credit, or other financial instruments approved by the County Attorney.

**Surface Water.** Natural or artificial bodies of water greater than one acre in extent at the normal annual water level, as depicted on U.S.G.S. topographic quadrangles and/or as determined by on-site surveys by a registered surveyor, landscape architect, or engineer. Excluded from this definition are *retention basins* or other stormwater management facilities, farm ponds, or other facilities associated with agricultural operations, sewage lagoons, and other facilities for which normal maintenance and repair is necessary.

**Surveyor.** A land surveyor registered by and licensed to practice in the State of West Virginia.



**Swale.** A linear depression in the land's surface in which sheet runoff would collect and form a temporary *watercourse*. The area of a swale is determined by the following: Where the swale serves a drainage area of less than 20 acres, land on either side of and within 30 feet of the centerline is the swale area. Where the swale drains an area of 20 to 160 acres, it is the area 50 feet on either side of the centerline of the swale. For *drainage areas* in excess of 160 acres, the area is 80 feet on either side of the centerline of the swale.



**T**

**Text Amendment.** Changes to the text of the Ordinance and includes changes that supplement, modify, or repeal any of its present or future provisions. Changes to the zoning maps are excluded. See *Map Amendment*.

**Top of Bank.** A point above the mean water surface of a *watercourse* which defines the maximum depth of channel flow in the watercourse. It is either determined visually or computed as an elevation using the peak rate of runoff from a two-year storm event.

**Topography.** The characteristics of a parcel of land with respect to elevation.

**Total Floor Area.** See *Gross Floor Area* (GFA).

**Towers.** See *Guyed Tower*, *Lattice Tower* and *Monopole Tower*. Towers include, but are not limited to, these.

**Townhouse.** A single-family attached dwelling unit, with a single unit going from ground to roof and with individual outside access. See Section 3.303D, *Townhouse and Weak-Link Townhouse*.

**Townhouse, Weak-Link.** A single-family attached dwelling unit, with a single unit from ground to roof and with individual outside access. Each unit shall have both a one- and two-story section. See Section 3.303D, *Townhouse and Weak-Link Townhouse*.

**Traditional Neighborhood Development (TND).** A development form with characteristics that include an integrated mix of uses, including residential, commercial, employment/office, civic, and open space, an interconnected street system, with sidewalks, trails and on-street parking, in locations adjacent to and extending the fabric of existing towns or adjacent development.



**Training Facilities.** Facilities designed and/or constructed to support the educational and training needs associated with sports, policing, crime prevention, security enhancement, environmental awareness or creative arts. Such facilities may include both buildings and structures to support educational and training functions as well as outdoor facilities or areas to support training facility activities. This definition includes specialized or accredited educational and training facilities for adults in a campus setting, including classroom buildings, dormitories, cafeterias, gymnasiums (whose use is limited to the students, participants and instructors at said school or training facility), and administrative buildings.

**Travel Trailer.** See *Recreational Vehicle*.

**Tree, Canopy.** A tree whose leaves would occupy the upper level of a forest in a natural ecological situation. These trees are also called shade trees and typically reach heights of 50 to 100 feet at maturity.

**Tree, Understory.** A tree whose leaves would occupy the intermediate level of a forest in a natural ecological situation. They are also found as dominant species in old field succession. These trees are also called ornamental trees.

**Twin House.** A single-family dwelling that is attached by one common wall to one other dwelling unit. See Section 3.303B, *Twin Houses and Duplexes*.

## U

**Understory Tree.** See *Tree, Understory*.

## V

**Variance.** Relief from the standards of this Ordinance.

**Village House.** A single-family residence which is detached from neighboring structures. A village house has very small front yards with special landscape requirements. Homes shall be built to the build-to line. A village house is permitted only in planned developments as provided in Section 3.303A, *Lot-Line and Village House*.

**Viniculture.** The process of wine production, from the selection and growing of grapes and raw materials to the bottling of finished wine, including the sale of finished product, subject to applicable state law.

## Violation.

- A. **General.** A new use or structure that is not permitted or is improperly located in compliance with this Ordinance.
- B. **Floodplain.** The failure of a structure or other development to be fully compliant with the County's floodplain management regulations (Division 4.500, *Additional Resource Standards*). A structure or other development without the elevation certificate, other certifications, or other evidence of compliance is presumed to be in violation until such time as that documentation is provided.

## W

**Water Body.** Any *watercourse*, lake, or pond defined by a bank or shore in which water can be found on a year around basis.



**Water Dependent Uses.** Any structure or work associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline. These activities include, but are not limited to the intake and outfall structures of power plants, water-use industries, marinas and other boat docking structures, public beaches and other public water-oriented recreation areas, fisheries activities and private piers.

**Water Quality.** Those characteristics of stormwater runoff, usually from a land disturbing activity, that relate to the chemical, physical, biological, or radiological integrity of water.

**Water Surface Elevation.** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Water Table.** The level below the surface at which the ground is saturated by water.

**Watercourse.** A stream channel (perennial, intermittent, mapped, or unmapped) with banks and a bed within which concentrated water flows.

**Watershed.** The total or partial drainage area contributing surface runoff to a single point.

**Weeds.** See Section 8.502C, *Invasives and Exotics*. Typically, a plant considered undesirable, unattractive, or troublesome, especially one growing where it is not wanted. They are usually perennial plants which reproduce by seed, or spread by underground roots or stems, and which when established are highly destructive and difficult to control by ordinary cultural practice. A weed may be considered to be noxious typically if any living part thereof is determined to be detrimental to crops, other desirable plants, waterways, livestock, land or other property, or to be injurious to public health or the economy, but more specifically as defined by State or Federal law.

**Wellhead Protection Area.** This is a buffer extending 300 feet from any municipal or public well.

**Wetland.** Those areas inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support and that, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions; or areas that are defined and delineated in accordance with the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" dated January 10, 1989, and as may be amended from time to time; or as further defined and delineated by the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, or the West Virginia Department of Environmental Protection. There are several special types of wetlands that have additional or different standards:

- A. **Farmed Wetlands.** Wetlands that were drained, dredged, filled, leveled, or otherwise manipulated before December 23, 1985, for the purpose of, or to have the effect of, making the production of an agricultural commodity possible, and continue to meet specific wetland hydrology criteria (U.S. Department of Agriculture).
- B. **Marl Wetlands.**

**Wetland Delineation and Report.** An on-site method or process for identifying wetlands as described in the Corps of Engineers Wetland Delineation Manual, Technical Report: Y-87-1, from 1987 and as may be amended from time to time. The report shall be prepared by a person with professional experience and knowledge in wetlands identification and shall analyze a site for the existence and extent of wetlands.



**Wetland, Marl.** Wetlands that contain the soil series Fairplay of Lappans.

**Wildlife Habitat.** A community of plants that provide food, water, cover, nesting, and foraging or feeding conditions necessary to maintain populations of animals.

**Wireless Telecommunication Facilities Permit.** A permit for a structure designed and constructed to support one or more antennas used by commercial wireless telecommunication or broadcasting facilities and including all appurtenant devices attached to it. A tower can be freestanding (solely self-supported by attachment to the ground) or supported (attached directly to the ground and with guy wires), or either lattice or monopole construction. This definition includes a satellite dish and a microwave transmitting tower.

**Woodland.** Woodlands are areas where woody plants (trees) are the vegetative canopy. They may be woodlands or groves of trees and are divided into four categories.

- A. **Area.** A woodland shall be at least one acre in area or qualify as a grove (B).
- B. **Grove.** A grove of at least eight trees having a *DBH* of 12 or more inches, and canopy that covers at least 55 percent of the area defined as a grove. Groves are further classified as:
  1. Young: Average trees are less than 24 inches *DBH*; and
  2. Mature: Average three are 24 inches *DBH* or greater.
- C. **Woodland, Core Mature.** A woodland area that meets the following criteria:
  1. It is part of a woodland on and off the subject property, which covers an area of at least 100 acres; and
  2. It is located inside the woodland, at least 100 feet from the edge of the woodland; and
  3. It is at least 10 acres in area, counting the area both on and off site; and
  4. It consists of trees in excess of 18 inches *DBH*.
- D. **Woodland, Core Young.** A woodland meeting C 1 to 3 above with trees in excess eight inches *DBH*.
- E. **Woodland, Mature.** A woodland area with trees averaging 18 inches *DBH* or more, or a grove of mature trees.
- F. **Woodland, Young.** A woodland area with trees averaging eight inches *DBH* or more, or a grove of young trees.

**Woodland, Low Quality.** See *Low Quality Woodland*.

## Y

**Yard.** An unoccupied space open to the sky on the same lot with a *building* or structure.

**Yard, Street.** A yard extending the full width of the lot between the *street line* and the parts of the principal *building* erected thereon, setting back from and nearest such *street line*.

**Yard, Rear.** A yard extending the full width of the lot between the rear lot line and the parts of the principal *building* erected thereon. For a corner lot, the rear yard shall not extend beyond the *building* setback line on the side street.



**Yard, Side.** A yard between the parts of the principal *building* and the adjacent side line of the lot and extending from the front yard to the rear yard.

## Z

**Zero Lot Line.** See *Lot-Line House*.

**Zoning.** The division of a municipality or county into districts or zones which specify permitted and conditional uses and development standards for real property within the districts or zones.

**Zoning District.** A designation shown on the *Zoning Map* as being in a district enumerated in Article 1, *Purpose, Intent, Jurisdiction and Zoning Districts*, in which a specific set of zoning standards apply. The term may refer to the standards or an area so mapped. The term is also analogous with "zoning classification" or "zoning designation."

**Zoning Map.** The map(s) showing the location and boundaries of the zoning districts established by this Ordinance. These maps are entitled, "Official Zoning Map of Jefferson County, West Virginia."

**Zoning Permit or Certificate.** A written permit issued by the Zoning Administrator in hard copy that certifies that the proposed use of the land will be in compliance with the use designations of this Ordinance.