



**CITY OF WEIRTON  
UNIFIED DEVELOPMENT  
ORDINANCE**

**ENACTED – October 9, 2024  
AMENDED – December 11, 2025**

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## ARTICLE 1. GENERAL PROVISIONS

### **1.01 TITLE**

This Ordinance and Ordinances supplemental or amendatory thereto, shall be known and may be cited as the “Unified Development Ordinance” of the City of Weirton, West Virginia.”

### **1.02 AUTHORITY**

This Ordinance is enacted pursuant to the authority contained in the Code of West Virginia, Chapter 8A, Articles 1 through 12, as amended, and in accordance with the Charter of the City of Weirton, West Virginia.

### **1.03 JURISDICTION**

This Ordinance shall govern the land use, subdivision and development activities proposed, planned, and conducted on parcels of land located within the corporate boundaries of the City of Weirton, West Virginia.

### **1.04 INTENT**

This Ordinance is enacted pursuant to the Comprehensive Plan of the City of Weirton to protect and promote the health, safety, comfort, morals, and general public welfare of the City through the regulation and restriction by means of zoning and subdivision regulations, the height and size of buildings and other structures, the appearance of developments, the percentage of lots that may be covered or occupied, the dimensions of setbacks, the size of open spaces, the density of population, and the location, use and design of landscaping, buildings, structures, and land for residential, commercial, industrial, institutional, recreational, and other purposes.

### **1.05 COMPLIANCE WITH ORDINANCE PROVISIONS**

Except as otherwise specifically provided in this Ordinance, no land shall be subdivided and no land or building shall hereafter be used or occupied, and no excavation, removal of soil, clearing of a site, or placing of fill shall take place on lands contemplated for development, and no building, or part thereof, shall be constructed, erected, altered, or moved, except in compliance with all of the applicable provisions of this Ordinance.

### **1.06 RELATIONSHIP TO THE EXISTING ZONING AND SUBDIVISION ORDINANCES**

To the extent that the provisions of this Ordinance are the same as the previously adopted provisions that they replace in the City’s Unified Development Ordinance and the City’s Subdivision Ordinance, they shall be considered as continuations thereof and not as new enactment unless otherwise specifically provided.

### **1.07 RELATIONSHIP TO THE COMPREHENSIVE PLAN AND RELATED PLANNING DOCUMENTS**

It is the intention of City Council that this Ordinance implement the planning policies adopted for the City, as reflected in the Comprehensive Plan and other related planning documents. While the Council reaffirms its commitment that this Ordinance and any amendment to it be in conformity with adopted planning policies, the Council hereby expresses its intent that neither this Ordinance nor any amendment to it may be challenged on the basis of any alleged non-conformity with any planning document.

**1.08 FEES**

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notices, and similar matters shall be charged to applicants for Zoning Compliance Permits, Conditional Use Permits, Sign Permits, final plat approvals, zoning amendments, appeals, variances, and other permits. The amount of such fees shall be fixed from time to time by City Council and applied uniformly.

**1.09 ACCESS FOR INSPECTION OF PROPERTY**

The City of Weirton and its authorized representatives shall have access to premises and buildings, during reasonable hours, for the purpose of making evaluations or inspections necessary to determine compliance with the standards referenced in this Ordinance. The official is authorized to enter the structure or premises at reasonable times to inspect or to perform duties imposed by this Ordinance; provided that, if the structure or premises is occupied, that credentials be presented to the occupant and entry requested. If the structure or premises is unoccupied, the official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the official shall have recourse to the remedies provided by law to secure entry.

**1.10 EFFECTIVE DATE**

This Ordinance shall take effect sixty (60) days after approval by the City Council of the City of Weirton, West Virginia.

## ARTICLE 2. **DEFINITIONS**

### **2.01 DEFINITION OF WORDS IN OTHER ORDINANCES AND CODES**

Where a word or term used in this Ordinance is not defined below, but is defined in another ordinance or code, the meaning of said word or term shall be as set forth in that ordinance or code.

### **2.02 RULES OF CONTENT AND USAGE**

The following rules of construction and usage shall apply to the text of this Ordinance:

- (A)** Words used in the present tense shall include the future.
- (B)** The particular shall control the general.
- (C)** Words used in the singular shall include the plural. Words used in the plural shall include the singular.
- (D)** The word "person" includes a profit or non-profit corporation, company, partnership, individual, or an association of individuals.
- (E)** The word "lot" includes the words "plot" or "parcel."
- (F)** The terms "shall" and "will" are always mandatory.
- (G)** The word "may" is permissive.
- (H)** The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, "arranged", or "designed" to be used or occupied.
- (I)** The word "building" includes the word "structure".
- (J)** Unless otherwise specified, all distances shall be measured horizontally.
- (K)** The masculine shall include the feminine.
- (L)** The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".
- (M)** The word "includes" or "including" or the phrase "such as" shall not limit a term to the specified examples but is intended to extend its meaning to all other instances or circumstances of like or kind of character.

(N) A "building" or "structure" shall include any part thereof.

(O) In the event there is any conflict or inconsistency between the heading of an article, section, subsection, or paragraph of this Ordinance and the context thereof, the heading shall not be deemed to affect the scope, meaning, or intent of such context.

(P) In case of any difference of meaning or implication between the text of this Ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.

(Q) In case of conflict between regulations the more restrictive shall apply.

(R) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", "either/or", the conjunction shall be interpreted as follows:

1. "and" indicates that all the connected items, conditions, provisions, or events shall apply.
2. "or" indicates that the connected items, conditions, provisions, or events shall apply singly or in any combination.
3. "either/or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.

## **2.03 DEFINITION OF TERMS**

For the purposes of this Ordinance, the following words and phrases shall have the meanings respectively described to them by this section. If not defined herein, or within other sections of this Ordinance, terms used in this Ordinance shall have the meanings provided in any standard dictionary or American Planning Association publication as determined by the Planning Director.

**ABANDONMENT** – The relinquishment of property or a cessation of the use of the property by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the Nonconforming Use of the property for a period of one year.

**ABUTTING** – Having a common border with or being separated from such a common border by a right-of-way, alley, or easement.

**ACCESS** – A means of vehicular or pedestrian approach, entry to, or exit from property.

**ACCESS MANAGEMENT** – The process of providing and managing access to land development while preserving the regional flow of traffic in terms of safety, capacity, and speed.

**ACCESSORY DWELLING UNIT** - A smaller, independent residential dwelling unit located on the same lot as a detached single-family dwelling. ADUs may be either attached to the primary dwelling or a detached unit.

**ACCESSORY BUILDING** – A building, shed, or structure that is clearly incidental to, customarily found in connection with, and located on the same lot as the principal use to which it is related. When an accessory building is attached to the principal structure in a substantial manner, such as a wall, roof, or breezeway, the accessory building shall be considered a part of the main building for setback purposes.

**ACCESSORY STRUCTURE** – A structure subordinate or incidental to the principal use on a lot including but not limited to swimming pools, piers, and other water related structures, parking, fences, gazebos, satellite dishes, dog houses, and/or related structures.

**ACREAGE, GROSS** – The total area within a Parcel of land.

**ACREAGE, NET** – The area within lot boundaries of all lands comprising the Building Site. A net acre shall not include any existing rights-of-way and flood or drainage control easements.

**ADDITION** – Any increase in the Gross Floor Area of a building or structure or use, including those in which the Building Footprint is not enlarged.

**ADULT BOOK STORE** - An establishment having more than 10 square feet of floor area devoted to stock in trade, books, magazines, and 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 ordinance. For purposes of this Ordinance, shall be classified as a Sexually Oriented Business.

**ADULT ENTERTAINMENT** - An establishment used for presenting persons depicting, showing, or relating to Specified Sexual Activities or Specified Anatomical Areas, as defined in this Ordinance. For purposes of this Ordinance, shall be classified as a Sexually Oriented Business.

**ADULT MOTION PICTURE THEATER** - An establishment used for presenting motion picture material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas, as defined in this Ordinance, for observation by patrons thereto. For purposes of this Ordinance, shall be classified as a Sexually Oriented Business.

**ADULT VIDEO STORE** - An establishment having more than 10 square feet of floor area devoted to offering videos 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 Ordinance, or an establishment with a segment or section devoted to the sale or display of such material. For purposes of this Ordinance, shall be classified as a Sexually Oriented Business.

**ADVERSE IMPACT** – A negative consequence for the physical, social, or economic environment resulting from an action or project.

**AESTHETIC ZONING** – The regulation of building or site design to achieve desirable appearance.

**AFFORDABLE HOUSING** – Housing renting for a monthly rent, or housing that may be purchased with monthly payments (including principal, interest, taxes, insurance, homeowners' association fees, etc.) that are not more than 30 percent of the total monthly household income of low-income households (defined to be a household earning less than 80 percent of the median annual income, adjusted for household size, as determined by the United States Department of Housing and Urban Development).

**AGGRIEVED or AGGRIEVED PERSON** – A person who (1) is denied by the Planning Commission or Board of Zoning Appeals, in whole or in part, the relief sought in any application or appeal, or (2) has demonstrated that he or she will suffer a peculiar injury, prejudice or inconvenience beyond that which other residents of the City may suffer.

**ALLEY** – A Right-of-Way dedicated to public use, other than a street, road, crosswalk, or easement, designed to provide a secondary means of access for the special accommodation of the property it reaches. An Alley shall not be considered adequate as the sole access for a parcel of land.

**ALTERATION** – Any change, addition, or modification in construction or occupancy of an existing structure.

**AMENITY** – Aesthetic or other characteristics of a development that increase its desirability to a community or its marketability to the public. Amenities may differ from development to development but may include such things as a unified building design, recreational facilities (e.g. swimming pool, walking trails, bicycle trails, lakes, tennis courts, picnic areas, playgrounds), views, landscaping, etc.

**ANIMAL CLINIC/HOSPITAL** – An Establishment where animals are given medical or surgical treatment and are cared for during the time of such treatment. Use as a Kennel shall be limited to short time boarding and shall be incidental to such hospital.

**ANIMAL KENNEL** – The boarding, breeding, raising, grooming, or training of two or more dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain. For purposes of this Ordinance, the term Kennel shall include animal daycare facilities where licensed domestic pets are dropped off for daytime care only.

**ANIMAL GROOMING SERVICE** – Any place or establishment whose primary service offered is to be a place where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value and/or health, and for which a fee is charged. Overnight boarding shall not be permitted.

**ANIMAL SHELTER** – A facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

**ANTENNA** – Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building.

**ANTENNA, DISH** - See Telecommunications, Satellite Dish Antenna.

**APARTMENT** – One or more rooms in a building designed and intended for occupancy as a separate Dwelling Unit.

**ARCHITECTURAL DECORATION** – An element, design, or motif, other than an architectural feature, installed, attached, painted, or applied to the exterior of a building or structure for the purpose of ornamentation or artistic expression.

**ARCHITECTURAL FEATURES** – Cornices, eaves, gutter, belt courses, sills, lintels, bay windows, and chimneys.

**AREA, BUILDABLE** – The area of a Lot remaining after the minimum yard and open space requirements of this Ordinance have been met.

**AREA, BUILDING** – The maximum horizontal projected area of the Principal and Accessory Building, excluding open steps or terraces, unenclosed porches and not exceeding one story in height, or architectural appurtenances projecting not more than three (3) feet.

**AREA, GREEN** – Land shown on a development plan, master plan, or official map for preservation, recreation, landscaping, or park.

**AREA, GROSS FLOOR** – The sum of the gross area of all floors of a Building or Buildings, measured from the exterior faces of exterior walls or from the centerlines of walls separating two Buildings. Gross Floor Area shall not include: (a) underground parking; (b) uncovered steps; or (3) exterior lines.

**AREA, GROSS LEASABLE** - The total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any; expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.

**AREA, LANDSCAPED** - A portion of the site or property containing vegetation to exist after construction is completed. Some examples include natural areas, buffers, streetscapes, lawns, and plantings.

**ART GALLERY** – An establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art.

**ART, PUBLIC** – Any visual work of art, accessible to public view, on public or private property within the City neighborhood environs including residential, business, industrial building, or apartment complexes, parks, etc. The work of art may include but need not be limited to sculptures, murals, monuments, frescoes, fountains, paintings, stained glass, or ceramics.

**ARTIST STUDIO** – Workspace for artists or artisans, including individuals practicing one or more of the fine arts or skilled in an applied art or craft.

**AS-BUILT DRAWING or PLAN** – A Site Plan which represents the actual construction and/or development conditions and characteristics, which is generally completed after the construction and/or development have been completed.

**ASSISTED LIVING FACILITY** - A facility that provides primarily non-medical resident services to seven (7) or more individuals in need of personal assistance essential for sustaining the activities of daily living, or for the protection of the individual, excluding members of the resident family or person employed as facility staff, on a 24-hour a day basis.

**ATTENTION-ATTRACTING DEVICE** – Any device or object visible from any public right-of-way which is primarily designed to attract the attention of the public to a business, institution, sign, or activity through such means, including but not limited to illumination, color, size, or location. Attention-attracting devices or objects oftentimes incorporate illumination, which may be stationary, moving, turning, blinking (including animation), or flashing. Attention-attracting devices may or may not convey a message and can include, but are not limited to, search lights, beacons, strobe lights, strings of lights, barber poles, internally illuminated translucent canopies or panels, electronically controlled message boards (time/temperature signs, gas price signs, public service announcements, etc.), banners, streamers, pennants, propellers, and inflatable objects (including strings of balloons) or other device designed to attract attention. Approved traffic-control devices are not considered to be attention-attracting devices.

**ATTIC** – The part of a building that is immediately below and wholly or partly within the roof framing.

**AUTOMATED TELLER MACHINE (ATM)** – An automated device that performs banking or financial functions at a location remote from the controlling financial institution. Such devices are considered to be Accessory Uses.

**AUTOMOBILE REPAIR FACILITY** – Any building, structure or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, watercraft repairs, or similar vehicles, including but not limited to upholstery work, oil change and lubrication, painting, tire service, general repair, rebuilding, or reconditioning of engines, body work, framework, welding, and major painting services, etc.

**AUTOMOTIVE SALES AND RENTAL** - Establishments involved in the retail sale and/or rental of new and used automobiles, noncommercial trucks, motor homes or recreational vehicles, including incidental storage, maintenance, and servicing.

**AWNING** - Any rigid or non-rigid material, such as fabric or flexible plastic that extends from the exterior wall of a building and is supported by or attached to a frame.

**BAR, NEIGHBORHOOD** – A bar that shall not exceed two thousand and five hundred (2,500) square feet of floor area. See also Bar and Night Club.

**BASEMENT** – The portion of a building having at least one-half its floor-to-ceiling height below the average level of the adjoining ground and with a floor-to-ceiling height of 6.5 feet or more. A Basement shall be counted as a story, and thus included in all standards controlling the intensity of development.

**BEACON** - Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same site as the light source; also, any light with one or more beams that rotate or move.

**BED AND BREAKFAST INN** – A private residence that offers, for a fee, transient sleeping accommodation to visitors in up to five (5) rooms of an owner-occupied single-family dwelling; and provides, at no extra charge, breakfast to the guests. For purposes of this definition, transient shall mean that a room is rented for not more than 30 days to any one visitor in any given calendar year.

**BIKEWAY** – A pathway used for bicycling, walking, and other recreation.

**BLOCK** – Property having Frontage on both sides of street and lying between the two nearest intersecting or intercepting streets, or nearest intersecting and intercepting street and railroad right-of-way, waterway, or other barrier (including an alley between zoned areas).

**BOARD** – The Board of Zoning Appeals of the City of Weirton, West Virginia as officially constituted pursuant to Chapter 8A, Articles 1 through 12 of the Code of West Virginia, unless otherwise noted.

**BOARDING, LODGING, ROOMING HOUSE** – A building or portion of a building, other than a hotel, where lodging with or without meals is provided for compensation for five or more persons that are not temporary occupants.

**BOUNDARY CHANGE, MAJOR** -- A Major Boundary Change makes substantial adjustment to lot layout and/or improvements that will require Planning Commission review for the adequacy of drainage, roads, water, sewer, and any other improvements or conditions.

**BOUNDARY CHANGE, MINOR** -- A Minor Boundary Change consists of lot line adjustments that do not affect public improvements.

**BREEZEWAY** – A covered passage, open on at least one side, between two buildings.

**BREWPUB** – A restaurant which includes the brewing of beer or the fermentation of wine or cider as an accessory use for sale at the same premises of not more than 5,000 barrels per year for either consumption on premises or sold directly to the consumer. A barrel is equivalent to 31 U.S. gallons.

**BUFFER STRIP** – Land area used to visibly separate one use from another or to shield or block noise, light or other nuisances.

**BUILDING** – A Structure having a roof supported by columns or walls, for the shelter, support, enclosure, or protection of persons, animals, chattels, or property. When separated by party walls, without opening through such walls, each portion of such a Building shall be considered a separate structure.

**BUILDING ENVELOPE** – The area formed by the Front, Side, and Rear Setback lines of a Lot within which the Principal Building must be located.

**BUILDING FOOTPRINT** – The outline of the total area of a Lot covered by a building's perimeter. Where a Building has a recessed ground floor, the footprint shall be construed to be the outline of the largest perimeter of the building, excluding architectural decorations or features as defined herein.

**BUILDING HEIGHT** – The vertical distance measured from the lot ground level to the highest point of the roof for a flat roof, to the deck line of a mansard roof, and to the mean height between eaves and ridges of gable, hip, and gambrel roofs. On lots with topographic elevation changes, the lot ground level shall be construed to mean the halfway point between the highest and lowest elevations of the Building Footprint.

**BUILDING LINE** – The line, parallel to the street line, that passes through the point of the Principal Building nearest the front lot line.

**BUILDING SITE or LOT** – A single parcel of land occupied or intended to be occupied by a Building or Structure. A building site shall be synonymous with a lot or parcel of land.

**BUILDING MATERIALS** - Establishments involved in selling lumber, and a general line of building materials and supplies, to the general public, which may include roofing, siding, shingles, wallboard, paint, cement, and so forth, including incidental storage.

**BUILDING WALL** -- An exterior load-bearing or non-load-bearing vertical structure that encompasses the area between the final grade elevation and eaves of the building and used to enclose the space within the building. A porch, balcony, or stoop is part of the building structure and may be considered as a Building Wall.

**BUILDING, ACCESSORY** – See Accessory Building and Accessory Structure.

**BUILDING, DETACHED** – A Building having no structural connection with another Building.

**BUILDING, FRONT LINE OF** – The line of the face of the building nearest the front lot line.

**BUILDING, NONCONFORMING** – The lawful use of a Building or Structure or portion thereof, existing at the time this Ordinance or amendments thereto take effect, and which does not conform to the development standards prescribed in the district in which it is located.

**BUILDING, PRINCIPAL** – A Building in which is conducted the Principal Use of the lot on which said Building is situated.

**BULK REQUIREMENTS** – Standards that control the height, density, and location of Structures.

**BUS SHELTER** – A small, roofed structure, usually having three walls, located near a street, and designed primarily for the protection and convenience of bus passengers.

**BUS TERMINAL** - See Passenger Station, Railroad, Motor Bus.

**BUSINESS or COMMERCIAL USE** – The engaging in the purchase, sale, barter or exchange of goods, wares, merchandise, or services, the maintenance or operation of offices, or recreational and amusement enterprises for profit.

**BUSINESS CONDOMINIUM** - A condominium project or condominium subdivision project that is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for commercial or industrial use. These units must front on a street or provide frontage into a common parking area, with conforming ingress and egress into the common areas.

**BY RIGHT** – A Use permitted or allowed in the district involved, and upon review has been determined to comply with the zoning provisions of this Ordinance and other applicable ordinances and regulations.

**CALIPER** – A horticultural method of measuring the diameter of nursery stock. For trees less than four inches in diameter, the measurement should be taken at six inches above the ground level. For trees greater than four (4) inches in diameter up to and including twelve (12) inches, the Caliper measurement must be taken twelve (12) inches above the ground level. For trees greater than twelve (12) inches in diameter, the trunk is measured at breast height, which is four and one-half (4.5) feet above the ground.

**CAMPUS** – The grounds and buildings of a public or private College, University, School, Hospital, or other institution.

**CANOPY** – A permanently roofed shelter projecting over a sidewalk, driveway, entry, window, or similar area, which shelter may be wholly supported by a building or partially supported by columns, poles, or braces extending from the ground. Any roof overhang extending more than three (3) feet from the face of a building shall be considered a canopy.

**CAR WASH/DETAILING** – The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

**CARETAKER'S RESIDENCE** – A residence located on a premises with a main nonresidential use and occupied only by a caretaker or guard employed on the premises.

**CARPORT** – A roofed accessory structure providing space for the parking of motor vehicles and enclosed on not more than two sides. Carports attached to the principal structure that are enclosed are considered an addition to the principal structure and must meet the building setback requirement for the district.

**CART-WAY** – The hard or paved surface portion of a street customarily used by vehicles in the regular course of travel. Where there are curbs, the cart-way is that portion between the curbs.

**CEMETERY** - Land used or intended to be used for burying the human dead and dedicated for Cemetery purposes, including mausoleums and mortuaries when operated in conjunction with and within the boundaries of the Cemetery.

**CHANGE OF OCCUPANCY/USE**- A discontinuance of an existing use and the substitution therefore of a use of a different kind or class.

**CHARITABLE, FRATERNAL, or SOCIAL ORGANIZATION** - A facility for administrative, meeting, or social purposes for a private or Nonprofit Organization, primarily for use by administrative personnel, members, and guests. Examples include, but are not limited to: Lions Club, Veterans of Foreign Wars, etc.

**CHILDCARE CENTER** – See Family Day Care Center and Family Day Care Home.

**CHURCH or PLACE OF WORSHIP** – A Building wherein persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to sustain public worship, together with all Accessory Buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities. Customary Accessory Uses include a Caretaker's Residence, a meeting or activity hall, a gymnasium, a playground, Day Care Center, preschool, etc., but not a Medical Clinic, homeless shelter, rehabilitation center, etc.

**CITY COUNCIL** – The City Council of the City of Weirton, West Virginia.

**CITY MANAGER** – The City Manager of the City of Weirton, West Virginia.

**CLEAR VISION TRIANGLE** – An area of unobstructed vision at street intersections between three (3) and eight (8) feet above the gutter line and within a triangular area at the street corner, which area is bounded by: (1) The street property lines of the corner lot and a line connecting points twenty-five (25) feet distant from the intersection of the property lines of such lot; or (2) The curb lines of an intersection and a line connecting points thirty (30) feet distant from the corner of the intersection, such corner determined by projecting the curb lines out to a specific point, whichever is the lesser.

**CLEAR-CUTTING** – Removal of an entire stand of trees and shrubs.

**COMMISSION** – See Planning Commission.

**COMMON AREA** – Any portion of a Development that is not part of a lot or tract and is designed for the common usage of the Development. These areas include green Open Spaces and may include such other uses as parking lots and pedestrian walkways. Maintenance of such areas is not the responsibility of the City government and shall be set forth by the development association in the form of restrictive covenants, which shall guarantee the maintenance of these areas.

**COMMUNICATIONS EQUIPMENT BUILDING** - An unmanned Building or cabinet containing communications equipment required for the operation of communications antennas and covering an area on the ground not greater than two hundred fifty (250) square feet.

**COMMUNITY CENTER** – A Building used for activities that, through proximity to residents, benefit the community. Activities permitted include any combination of the following: meeting space for civic groups, clubs, or organizations; spaces for the provision of daycare services for up to 12 children; group cultural and/or recreational activities, whether self-directed or organized; space for artisans, crafters, etc., including occasional (not more than one day each week) sale of such merchandise produced on-premises; and educational and/or instructional programs. Community centers may be owned and/or operated by public or private entities. Only those activities specifically listed herein are permitted.

**COMMUNIY GARDEN** – A community garden shall mean privately, or publicly owned land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users. Community gardens may be divided into sperate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained or used by group members.

**COMPOSTING OPERATION** - A solid waste processing facility specifically designed and operated for the express purpose of composting.

**COMPREHENSIVE PLAN** - The City of Weirton Comprehensive Plan adopted by Ordinance by City Council, and as subsequently amended.

**CONDOMINIUM** – A common interest community in which portions of the real estate are designated for separate ownership and the remainder of the real estate is designated for common ownership solely by the owners of those portions. A common interest community is not a condominium unless the undivided interest in the common elements is vested in the unit owners.

**CONFERENCE CENTER** – A facility used for service organizations, business and professional conferences, and seminars limited to accommodations for conference attendees. The accommodations can include sleeping, eating, and recreation. A Conference Center is not designed solely to be utilized by the general public for overnight purposes.

**CONTIGUOUS** – Lots, parcels, or municipal 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, or municipal boundaries as contiguous.

**CONVENIENCE STORE** – A use where certain retail goods and gasoline are sold at the retail level.

**COOPERATIVE** – A common interest community in which the real estate is owned by an association, each of whose members is entitled by virtue of his ownership interest in the association to exclusive possession of a unit.

**COUNTRY CLUB** – A club with recreational facilities for members, their families and invited guests.

**COVENANT/DEED RESTRICTION** – A restriction on the use of land set forth in a written document or plat. The restriction runs with the land and is binding upon subsequent owners of the property.

**CO-LOCATION** - Locating wireless communication equipment for more than one provider on a single site.

**CRAFT PRODUCTION FACILITY (MICROBREWERY/MICRODISTILLERY/MICOCIDERY)** – A facility in which beer, wine, or other alcoholic beverages are brewed, fermented, or distilled for distribution and consumption, and which possess the appropriate license form the State of West Virginia. On premise production includes more than 500 barrels per year. A barrel is equivalent to 31 U.S. gallons.

Tasting rooms for the consumption of on-site produced beer, wine, or distilled products are permitted on premises as an accessory use. Retail sales are also permitted.

**DAY CARE FACILITY, ADULT** – A facility, licensed by the State of West Virginia, providing care for the elderly and/or functionally impaired adults in a protective setting for a portion of a 24-hour day.

**DECK** – A Structure, without a roof, directly adjacent to a Principal Building, which is elevated at least six (6) inches above grade.

**DENSITY** – The number of Dwelling Units situated on or to be developed on a net acre (or smaller unit) of land, which shall be calculated by taking the total gross acreage and subtracting surface water, undevelopable lands (e.g. wetlands) and the area in rights-of-way for streets and roads.

**DEVELOPMENT** – (1) Any man-made change to improved or unimproved land, including but not limited to the construction, reconstruction, conversion, structural alteration, relocation, enlargement, or use of any Structure or parking area; (2) Any mining, excavation, dredging, filling, grading, drilling, or any land disturbance; or (3) Any use or extension of the use of the land.

**DEVELOPMENT, CLUSTER** – A development design technique that concentrates buildings in specific area on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

**DEVELOPMENT, NEO-TRADITIONAL** – An approach to land-use planning and urban design that promotes the building of neighborhoods with a mix of uses and housing types, disciplined architectural variety, a central public gathering place, interconnecting streets and alleys, and edges defined by greenbelts or boulevards. The basic goal is integration of the activities of potential residents with work, shopping, recreation, and transit all within reasonable walking distance.

**DIRECTOR** - The Director of Planning for the City of Weirton, West Virginia, unless otherwise noted.

**DISTRIBUTION CENTER** - A use where goods are received and/or stored for delivery to the ultimate customer at remote locations. See Warehousing and Distribution.

**DOCK** - A Structure built over or floating upon the water and used as a mooring place for boats and other marine transport, fishing, swimming, and other recreational uses.

**DONATION COLLECTION BIN** – A receptacle designed with a door, slot, or other opening that is intended to accept and store donated items; provided, however, that the definition of Donation Collection Bins shall not include trailers where personnel are present to accept donations.

**DRAINAGE** – (1) Surface water run-off; (2) the removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development; or (3) the means for preserving the water supply and the prevention or alleviation of flooding.

**DRIP LINE** – An imaginary vertical line that extends from the outermost branches of a tree's canopy to the ground.

**DRIVE-THROUGH FACILITY** – Any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions.

**DRIVEWAY** – A private roadway providing access for vehicles to a Parking Space, Garage, Dwelling, or other Structure.

**DRIVEWAY, COMMON** - A Driveway shared by adjacent property owners and privately owned and maintained.

**DRIVEWAY, CROSS ACCESS** - A service drive providing vehicular access between two or more contiguous sites, so the driver need not enter the public street system.

**DRY CLEANING AND LAUNDRY PICK-UP** - An Establishment providing dry cleaning and laundry pickup services, but where no dry cleaning and laundering are done on the premises.

**DRY CLEANING AND LAUNDRY COMMERCIAL** - An Establishment providing dry cleaning and laundering services where dry cleaning and laundering are done on the premises.

**DWELLING** – A Building, or portion thereof containing living, sleeping, housekeeping accommodations, and sanitary facilities for occupancy by one or more families. Such definition shall not include Hotels, Motels, motor homes, tents, automobiles, rooming houses, or any other facilities primarily intended to provide transient accommodations.

**DWELLING UNIT** – A single unit providing complete, independent living facilities for a single housekeeping unit. In no case shall a motor home, trailer, Hotel or Motel, lodging or boarding house, automobile, tent, or portable building be considered a dwelling unit. Dwelling Units are contained within Single-Family Dwellings (in which case the definition is synonymous), Garage Apartment Dwellings and Accessory Dwellings, Mixed-Use Dwellings, and Multifamily Dwellings. Units without self-contained sanitary facilities and kitchens are not classified as Dwelling Units, but rather are considered to be rental rooms.

**DWELLING, MIXED USE** – A building containing residential uses with commercial and/or office uses on the ground floor in the front of the building facing the primary street Frontage. Residential units can be on the ground floor but cannot be accessed from any portion of the building that faces the primary street. Residential units can be located on the ground floor behind the commercial uses.

**DWELLING, MULTI-FAMILY** – A freestanding Building containing three (3) or more Dwelling Units, whether they have direct access to the outside, or access to a common building entrance. Multi-family dwellings can consist of rental apartment buildings, rental, or owner-occupied Townhouse buildings, and rental or owner-occupied Condominium buildings, provided that all such freestanding buildings contain three (3) or more Dwelling Units.

**DWELLING, SINGLE FAMILY** – A freestanding building designed solely for occupancy by one family for residential purposes as a single housekeeping unit.

**DWELLING, TOWNHOUSE** – A one-family Dwelling Unit, with private entrance, which is part of a Structure whose Dwelling Units are attached horizontally in a linear arrangement and having a totally exposed front and rear wall to be used for access, light, and ventilation. Setbacks are measured from the perimeter of the overall Building.

**DWELLING, TRANSITIONAL** - A temporary residential living arrangement for persons leaving an institutional setting and in need of a supportive living arrangement in order to readjust to living outside the institution. Transitional living facilities help residents re-enter society while housed under supervision while under the constraints of alternatives to imprisonment including, but not limited to, rerelease, work release or probationary programs. Such facilities typically place a limit, measured in months, on how long a person may stay.

**DWELLING, TWO-FAMILY** – A freestanding Building containing two (2) Dwelling Units, each of which has direct access to the outside.

**DWELLING, TRIPLEX** – A freestanding building containing three (3) dwelling units on one lot or parcel. They may be detached or attached, either horizontally or vertically.

**DWELLING, QUADPLEX** - A freestanding building containing four (4) dwelling units on one lot or parcel. They may be detached or attached, either horizontally or vertically.

**DWELLING, ZERO LOT LINE** – The location of a Building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

**EASEMENT** – A grant by a property owner to the use of the land by the public, a corporation, or persons for specific purposes as the construction of utilities, drainage ways, and roadways.

**EASEMENT, CONSERVATION** - A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic, or open space values of real property; assuring its availability for agricultural, forest, recreational, or open space use; protecting natural resources; or maintaining air or water quality.

**ELECTRIC VEHICLE, BATTERY** – Any vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle's batteries and produces zero tailpipe emission or pollution when stationary or operating.

**ELECTRIC VEHICLE CHARGING STATION** – A public or private parking space that is served by battery charging station equipment for the purpose of transferring electric energy to a better or other energy storage device in electric vehicle.

**ELECTRIC VEHICLE PARKING SPACE** – Any marked parking space that identifies the use to be exclusively for the parking of an electric vehicle.

**ELECTRICAL REPAIR** - An Establishment primarily engaged in repairing electrical and electronic equipment, such as electrical household appliances, television, and audio equipment, and the like.

**ELEVATION** – (1) A vertical distance above or below a fixed reference level; or (2) a flat scale drawing of the front, rear, or side of a Building.

**EMPLOYEE QUARTERS** – Accessory residential structures that house people employed by the residents of the principal building or owners of the property and that is not used for rental purposes.

**EQUIPMENT RENTAL / SALES** - An Establishment involved in renting small tools and equipment, janitorial equipment, and small furniture and appliances, such as baby beds, chairs and tables, televisions, and audio equipment and so forth.

**EROSION** – The process by which the ground surface is worn away by the action of wind, water, gravity, ice, or a combination thereof, or the detachment and movement of soil or rock fragments.

**ESSENTIAL UTILITIES AND EQUIPMENT** – Underground or overhead electrical, gas, communications not regulated by the Federal Communications Commission, water and sewage systems, including pole structures, towers, wires, lines, mains, drains, sewers, conduits, cables, fire alarm boxes, public telephone structures, police call boxes, traffic signals, hydrants, regulating and measuring devices and the structures in which they are housed, and other similar equipment accessories in connection therewith. Essential Utility and Equipment is recognized in three categories: (1) local serving; (2) non-local or transmission through the City; and (3) water and sewage systems, the activities of which are regulated, in whole or in part, by one or more of the following State agencies: Public Service Commission; Department of Environmental Protection; or the Department of Health and Human Resources.

**EXCAVATION** – Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances, or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

**EXTERIOR DISPLAY** – The outdoor display of products, vehicles, equipment and machinery for sale or lease. Exterior display is an outdoor showroom for customers to examine and compare products.

**EXTRACTIVE INDUSTRY** – The extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity.

**FAÇADE** – That portion of any exterior elevation on the building extending from grade to top of the parapet, wall, or eaves and the entire width of the building elevation.

**FAÇADE, NONPRINCIPAL** – The exterior wall(s) of a structure that do not face a public right-of-way.

**FAÇADE, PRINCIPAL** – Exterior walls of a Building which are adjacent to or front on a public street, park, or plaza. There may be more than one Principal Façade on a Building.

**FACTORY-BUILT HOMES** – Modular and manufactured homes.

**FAMILY** – One or more individuals occupying a Dwelling Unit and living as a single housekeeping unit, also known as a Household.

**FAMILY DAY CARE CENTER** – Any facility which is used to provide non-residential childcare for compensation for seven (7) to twelve (12) children, including children who are living in the Household who are less than six (6) years of age. No more than four (4) of the total number of children may be less than twenty-four (24) months of age.

**FAMILY DAY CARE HOME** – A private home which is used to provide non-residential childcare for compensation in other than the child's own home. The provider may care for four (4) to six (6) children, including children who are living in the Household, who are less than six (6) years of age. No more than two (2) of the total number of children may be less than twenty-four (24) months of age.

**FARMER'S MARKET** – The offering for sale of fresh agricultural products directly to the consumer at an open-air market or within a building.

**FENCE** – An artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas.

**FILL** – Sand, gravel, earth, or other materials of any composition whatsoever placed or deposited by humans, for purposes of creating a new elevation of the ground.

**FINANCIAL SERVICES** - An Establishment primarily engaged in providing financial and banking services. Typical uses include banks, savings and loan institutions, stock and bond brokers, loan and lending activities, and similar services.

**FLAG** - Any fabric or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, corporation, lodge, fraternity or sorority, political party, nonprofit organization, charity, club, association, or other entity.

**FLAG, BUSINESS** – A Flag displaying the name, insignia, emblem, or logo of a profit-making entity.

**FLAG, PUBLIC** – A Flag displaying the name, insignia, emblem, or logo of any nation, state, municipality, or noncommercial organization.

**FLEA MARKET** – An occasional or periodic market held in an open area or structure where goods are offered for sale to the general public by individual sellers from open or semi-open facilities or temporary structures.

**FLOOD-PRONE AREA** – Any land area susceptible to repeated inundation by water from any source.

**FLOODPLAIN OR FLOOD HAZARD AREA** – Any land within the City adjoining any river, stream, or watercourse as delineated in the Flood Boundary & Floodway Map for Weirton, West Virginia, prepared by the Federal Emergency Management Agency, which is subject to partial or complete inundation or an area subject to the unusual and rapid accumulation of runoff of surface waters from any source.

**FLOOR AREA** – The sum of the gross horizontal areas of all floors, including basements, of a Building measured from the exterior faces of the exterior walls or from the centerline of walls separating two Buildings. The floor area of enclosed required off-street parking areas shall not be included. Floor area for outdoor display of merchandise or customer seating, whether uncovered or covered by a tent or canopy, shall mean the smallest rectangular area encompassing the display or customer seating area.

**FLOOR AREA RATIO (FAR)** – The Gross Floor Area of the Principal and Accessory Buildings on a Lot divided by the area of the Lot. The ratio is an expression of the intensity of development. For example, an FAR of 1.0 would allow one square foot of building area to be constructed for each square foot of lot area; an FAR of 4.0 would allow four square feet of building area for each square foot of lot area.

**FLOOR AREA, NET** – The gross area of a floor or several floors of a building or structure, excluding those areas not directly devoted to the Principal or Accessory Use of the building or structure, such as storage areas or stairwells, measured from the exterior faces of exterior walls or interior walls. Examples of areas to subtract from the gross floor area include stairways, storage rooms, mechanical equipment rooms, and other areas generally not accessible to the public.

**FRONTAGE** – (1) The boundary of a lot fronting on a public street; (2) the front lot line.

**FUNERAL HOME** – A Building or part thereof used for human funeral services. Such Building may contain space and facilities for (a) embalming, and the performance of other services used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles; and (e) facilities for cremation.

**GARAGE, PRIVATE** – A detached accessory or portion of a main Building housing the automobiles of the occupants of the premises, but not commercial vehicles.

**GARAGE, PUBLIC** – A building or part thereof for the parking or storage of motor vehicles and in which no other use is conducted, which is available for public use.

**GARAGE SALES** – This term is used to broadly define temporary sales events of common household items located at a residential home. The term includes but is not limited to sale events referred to as garage, yard, porch, or apartment sales.

**GARDEN CENTERS** - Establishments primarily engaged in selling containerized trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools, and other garden supplies to the general public and where no trees, shrubs or plants are grown on the premises. This use may include commercial greenhouses.

**GASOLINE SERVICE STATION** – A building, place of business, land area, or other premises, or portion thereof, used or intended to be used for the retail dispensing of gasoline, oil and grease, and other vehicle fuels, and including, as an Accessory Use, a convenience store, the sale and installation of batteries, tires, lubricants, and other automobile accessories and retail items. Minor repair service may also be rendered.

**GOLF COURSE** – A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse, restrooms, a driving range, and shelters as Accessory Uses.

**GRADE** – The average level of the finished surface of the ground adjacent to the exterior walls of the building.

**GRADE, PERCENTAGE OF** – The rise or fall of a slope in feet and tenths of a foot for each one hundred (100) feet of horizontal distance.

**GRANDFATHERED** – Describes the status accorded certain properties, uses, and activities that are legally existing prior to the date of adoption of this Ordinance and any subsequent amendments.

**GREENHOUSE, NON-COMMERCIAL** – A building or structure constructed chiefly of glass, glasslike or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers or other weather sensitive plants.

**GREENHOUSE, COMMERCIAL** – A building used for the growing of plants, all, or part of which are sold at retail or wholesale.

**GROUND FLOOR** – The first floor of a building other than a cellar or basement.

**GROUND COVER** – Any evergreen or broadleaf evergreen plant that does not attain a mature height of more than one (1) foot. Sod and seed shall also be considered as qualifying groundcover.

**GROUP RESIDENTIAL FACILITY** means a facility which is owned, leased or operated by a behavioral health service provider and which: (1) Provides residential services and supervision for individuals who are developmentally disabled or behaviorally disabled; (2) is occupied as a residence by not more than eight individuals who are developmentally disabled and not more than three supervisors or is occupied as a residence by not more than twelve individuals who are behaviorally disabled and not more than three supervisors; (3) is licensed by the Department of Health and Human Resources; and (4) complies with the State Fire Commission for residential facilities.

**GROUP RESIDENTIAL HOME** means a building owned or leased by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence.

**HAZARDOUS MATERIAL** – Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. The term includes, but is not limited to, hazardous substances and hazardous wastes.

**HEAVY MACHINERY SALES / RENTAL** - Establishments primarily engaged in marketing heavy machinery, such as road construction and maintenance machinery, mining machinery, agricultural machinery, industrial machinery, and equipment, and so forth.

**HEIGHT** – The vertical distance of a building measured from the average grade level at the base of the building to the highest point of the roof if the roof is flat or mansard, or to the average level between the eaves and the highest point of the roof if the roof is of any other type. Height calculation shall not include chimneys, spires, towers, elevators and mechanical penthouses, water tanks, radio antennas, and similar projections.

**HELIPORT** – An area designed to be used for the landing or takeoff of helicopters including operations facilities, such as maintenance, loading and unloading, storage, fueling, or terminal facilities.

**HELISTOP or HELIPAD** – An area designed to be used for the landing or takeoff of one (1) helicopter, the temporary parking of one (1) helicopter, and other facilities as may be required by federal and state regulations, but not including operation facilities such as maintenance, storage, fueling, or terminal facilities.

**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.

**HOLIDAY DECORATIONS** - Displays erected on a seasonal basis in observance of religious, national, or state holidays, which are temporary and contain no advertising material.

**HOME GARDEN** – A home garden shall mean the property of a single-family or multi-family residence used for the cultivation of fruits, vegetables, plants, flowers, or herbs by the residents of the property, guest of the property owner, or a gardening business hired by the property owner.

**HOME OCCUPATION** – An occupation carried on in a Dwelling Unit by the resident thereof; provided that the use is limited in extent and incidental and secondary to the use of the Dwelling Unit for residential purposes and does not change the character thereof. All home occupations are subject to the regulations included in this Ordinance.

**HOSPITAL** – An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons and licensed by state law to provide facilities and services in surgery, obstetrics, and general practice.

**HOTEL** – A Building in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a rooming or boarding house.

**HOUSEHOLD** – A family living together in a single Dwelling Unit with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the Dwelling Unit.

**IMPERVIOUS SURFACE** – Surfaces that do not absorb water. Examples of such surfaces include buildings and concrete or asphalt parking areas, roads, sidewalks, or driveways.

**IMPROVEMENT** – Any man-made, immovable item that becomes part of, placed on, or is affixed to real estate.

**INDUSTRIAL EQUIPMENT REPAIR** - An establishment primarily engaged in repairing industrial equipment, including repairing heavy-construction and earth-moving equipment.

**INDUSTRIAL PARK** - A planned, coordinated development of a tract of land designed to contain two (2) or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, and open space.

**INDUSTRIAL SUPPLIES** - Establishments primarily engaged in marketing industrial supplies, such as bearings, boxes, gaskets, bottles, rubber goods, welding supplies, metal containers, and so forth.

**INDUSTRY, HEAVY** - A use engaged in the basic processing and manufacturing of materials, or a use engaged in storage of or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

**INDUSTRY, LIGHT** – Research and development activities, the manufacturing, compounding, processing, packaging, storage, assembly, and/or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building. Finished or semi-finished products may be temporarily stored outdoors pending shipment.

**INFILL DEVELOPMENT** – To fill in vacant or underused land in existing communities with new development that blends in with its surroundings.

**INSTITUTIONAL USE** - A school, religious institution, or other use operated by a public agency or non-profit organization.

**JUNKYARD** – See Salvage Yard.

**KITCHEN** – Any room principally used, intended, or designed to be used for cooking or the preparation of food. The presence of a range or oven, or utility connections suitable for servicing a range or oven, shall normally be considered as establishing a kitchen.

**LABORATORIES** - Facilities equipped for experimental study in a science or for testing and analysis; facilities providing opportunity for research, experimentation, observation, or practice in a field of study.

**LAND DEVELOPMENT** – The development of one or more lots, tracts, or parcels of land by any means for any purpose, but does not include easements, rights-of-way or construction of private roads for extraction, harvesting, or transporting of natural resources.

**LAND TRUST** – A private, nonprofit conservation organization formed to protect natural resources, such as productive farm and forest land, natural areas, historic structures, and recreational areas. Land trusts purchase and accept donations of conservation easements. They educate the public about the need to conserve land, and some provide land-use and estate planning services to local governments and individual citizens.

**LANDSCAPED BUFFER** – An area of landscaping separating two distinct land uses, or a land use and a public right-of-way, and acts to soften or mitigate the effects of one land use on the other.

**LANDSCAPING** – The bringing of the soil surface to a smooth finished grade, installing sufficient trees, shrubs, ground cover, and grass to soften building lines, provide shade and generally produce a pleasing visual effect of the premises.

**LANDSCAPING PLAN** – A plan which contains the Site Plan requirements listed in the landscaping section of this Ordinance.

**LAUNDROMAT** – A business that provides washing, drying, and/or ironing machines for hire to be used by customers on the premises.

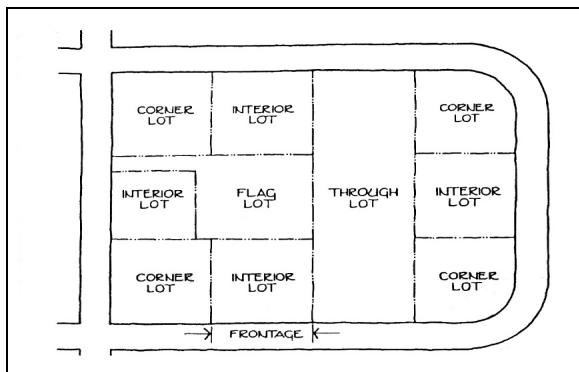
**LEVEL OF SERVICE** – The capacity of a roadway system to carry traffic is determined by the number and character of traffic lanes provided, the configuration and operation of intersections, and the number and character of access points adjoining the system. In traffic engineering terms, the adequacy with which a system functions is expressed in what is known as level-of-service. Levels-of-service (LOS) are indicated by letter grades ranging from A to F, with an LOS of C or D being considered the minimum acceptable level. At intersections, LOS is measured by the average amount of delay that a driver experiences while trying to pass through the intersection during peak periods. For roadways sections, this measure is determined by the number and width of lanes, the width of shoulders, and the number of hills and curves, as compared with the traffic volume the road must carry.

**LIMITED VIDEO LOTTERY** -- A lottery that allows a game to be played utilizing an electronic computer and an interactive terminal device, equipped with a video screen and keys, a keyboard or other equipment allowing input by an individual player, into which the player inserts coins or currency as consideration in order for play to be available, and through which terminal device, the player may receive free games or a voucher that can be redeemed for a cash or non-cash prize, or nothing, determined wholly or predominantly by chance. "Video lottery" does not include a lottery game that merely utilizes an electronic computer and a video screen to operate a lottery game and communicate the results of the game and which does not utilize an interactive electronic terminal device allowing input by one or more players.

**LIMITED VIDEO LOTTERY ESTABLISHMENT** -- An Establishment which is licensed to provide Video Lottery terminals pursuant to Chapter Twenty-nine, Article Twenty-two (B), Section 330 of the Code of West Virginia, as amended.

**LOADING DOCK / SPACE** – A space or berth available for the loading and/or unloading of goods from commercial vehicles.

**LOT** – Also known as Lot of Record.



*Source: A Glossary of Zoning Development and Planning Terms, Davidson and Dolnick, APA publication, 1999.*

**LOT AREA** – The total area within the lot lines of a lot, excluding any public streets and rights-of-way.

**LOT, BUILDING** - A parcel of land that was legally existing at the time of adoption of this Ordinance, or is legally created through subdivision thereafter, upon which a Building or Structure may be erected in accordance with all relevant provisions in this Ordinance (including variance provisions, if applicable). Parcels of land that are created in violation of any provision of this Ordinance shall not be eligible for the issuance of permits to build any structure thereupon.

**LOT COVERAGE** – The total area covered, measured from the outside of the exterior walls, by all Principal and Accessory Buildings on a lot. Open porches, decks, balconies, and similar features that are not covered by a roof shall not be counted.

**LOT DEPTH** – The distance measured from the front lot line to the rear lot line. Where the front and rear lot lines are not parallel, the lot depth shall be measured by drawing lines from the front to rear lot lines at right angles to the front lot line, every ten (10) feet and averaging the length of these lines.

**LOT FRONT** – The side of a Lot that abuts a public street. Where buildings exist on the lot, the frontage may be established by the orientation of the building, or of the principal entrance.

**LOT OF RECORD** – A Lot that is part of a subdivision or a parcel of land, the map or plat of which has been legally recorded with the Office of the County Clerk, or, a Lot or parcel of land, described by metes and bounds, the deed of which has been recorded with the Office of the County Clerk. No Building Permits shall be issued for any parcel created by metes and bounds description, unless said parcel conforms to all requirements contained within this Ordinance.

**LOT, CORNER** - A Lot located at the intersection of two or more streets.

**LOT, FLAG** – A polygonal-shaped Lot with the appearance of a frying pan or flag and staff in which the handle is most often used as the point of access. The handle, when less than the minimum width for a Building Lot in the zoning district in which it is located, is not to be used in computing the minimum required Lot Area or delineating the minimum required Building Envelope.

**LOT, NONCONFORMING** – A Lot or parcel of land that was of record and lawfully established and maintained by which, because of the enactment of this Ordinance, no longer conforms to the land-use standards of the zone in which it is located.

**LOT, THROUGH** - A Lot other than a Corner Lot with frontage on more than one street. Through Lots abutting two streets may be referred to as double frontage lots.

**LOT, IRREGULAR** - A Lot of such shape or configuration that technically meets the area, frontage and width to depth requirements of the ordinance but has unusual elongation's, angles, and curvilinear lines.

**MAJOR BOUNDARY CHANGE** – See Boundary Change, Major.

**MINOR BOUNDARY CHANGE** – See Boundary Change, Minor.

**MANUFACTURED HOME** – Housing built in a factory according to the Federal Manufactured Home Construction and Safety Standards effective June 15, 1976.

**MANUFACTURED HOUSING SALES** - Establishments primarily engaged in the retail sale of new Manufactured Homes, including incidental storage.

**MANUFACTURING, HEAVY** - The manufacturing or compounding process of raw materials. These activities or processes would necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. These activities may involve outdoor operations as a part of their manufacturing process.

**MANUFACTURING, LIGHT** - Light manufacturing includes (1) Laboratory manufacturing, which includes operations involving the compounding of products such as perfumes, pharmaceutical and the development and assembly of instruments and similar items; (2) Light fabrication and assembly process, which includes the manufacture and/or packaging of clothing, jewelry, trimming decorations, computers, and computer parts, and any similar item not involving the generation of noise, odor, vibration, dust, or hazard.

**MARQUEE** - A roof-like Structure that cantilevers from the wall of a Building over its principal entrance, that has no vertical supports other than the wall from which it cantilevers, and that provides a wall surface at least four (4) feet high, generally constructed for purposes of containing a sign.

**MEDICAL CLINIC** - An Establishment providing medical, psychiatric, or surgical services exclusively on an outpatient basis, including emergency treatment and diagnostic services.

**MEDICAL/BEHAVIORAL HEALTH FACILITY** - A short-term in-patient facility for the treatment of a medical and/or behavioral health conditions including but not limited to crisis stabilization and addiction issues. This facility shall be operated by a Medical and/or Behavioral Health Provider and licensed in accordance with all applicable laws.

**MINERAL EXTRACTION OR MINING** – All or any part of the process involved in the mining of minerals by removing overburden and mining directly from the mineral deposits, open pit mining or

minerals naturally exposed, mining by auger method, dredging and quarrying, underground mining, and surface work incidental to an underground mine.

**MIXED-USE DEVELOPMENT** – A single development of more than one (1) building and use, where the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas, but not a Mixed-Use Dwelling as defined in this Ordinance.

**MOBILE HOME**. - A structure transportable in one or more sections which in the traveling mode is eight feet wide or more in width or 32 feet or more in length or, when erected, is 320 or more square feet in area, and which is built on a permanent wheeled chassis. Suitable for year-round single-family occupancy and having water, electrical, sewage connections similar to those of conventional dwellings.

**MOBILE HOME PARK** - Any place where two or more mobile homes are located within 500 feet of one another on a lot, tract, or parcel of land not less than one acre under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person.

**MODULAR HOME** - Housing built in a factory that meets State or local building codes where the homes will be sited.

**MOTEL** - An Establishment providing transient lodging in which the guest rooms are usually accessible from an outdoor parking lot.

**MUNICIPAL SERVICES BUILDING** – Facilities in which services traditionally provided by local units of government, including water, sewer, roads, parks, schools, libraries, and police and fire protection services, are located.

**NEIGHBORHOOD CONVENIENCE STORE** – See Convenience Store.

**NIGHTCLUB** – See Bars and Nightclubs.

**NONPROFIT ORGANIZATION** – Any person(s), partnership, association, corporation, or other group whose activities are conducted for unselfish, civic, or humanitarian motives, or for the benefit of others, and not for the gain of any private individual or group and may include, but shall not be limited to, patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, charitable, scientific, historical, athletic, or medical activities. A non-profit organization shall be registered as such with the West Virginia Secretary of State and the Internal Revenue Service.

**NURSING HOME** – A facility licensed by the State of West Virginia for elderly, or chronically or incurably ill persons in which five (5) or more persons not of the immediate family are provided with food and shelter or care for compensation, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

**OFFICE** – A room or suite of rooms or portion of a Building used for the practices of a profession or for the conduct of a business that involves the accessory sale of goods from the premises. If the goods or merchandise are sold for delivery on or from the premises and constitutes greater than twenty (20) percent of the gross revenue from the office, then the premises shall be considered a store rather than an office.

**OFFICE PARK** – A development that contains a number of separate office buildings, supporting uses and open space designed, planned, constructed, and managed on an integrated and coordinated basis, and located on one or more parcels under single ownership.

**OPEN SPACE** – Any land or area, the preservation of which in its present use would: (1) conserve or enhance natural or scenic resources; or (2) promote streams or water supply; or (3) promote conservation of soils, or wetlands; or (4) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, or sanctuaries; or (5) enhance recreational opportunities.

**OPEN SPACE, IMPROVED** – Parks, playgrounds, swimming pools, ball fields, plazas, landscaped green spaces, and other areas that are created or modified by man. Improved Open Space shall not include Schools, Community Centers, or other similar areas in public ownership.

**OPEN SPACE, NATURAL** – Areas of natural vegetation, water bodies, or other landforms that are to be left undisturbed. Creation of a graded and surfaced walking trail through areas of Natural Open Space shall constitute disturbance of the area in the amount of the length of the walking trail multiplied by its approximate average width. Natural Open Space shall not include Schools, Community Centers, or other similar areas in public ownership.

**OUTDOOR STORAGE** – The storage of any material for a period of greater than twenty-four (24) hours, including items for sale or lease, processing, and repair (including vehicles) not in an enclosed Building.

**OUTDOOR STORAGE, SEASONAL** – Outdoor storage of items for retail sale that are, by their nature, sold during a peak season, including such items as fruits, vegetables, Christmas Trees, pumpkins, lawn accessories, bedding plants, etc.

**PARAPET** – The portion of a wall, which extends above the roofline.

**PARCEL** – A single Lot, or a grouping of old Lots acquired by a single deed; and considered as one Buildable Lot for zoning purposes.

**PARK** – Any area that is predominately Open Space, used principally for active or passive recreation, and not used for a profit-making purpose. Any area designated by the City as a park.

**PARKING AISLE** – The clear space for either one or two-way traffic movement or maneuvering between rows of parking stalls.

**PARKING LOT, COMMERCIAL** - A Private Parking Lot that is the stand-alone use of a parcel, and whose stalls are leased to individuals.

**PARKING LOT, PRIVATE** - An open area, other than a street or alley, designed to be used for the temporary parking of more than four motor vehicles, whether free or for compensation, and available for private use or as an accommodation for clients or customers.

**PARKING SPACE** – An off-street space available for the parking of one (1) motor vehicle.

**PARKING SPACE, COMPACT** – A Parking Space in a garage or parking area, not less than eight (8) feet wide clear dimension and sixteen (16) feet long clear dimension, reserved for the parking of only one compact automobile.

**PARKING SPACE, HANDICAP** – A Parking Space in a garage or parking area not less than thirteen (13) feet wide and eighteen (18) feet long in clear dimension, reserved exclusively for an automobile registered with the State with handicapped license plates or displaying an official state issued handicapped placard.

**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 includes Parking Structures, deck parking, and underground or under-building parking areas.

**PARKING, PUBLIC** - A publicly owned or operated open area or Parking Structure, other than a Street or Alley, designed to be used for the temporary parking of more than four (4) motor vehicles, whether free or for compensation, and available for public use or as an accommodation for clients or customers.

**PASSENGER STATION, RAILROAD, BUS** - A facility designed to accommodate passengers who arrive and depart on commercial buses, or rail which may include management offices, bus parking, or storage areas and personal services for passengers.

**PATIO** – A level, surfaced area directly adjacent to a principal building side or rear walls at or within three feet of the finished grade, without walls or a roof, within 30" of finished grade.

**PAVED SURFACE AREA** – Ground surface covered with cobblestones, clay fired bricks, concrete pre-cast paver units poured concrete with or without decorative surface materials, blacktop, or other asphalt or rubber mixture which may include sand or gravel as an ingredient, and which creates a hard surface. A graded natural surface or one covered with rolled stone or overlaid with loose gravel is not considered a Paved Surface Area.

**PENNANT** - Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, which is suspended from a rope, wire, string, or pole, usually in series, and which is designed to move in the wind.

**PERFORMANCE GUARANTEE** – Any security that may be accepted by a municipality as a guarantee that improvements required as part of an application for development are satisfactorily completed.

**PERMIT, BUILDING** – A document issued by the City of Weirton authorizing the applicant to undertake certain development activities in accordance with the provisions of this Ordinance.

**PERMIT, ZONING** – A document issued by the City of Weirton which acknowledges that a Use, Structure, Building, or Lot either complies with or is legally nonconforming to all the applicable zoning provisions of this Ordinance or is an authorized variance therefrom.

**PERSON** - Any association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.

**PERSONAL SERVICES** - A business which is associated with the grooming of persons or the maintenance or repair of personal wardrobe articles and accessories, and may include a barber shop, beauty parlor, shoe repair shop, self-service laundry, tattoo parlor, and spas.

**PERSONAL STORAGE FACILITY** – A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property. Also referred to as mini-warehouses or self-storage facilities.

**PERVIOUS SURFACE** - Area maintained in its natural condition, or covered by a material that permits infiltration of water into the ground.

**PLAN** – A written description for the development of land.

**PLANNED DEVELOPMENT AREA (PDA)** – An area to be developed in conformance with an approved development plan, consisting of 1) a map showing the development area and all proposed improvements to the development area, 2) a text which sets forth the uses and the development standards to be met, and 3) exhibits setting forth any aspects of the development plan not fully described in the map and text. The map, exhibits, and text constitute a development plan. The uses and standards expressed in the development plan constitute the use and development regulations for the PDA site in lieu of the regulations for the underlying district. The purpose of the PDA is to encourage flexibility in the development of land in order to promote its most appropriate use; to improve the design, character and quality of new developments; to encourage a harmonious and appropriate mixture of uses and/or housing types; to facilitate the adequate and economic provision of streets, utilities and municipal services; to preserve critical natural environmental and scenic features of the site; to encourage and provide a mechanism for arranging improvements and sites so as to preserve desirable features; and, to mitigate the problems which may be presented by specific site conditions.

**PLANNING COMMISSION** – The Planning Commission of the City of Weirton, West Virginia, as officially constituted pursuant to Chapter 8A, Articles 1 through 12 of the Code of West Virginia, unless otherwise noted.

**PLAT** – A map of the land development.

**PLAZA** – An Open Space that may be improved, landscaped, or paved usually surrounded by Buildings or Streets.

**PORCH** – A covered but unenclosed projection from the main wall of a Building that may or may not use columns or other ground supports for structural purposes. If a porch is uncovered, it is considered to be a Deck.

**PORTABLE STORAGE CONTAINERS** – Containers transported to a designated location for storage purposes (typically known as PODS, MODS, etc.).

**PRINTING / PUBLISHING** – Facilities for the custom reproduction of written or graphic materials on a custom order basis for individuals or businesses. Typical processes may include photocopying, blueprinting, facsimile sending and receiving, and offset printing services.

**PRIVATE RESTRICTION** – Any deed restriction, covenant, easement, or other “private” agreement regarding a parcel of land.

**PROFESSIONAL SERVICES** - An Establishment engaged in providing professional services such as consulting, legal, engineering and the like, but not including Personal Services.

**PUBLIC IMPROVEMENT** – Any improvement, facility, or service together with its associated public site or Right-of-Way necessary to provide transportation, drainage, public utilities, cable television, or similar essential services.

**PUBLIC PLACE** – Any lots, tracts or parcels of land, structures, buildings, or parts thereof owned or leased by a governing body or unit of government.

**RECREATION FACILITY, COMMERCIAL INDOOR** – A privately owned commercial Establishment designed and equipped for the conduct of sports, leisure activities and other recreational activities wholly within an enclosed building. Examples of such uses include but are not limited to health or fitness centers, indoor play areas, training studios for martial arts, gymnastics, and dance, bowling alleys, shooting ranges, and roller rinks.

**RECREATION FACILITY, COMMERCIAL OUTDOOR** – A privately owned commercial Establishment designed and equipped for the conduct of sports, leisure activities and other recreational activities wholly or partially outside of any Building or Structure. Examples of such uses include but are not limited to swimming pools, driving ranges, miniature golf courses, amusement parks, skateboard facilities, and go-cart tracks.

**RECREATIONAL VEHICLE (RV)** – A vehicle built on a single chassis, containing four hundred (400) square feet or less when measured at the largest horizontal projections and designed to be self-propelled or towed by another vehicle. A Recreational Vehicle is not designed or intended for use as a permanent Dwelling Unit, but as temporary living quarters for recreational camping, travel, or seasonal use. This definition includes vehicles such as travel trailers, motor homes, boats, house- boats, and campers.

**RECYCLABLE COLLECTION CENTER/ SOLID WASTE TRANSFER STATION** - A facility for the collection, separation, compaction, processing and storage of solid waste or recyclable materials until said waste can be transported or transferred to a sanitary landfill or other facility approved and licensed for the disposal of solid wastes or the recycling of materials by the State.

**RECYCLING COLLECTION POINT** - An Accessory Use, Structure, or enclosed area that serves as a neighborhood drop-off point for temporary storage of recyclable materials. A Recycling Collection Point may also include a facility for the temporary collection of used clothing and household goods.

**REPAIR OR MAINTENANCE** – An activity that restores the character, scope, size, or design of a serviceable area, structure, or land use to its previously existing, authorized, and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter additional regulated wetlands are not included in this definition.

**RESEARCH AND DEVELOPMENT CENTER** – Research, development, and testing laboratories that do not involve the mass manufacture, fabrication, processing, sale of products, or, a structure or complex

of structures designed or used primarily for research development functions related to industry and similar fields of endeavor.

**RESTAURANT** – A commercial Establishment where food and beverages are prepared, served, and consumed primarily within the Principal Building and where food sales constitute sixty (60) percent or more of the gross sales receipts.

**RETAIL SALES ESTABLISHMENT** – A business having as its primary function the supply of merchandise or wares to the end consumer. Such sales constitute the primary function of the business when such sales equal at least eighty (80) percent of the gross sales of the business.

**RETAINING WALL** – A wall or terraced combination of walls used to retain more than eighteen (18) vertical inches of material and not used to support, provide a foundation for, or provide a wall for a Building or Structure.

**RETENTION SYSTEM** – A Storm Water Management Facility that is designed to accept runoff from a developed site and discharge it at a limited rate (when the runoff rate into the system drops below the limited rate). A specified volume is stored indefinitely (retained) until it is displaced by runoff from another storm.

**RIGHT-OF-WAY** – A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, trail, waterline, sanitary sewer, and/or other public utilities or facilities.

**RIVER WALK** – A publicly owned or privately owned way, generally open to the sky and unobstructed by buildings, that runs along the river edge and is open to the public during specified times. It may include without limitation, any combination of open space, paved areas, landscaped areas, pedestrian paths, and pedestrian furnishings.

**ROADSIDE STAND** – A temporary Structure not permanently affixed to the ground and is readily removable in its entirety, which is used solely for the display or sale of farm products produced on the premises upon which such roadside stand is located.

**ROUNDABOUT/ TRAFFIC CIRCLE** – A raised island that is usually landscaped and located at the intersection of two streets used to reduce traffic speeds and accidents without diverting traffic onto adjacent residential streets.

**RUNOFF** – The portion of rainfall, melted snow, or irrigation water that flows across ground surface and is eventually returned to a water body such as a river, stream, pond, or reservoir.

**SALVAGE YARD** – A facility or area for storing, keeping, selling, dismantling, shredding, compressing, or salvaging scrap or discarded material or equipment. Scrap or discarded material includes, but is not limited to, metal, paper, tires, bottles, motor vehicle parts, machinery, structural steel, equipment, and appliances. The term includes facilities for separating trash and debris from recoverable resources, such as paper products, glass, metal cans, and other products that can be returned to a condition in which they may again be used for production. Also called a junk yard.

**SCHOOL** - A facility offering educational instruction at one (1) or more levels from pre-kindergarten through grade twelve (12), that is licensed or otherwise sanctioned by the West Virginia State Board of Education.

**SCHOOL, COLLEGE, or UNIVERSITY** -- A public or private post-secondary institution for higher learning that grants associate or bachelor's degrees and may also have research facilities and/or professional schools that grant master and doctoral degrees. This may also include community colleges that grant associate or bachelor's degrees or certificates of completion in business or technical fields.

**SCHOOL, TRADE or TECHNICAL** – An educational Establishment that provides on-site training of business, commercial, and/or trade skills.

**SETBACK** – The shortest distance by which any building or structure must be separated from a street Right-of-Way or lot line for front yard, rear yard, and side yard as specified in Article 11, Table 2.

**SEXUALLY-ORIENTED BUSINESS** – An Establishment other than a hotel, motel, or similar Establishment offering public accommodations, which for any form of consideration provides a place where any number of persons may congregate, associate, or consort in connection with specified sexual activities or the exposure of specified anatomical areas. Sexually Oriented Businesses include Adult Book Stores, Adult Motion Picture Theatres, Adult Videotape Stores, and Adult Entertainment.

**SHOPPING CENTER** – A group of retail and other commercial Establishments that is planned, owned, and managed as a single property. The center's size and orientation are generally determined by the market characteristics of the trade area served by the center. The two main configurations of shopping centers are malls and open-air strip centers.

**SHOPPING CENTER, LARGE-SCALE** – A shopping center larger than thirty thousand (30,000) square feet of Gross Floor Area engaged in the sale or rental of goods for consumer or household use. This type of Shopping Center may or may not contain Hypermarkets.

**SHOPPING CENTER, MEDIUM-SCALE** – A shopping center of more than ten thousand (10,000) square feet and not greater than thirty thousand (30,000) square feet of Gross Floor Area engaged in the sale or rental of goods for consumer or household use; excluding, however, animal sales or service; building materials and/or supplies, sales, or rental; and food sales or markets.

**SHOPPING CENTER, SMALL-SCALE** – A shopping center of ten thousand (10,000) square feet or fewer of Gross Floor Area engaged in the sale or rental of goods for consumer or household use; excluding, however, animal sales or service; building materials and/or supplies, sales, or rental; and food sales or markets.

**SIDEWALK CAFE** – Any outdoor dining area located in any public Sidewalk or Right-of-Way that is associated with a restaurant or other eating and drinking Establishment on a contiguous adjacent parcel.

**SIDEWALK SALE** – A seasonal or occasional sale held during the summer months on the Sidewalk or other Structure along the front or side of the place of business where goods are offered for sale to the public, typically at a discounted price.

**SIDEWALK VENDOR STAND** – Any portable pushcart, or similar device used for the displaying, storing, or transporting of articles offered for sale by a sidewalk vendor.

**SIGN** - Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

**ABANDONED SIGN**– Any sign (including the supporting structure) which no longer identifies a bona fide business conducted or product sold on the premises. A Sign shall be deemed abandoned when these conditions have been in existence for a period exceeding ninety (90) calendar days.

**ANIMATED SIGN** - a sign or part of a sign that is designated to rotate, move, or appear to rotate or move. Such a sign is sometimes referred to as a "moving sign".

**SIGN AREA** - The entire face of a Sign including the advertising surface and any framing, trim, or modeling, but not including the supporting structure.

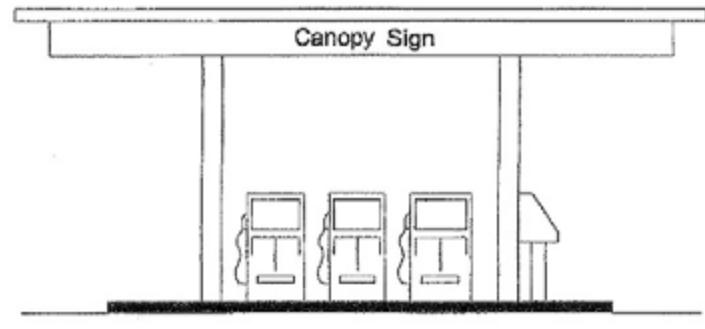
**AWNING SIGN** - A Sign located on an awning or marquee of a building.



**BANNER SIGN** - A Temporary Sign with or without characters, letters, illustrations, or ornamentations applied to cloth, paper, flexible plastic, or fabric of any kind with only such material for backing.

**BUILDING MARKER SIGN** - Any Sign indicating the name of a Building and date and incidental information about its construction. Such a Sign typically is cut into a masonry surface or made of bronze or other permanent material.

**CANOPY SIGN** - Any Sign that is a part of or attached to a structural protective cover over an outdoor service area.



**CHANGEABLE COPY** - The portion of a sign message made up of letters or numbers can be periodically changed to indicate a different message.

**CONSTRUCTION SIGN** - Any Sign bearing the names of contractors, architects, engineers and the like, or advertising, promotions, price ranges, and similar information that is placed at a construction site that has received development plan approval.

**DIGITAL DISPLAY** - The portion of a sign message made up of internally illuminated components capable of changing the message periodically. Digital displays may include but are not limited to LCD, LED or plasma displays.

**DIRECTIONAL SIGN** – An On-Premises Sign that includes information in the flow of pedestrian or vehicular traffic such as enter, exit, and one-way. A Directional Sign excludes commercial messages and logos but may include information, that has a purpose secondary to the use of the site on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone,” and similar information and directives. A Directional Sign may also include information stating the hours of operation of a business, emergency telephone numbers, credit card usage, or other information of a similar nature.

**DIRECTORY SIGN** - A Ground or Building Sign that lists tenants or occupants of a Building or project, with unit numbers, arrows, or other directional information.

**DYNAMIC SIGN** - Any sign designed for outdoor use that is capable of displaying a video signal, including, but not limited to, cathode-ray tubes (CRT), light-emitting diode (LED) displays, plasma displays, liquid-crystal displays (LCD), or other technologies used in commercially available televisions or computer monitors.

**ELECTRONIC CHANGING MESSAGE SIGN** - An electronically activated sign whose message content, either in whole or in part, may be changed by means of electronics or digital programming.

**SIGN FACE** – The area of a Sign on which the copy is placed.

**FEATHER SIGN** - a lightweight, portable sign mounted along one (1) edge on a single, vertical flexible pole the physical structure of which may resemble a sail, bow, or teardrop. (See graphic to the right.)

**FLAG** - a piece of cloth or similar material, typically oblong or square, attachable by one (1) edge to a vertical pole or rope and used as a symbol or decoration; this includes pennants.

**FLASHING SIGN** – A Sign, the illumination of which is not constant in intensity when in use, and which exhibits sudden or marked changes in lighting effects.

**FREESTANDING SIGN** – any non-portable sign supported by a fence, retaining wall or by upright structural members or braces on or in the ground and not attached to a building.

**HEIGHT, SIGN** – the maximum vertical distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:

1. Existing grade prior to construction; or
2. The newly established grade after construction exclusive of any filling, berthing, mounding, or excavating primarily for the purpose of mounting or elevating the sign.

**IDENTIFICATION SIGN**, - A Sign bearing the address of the premises or name of occupant but containing no Logo or commercial message.

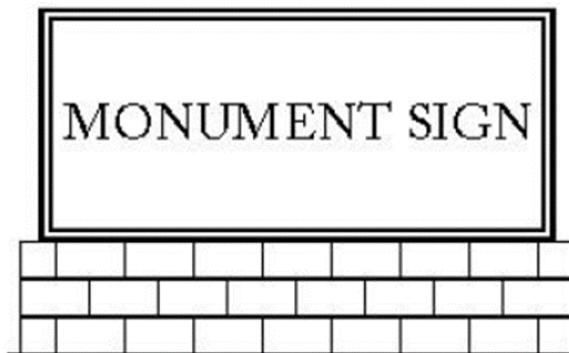
## ILLUMINATION

**INTERNAL ILLUMINATED** – A Sign whose light source is either located in the interior of the Sign so that the rays go through the Sign Face, or which is attached to the Sign Face and is perceived as a design element of the Sign.

**EXTERNAL ILLUMINATED** – A Sign illuminated primarily by light directed toward or across it or by backlighting from a source not within it.

**MENU BOARD SIGN** - An accessory Sign providing items and prices associated with a drive-thru window.

**MONUMENT SIGN** – A Freestanding Sign where the base of the Sign structure is on the ground or a maximum of twelve (12) inches above the adjacent grade.



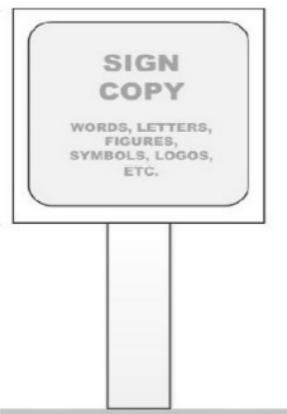
**NEON SIGN** – A Sign containing glass tube lighting in which gas and phosphors are used in combination to create a colored light.

**NONCONFORMING SIGN** - Any Sign that met the requirements of the City at the time it was erected, but does not conform to the requirements of this Ordinance.

**OFF-PREMISE SIGN** – A Sign that directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such a Sign is located or to which it is affixed.

**ON-PREMISE SIGN** – Any Sign identifying or advertising a business, person, activity, goods, services, or products, located on the premises where the Sign is installed and maintained.

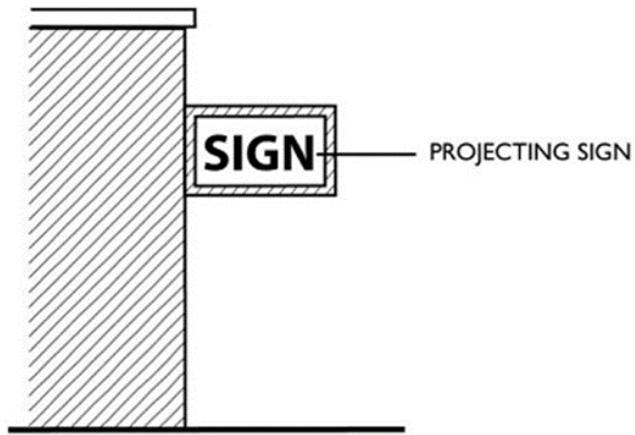
**POLE SIGN** – A Sign that is mounted on a freestanding pole(s) or other support.



**POLITICAL SIGN** - A Sign attracting attention to political candidates or issues, expressing support for a candidate for public office or another position regarding a public figure or issue, but bearing no commercial message.

**PORTABLE SIGN** - any temporary sign not permanently affixed to a building, structure, vehicle, or the ground. It does not include a flag or banner.

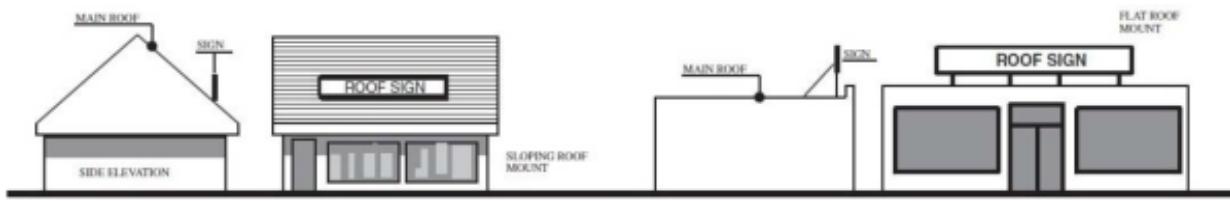
**PROJECTING SIGN**-- any sign, other than a wall, awning, or marquee sign, affixed to a building and supported only by the wall on which it is mounted. (See graphic below.).



**PUBLIC INFORMATION SIGN** – Any Sign erected and maintained by public officials or public agencies or approved and authorized for use by state or local government authorities.

**REAL ESTATE SIGN** - A Sign announcing the sale or rental of the property upon which the sign is located.

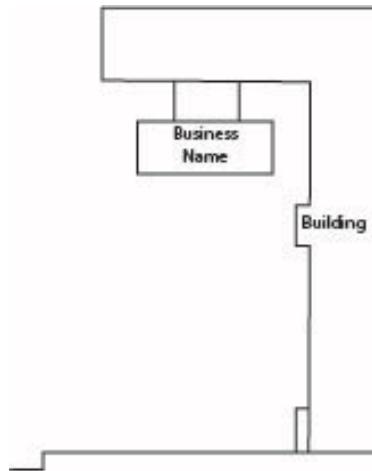
**ROOF SIGN** - a sign erected or constructed in whole or in part upon or above the highest point of a building with a flat roof or the lowest portion of a roof for any building with a pitched roof. (See graphic below.)



**SANDWICH BOARD SIGN** - A Sign not permanently attached to the ground or a permanent structure; a Sign connected to or located on A or T frames.

**SPECIAL EVENT SIGN** – A Sign advertising or announcing a special community wide event or activity conducted by, or sponsored by, or on behalf of a unit of local government, a college or university, a charitable organization, or a nonprofit corporation. A special community wide event or activity is one that occurs not more than twice in any twelve (12) month period and seeks to attract donations, participants, or customers throughout the City.

**SUSPENDED SIGN** - A Sign that is suspended from the underside of a horizontal plane surface and supported by such surface.



**TEMPORARY SIGN** - a sign which is intended for short term use and constructed of cloth, canvas, vinyl, paper, plywood, fabric, or other lightweight material not well suited to provide a durable substrate or if made of some other material and is neither permanently installed in the ground nor permanently affixed to a building or structure which is permanently installed in the ground. This includes portable roadside/marquee signs.

**TRAFFIC SIGN** - A Sign indicating federal, state, or municipal regulations for automobile, truck, bicycle, or pedestrian movement.

**VEHICLE OR TRAILER SIGN** - any sign attached to or displayed on a vehicle, if the vehicle or trailer is used for the primary purpose of advertising a business establishment, product, service, or activity. Any such vehicle or trailer shall, without limitation be considered to be used for the primary purpose of advertising if it fails to display current license plates, inspection sticker or municipal registration, if the vehicle is inoperable, if evidence of paid to date local taxes cannot be made available or if the sign alters the standard design of such vehicle or trailer.

**WALL SIGN** - any sign attached to a wall or painted on or against a flat vertical surface of a structure.



**WINDOW SIGN** - a sign that is painted on, attached to, suspended directly behind or in front of a window or the glass portion of a door.

**SITE** - A lot, tract or parcel of land considered as one land-unit for purposes of this Ordinance.

**SITE-BUILT HOUSE** – A residential housing unit wholly constructed on the parcel of land upon which it will be permanently located.

**SITE PLAN** - A plan depicting the proposed development of a property, in terms of the location, scale and configuration of buildings and other features containing all the required information under the site plan review section of this Ordinance.

**SKETCH PLAT** – A very informal sketch prepared by an applicant for presentation of concepts or ideas prior to initiating a preliminary plat of a subdivision.

**SLOPE** – The face of an embankment, fill or cut section or any ground whose surface makes an angle with the plane of the horizon. Slope is expressed as a percentage, based upon the vertical difference in feet per one hundred (100) feet of horizontal distance.

**SOBER LIVING HOME** - An alcohol-free and controlled substance-free, peer-managed home designed to help people maintain sobriety. Those who live in these houses rent rooms indefinitely and live a life in accordance with their responsibilities, like work and school.

**SOLAR ENERGY FACILITY** - An energy conversion system, including appurtenances, which converts solar energy to a usable form of energy to meet all or part of the energy or heating requirements of the onsite user, or which is to be sold to a utility company to be used by others, or sold directly to other users.

A solar energy system may be ground-mounted (i.e., placed on top of the ground surface) or roof-mounted (i.e., placed on or as an integral part of a building).

**SPECIFIED ANATOMICAL AREAS** – (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below a point immediately above the top of the areola; or (2) human male genitals in a discernable turgid state, even if completely or opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES** – (1) Human genitals in a state of sexual stimulation or arousal; (2) acts of human masturbation, sexual intercourse, or sodomy; or (3) fondling, erotic display or erotic touching of human genitals, pubic region, buttocks, or breasts, even if completely and opaquely covered.

**SQUARE** – Open spaces that may encompass up to an entire block, located at the intersection of important streets, and set-aside for civic purposes, with landscaping consisting of paved walks, lawns, trees, and civic buildings.

**STACKING LANE** – An area for temporary queuing of motor vehicles.

**STATE** - Shall mean the State of West Virginia, unless otherwise specified.

**STEALTH TECHNOLOGY** - Towers designed with alternative design structures such as clock towers, artificial trees, and similar non-traditional structures that are compatible with the surroundings and camouflage or partially conceal the presence of telecommunications towers. Antennae erected on alternative structures such as ball field light poles, electric utility poles, water towers, and similar existing structures.

**STORAGE, OUTSIDE** – The storage, collection or display for more than three (3) consecutive days, or any part of a day for three (3) consecutive days, of any products, materials, equipment, appliances, vehicles not in service, and / or personal property of any kind on an unenclosed, uncovered area.

**STORMWATER** - atmospheric precipitation, surface runoff water, ground water discharge, flows from footing drains and all other discharge sources identified in the City of Weirton stormwater NPDES permit, except as may be defined as non-stormwater by the UDO and Ordinance 1774.

**NON-STORMWATER** - all flows to the stormwater system not defined as stormwater in the UDO, Ordinance 1774, or as determined by the City. This includes, but is not limited to cooling water, process water, ground water from a purge well and swimming pool discharge.

**STORMWATER MANAGEMENT** – Any Storm Water Management technique, apparatus, or facility that controls or manages the path, storage, or rate of release of storm water runoff. Such facilities may include storm sewers, retention or detention basins, drainage channels, drainage swales, inlet or outlet structures, or other similar facilities.

**STORMWATER MANAGEMENT FACILITY** – Any ditch, gutter, pipe, culvert, swale, storm sewer or other structure designed, intended, or constructed for the purpose of diverting surface waters from or carrying surface waters off streets, public rights-of-way, parks, recreational areas or any part of any subdivision, land area or contiguous land areas.

**STORY** – That portion of a Building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

**STREET** – Streets, avenues, boulevards, highways, roads, lanes, alleys, and all public ways.

**STREET, ARTERIAL** – A Street designated for large volumes of traffic movement. Certain Arterial Streets may be classed as limited access highways to which entrances and exits are provided only at controlled intersections and access is denied to abutting properties.

**STREET, COLLECTOR** – A Street which primarily collects traffic from local streets and feeds it to the arterial network. Collector Streets provide circulation within neighborhood areas.

**STREET, CUL-DE-SAC** – A Street with a single common ingress and egress and with a turnaround at the end.

**STREET, DEAD-END** – A local street open at one end only and without a special provision for vehicles turning around.

**STREET FRONTAGE** - The distance along which a property line of a Lot adjoins a public or private Street.

**STREET, FRONTAGE ROAD** – A minor street, parallel to and adjacent to an Arterial Street, whose primary purpose is providing access to abutting properties.

**STREET, INTERSTATE HIGHWAY** - The highest type of primary arterial highway, with full access control and designed for higher speeds. Access control is exercised to give preference to through traffic, by providing access connections with selected public roads only, and by prohibiting crossings at grade or direct private driveway connections.

**STREET, LOOP** – A short, independent Street that usually terminates along the same Collector Street of its origin.

**STREET, PRIVATE** - Any Street that is not publicly owned and maintained and used for access by the occupants of the development, their guests, and the general public.

**STREET, RESIDENTIAL** – A Street used primarily for access to abutting properties, usually residential.

**STRUCTURAL ALTERATION** – (1) Any change in the supporting members of a Building, such as bearing walls or partitions, columns, beams or girders, or any rebuilding of the roof or exterior walls; (2) a change in the supportive structure of a Sign such as support beams or poles, uprights or braces, cabinet supports, or any rebuilding of the supportive elements of a Sign; (3) any action that changes the height, size or shape of a Sign or any action that affects the structural supports of a Sign so as to prolong the life of a Sign.

**STRUCTURE** – (1) A combination of materials forming an edifice or Building of any kind, or any piece of work artificially built up or comprised of parts joined together in some definite manner, but excluding the following: retaining walls; fences not over six feet high; platforms or decks not more than thirty (30) inches above grade and not over any basement or story below; utility mains, lines, and underground facilities; and yard and play equipment; (2) a permanent Structure built of materials in a manner that would commonly be expected to remain useful for a substantial period of time; (3) a temporary Structure is built of materials in a manner that would commonly be expected to have relatively short useful life, or is built for a purpose that would be expected to be relatively short-term in duration.

**STRUCTURE, DETACHED** – A Structure with no vertical common or party wall with another Structure.

**STRUCTURE, NONCONFORMING** – A Structure, or portion thereof, that no longer conforms to the site area, coverage, setback, or other regulations prescribing physical development standards for the district in which the Structure is located.

**SUBDIVISION** – The division of a lot, tract, or parcel of land into two or more lots, tracts or parcels of land, or the recombination of existing lots, tracts or parcels of land.

**SUBDIVISION, MAJOR** – Any Subdivision not classified as a Minor Subdivision, including but not limited to subdivisions of four (4) or more lots, or any size Subdivision requiring any new Street, other than an internal access drive in a Shopping Center or Office Park, or extension of the local governmental facilities, or the creation of any public improvements.

**SUBDIVISION, MINOR** – Any Subdivision containing not more than three (3) lots in which all lots have the minimum required Frontage on an existing street, do not involve any new Street or the extension of municipal facilities, do not require the creation of any new public improvements, and are not in conflict with any provision or portion of the Comprehensive Plan, Official Zoning Map, or this Ordinance.

**SUBSTANCE ABUSE TREATMENT FACILITY** – Structures or land used for the treatment of alcohol or other drug abuse where no meals or lodging is provided.

**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 fifty (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 fifty (50) percent of the market value of the structure before the start of construction of the improvement. Includes structures that have incurred Substantial Damage regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a Structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions, or (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

**SWIMMING POOL** – A pool or tub constructed either above or below grade and having a capacity of one thousand (1,000) or more gallons.

**TELECOMMUNICATIONS, CLASS I** -- Class I Telecommunications Facilities shall include but are not limited to such facilities as television antennas, ham radio antennas, AM/FM reception. No Class I Telecommunications facility may be utilized for cell phone reception.

**TELECOMMUNICATIONS, CLASS II** -- Class II Telecommunications Facilities shall include but are not limited to such facilities as antennae and associated electronic equipment designed expressly for use by cell phone companies, as regulated under the Federal Telecommunications Act of 1996, that is not intended to be supported by or attached to a new telecommunications tower, as defined.

**TELECOMMUNICATIONS, CLASS III** -- Class III Telecommunications Facilities shall include but are not limited to such facilities as antennae and associated electronic equipment that is supported by or attached to a new telecommunications tower, as defined herein, and is designed expressly for use by cell phone companies, as regulated under the Federal Telecommunications Act of 1996.

**TEMPORARY SHELTER** – A residential facility which provides room and board for a temporary period, protection, counseling, and pre-placement screening for abused, displaced or transient adults or children.

**TERMINAL, TRUCK OR TERMINAL, MOTOR FREIGHT** – Any premises used by a motor freight company regulated by the public utility commission and / or the Interstate Commerce Commission as a carrier of goods, which is the origin and / or destination point of goods being transported, for the purpose of storing, transferring, loading, and unloading goods.

**TERMINAL, WATER PORT** – A transportation facility in which quantities of goods or container cargo are stored without undergoing any manufacturing processes, transferred to other carriers, or stored outdoors in order to transfer them to other locations.

**THIS ORDINANCE** - All portions of the City of Weirton Unified Development Ordinance as adopted by City Council, and as subsequently amended.

**TIMBERING** – The removal by select-cut or clear-cut of trees and brush, for commercial or personal purposes, which would allow the possibility of additional stormwater runoff and / or erosion.

**TOWNHOUSE** - A one-family dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement and having a totally exposed front and rear wall to be used for access, light, and ventilation. Ownership: Each dwelling unit is individually deeded and owned.

**TRAFFIC CALMING** – Physical improvements installed on a Street that are intended to reduce motorist speed, decrease motor vehicle volumes, and increase safety for pedestrians and non-motorized vehicles.

**TRAFFIC IMPACT ANALYSIS** – A formal analysis prepared by a traffic engineer or transportation planner, on the effect of traffic generated by a development on the capacity, operations, and safety of the public street and highway system.

**TRANSIT-ORIENTED DEVELOPMENT** – Moderate and high-density housing concentrated in Mixed-Use Developments located along transit routes. Land is developed for commercial, industrial, social, and

public uses to complement and service the community. The location, design and mix of uses in a TOD emphasize pedestrian-oriented environments and encourage the use of public transportation.

**TREE** - A plant having at least one (1) well defined stem or trunk and normally attaining a mature height of at least fifteen (15) feet, with an average mature spread of fifteen (15) feet and having a trunk that shall be kept clear of leaves and branches at least six (6) feet above grade at maturity.

**TREE, PUBLIC** – Any Tree located on City-owned or controlled property including parks, Street Rights-of-Ways, parkways, etc.

**UNNECESSARY HARDSHIP** – A hardship by reason of exceptional shape of a lot, exceptional topographic conditions, or other exceptional physical conditions of a parcel of land. Unnecessary hardship shall not include personal or financial hardship or any other hardship that is self-imposed.

**URBAN AREA** – All lands or lots within the jurisdiction of the Municipal Planning Commission.

**USE** – The conduct of an activity or the performance of a function or operation, on a site or in a Building.

**USE, ACCESSORY** – A land use that is (1) subordinate in area, extent, and purpose to the Principal Use; (2) contributes to the comfort, convenience, or necessity of the Principal Use; and (3) is located on the same lot and in the same zoning district as the Principal Use.

**USE, CONDITIONAL** – 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, and subject to the limitations and conditions specified in this Ordinance.

**USE, EXISTING** – The use of land, buildings or activity permitted or in existence prior to the adoption of this Ordinance. If the use is nonconforming and lawfully existed prior to the adoption of this Ordinance, the use may continue to exist as a Nonconforming Use until abandoned for a period of one year: Provided, that in the case of natural resources, the absence of natural resources extraction or harvesting is not abandonment of the use.

**USE, NONCONFORMING** – A Structure, land Use or parcel of land that was valid when brought into existence, but by subsequent regulation becomes no longer conforming to the provisions of this Ordinance.

**USE, PERMITTED** – Any use allowed with a zoning district, subject to the restrictions applicable to that zoning district and is not a Conditional Use.

**USE, PRINCIPAL** – The primary Use of any Lot.

**USE, PUBLIC** – A Use by agency or department of the City, county, state, or federal government. This shall also include public utilities or uses by any organization that receives funding either, all or in part, from any agency or department of the City, county, state, or federal government. This shall also include buildings and premises used in the operation of the public use.

**UTILITY** – A public or private distribution service to the public that is regulated by the Public Service Commission.

**VARIANCE, SUBDIVISION** – A deviation from the minimum subdivision standards of this Ordinance.

**VARIANCE, ZONING** – A deviation from the minimum zoning standards of this Ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classification of a parcel of land.

**VESTED RIGHT** – A right to undertake and complete the development of land. The right is established when a site plan is approved by the Planning Commission and is only applicable under the terms and conditions of the approved site plan.

**VISTA** – A range of sight including pleasing views or scenes. Vistas include but are not limited to the sight of geologic features, bays, rivers, skylines, bridges and distant cities or towns.

**WALL, EXTERIOR** - A vertical, structural component of a Building which encloses habitable or usable space; a parapet extending not more than twelve (12) inches above a flat roof shall be considered part of the Exterior Wall for purposes of determining signage.

**WAREHOUSE** - Facilities characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and odors, but not involved in manufacturing or production.

**WAREHOUSING AND DISTRIBUTION** - Establishments involved in storing, stocking, or distributing merchandise or commodities.

**WHOLESALE ESTABLISHMENT** - The sale of commodities to retailers or jobbers and shall include the sale of commodities for the purpose of carrying on any trade or business even if the said trade or business is the consumer or end user of the commodity.

**WIND ENERGY FACILITY** - All equipment, machinery and structures utilized in connection with the conversion of kinetic energy of wind into electrical power. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service, and access roads, and one or more wind turbines.

**WINDBLOWN DEVICE** - Any banner, pennant, spinner, streamer, propeller, disc, moored blimp, gas balloon or flag (which is not of local, state, federal, corporate, nonprofit or religious origin) that is designed to inform or attract attention, whether or not such device carries a message, all or part of which is set in motion by wind, mechanical, electrical or any other means.

**WRECKER SERVICE** - A service for towing wrecked, illegally parked, or disabled automobiles or for freeing stalled automobiles.

**YARD - FRONT** - An open, unoccupied space on a lot facing a street, extending across the front of the lot between the side lot lines and from the outermost surface of the main structure to the front lot line.

**YARD - REAR** - An open, unoccupied space, except for accessory structures as permitted, extending across the rear of a lot from one side lot line to the other side lot line and having a minimum depth between the main building and the rear lot line as specified for the district in which the lot is located.

**YARD - SIDE** - An open area extending from the front yard to the rear yard between the principal building and the nearest side lot line measured perpendicular from the side lot line to the nearest point of the principal building.

**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 specifically delineated area or district within the corporate limits of the City for which the requirements governing use, placement, spacing, size, lot dimensions, and bulk of buildings and premises are uniform.

**ZONING MAP** – The map that geographically illustrates all zoning districts with the City of Weirton, as described within this Ordinance, and which is certified as the official Zoning Map for the City.

**ZONING OFFICER** – The person appointed or employed by the City and who has any other authority this Ordinance may confer upon him or her to administer this Ordinance and to issue related permits.

## **ARTICLE 3. ADMINISTRATION AND ENFORCEMENT**

### **3.01 RESPONSIBILITY FOR ADMINISTRATION AND ENFORCEMENT**

It shall be the duty of the Planning Director to:

- (A) Perform reviews of permit applications as necessary to determine compliance with the provisions of this Ordinance.
- (B) Maintain permanent and current records of all permit applications and other related records required by this Ordinance and of the hearings and actions thereon.
- (C) Conduct investigations as necessary to determine compliance with or violation of this Ordinance.
- (D) Participate in the abatement of violations of this Ordinance and aid in the prosecution of such violations.
- (E) Maintain in current status the Official Zoning Maps.
- (F) Provide information relative to this Ordinance upon request by citizens and public agencies.

### **3.02 GENERAL PROVISIONS**

No commission, board, agency, officer, or employee of the City shall issue, grant, or approve any permit, license, certificate, or any other authorization for any construction, reconstruction, alteration, enlargement, or relocation of any building or structure, or for any use of land or building, or for the subdivision of any parcel, that would not be in compliance with the provisions of this Ordinance.

### **3.03 FEES**

The Schedule of Fees for all applications shall be maintained on file with the Planning Department. The appropriate fee shall be paid by the applicant when the application is submitted for review. An application shall not be considered complete until the appropriate fee is paid in full. The Planning Director may waive fees in unusual or extreme circumstances, with permission from the City Manager. Approvals shall not be granted nor permits issued until the appropriate fee is paid.

### **3.04 ADMINISTRATIVE INTERPRETATIONS**

#### **(A) Authority**

The Planning Director, subject to the procedures, standards, and limitations of this Article, may render written interpretations, including use interpretations, of the provisions of this Ordinance and of any rule or regulations issued pursuant to it. The Planning Director may forward requests for zoning interpretations to the Board of Zoning Appeals, where, in the opinion of the Planning Director, the proposed use is not sufficiently similar to a use expressly listed as a Permitted, Accessory, or Conditional Use on the Permitted Land Use Table to allow staff interpretation.

#### **(B) Purpose**

The interpretation authority established by this Section is intended to recognize that the provisions of this Ordinance, though detailed and extensive, cannot, as a practical matter, address every specific situation to which they may have to be applied. In particular, certain categories of land uses are listed as either Permitted Uses, Accessory Uses or Conditional Uses, but certain specific proposed uses may not clearly fall within the common meaning of any of the listed uses. Many such situations can be readily addressed by an interpretation of the specific provisions of this Ordinance in light of the general and specific purposes for which those provisions have been enacted. Because the interpretation authority established is an administrative rather than a legislative authority, an interpretation shall not have the effect of adding to or changing the essential

content of this Ordinance but is intended only to allow authoritative application of that content to specific cases.

**(C)** In making an interpretation of any zoning district boundary, or in deciding any appeal thereof, the Planning Director or Board of Zoning Appeals shall apply the following standards:

- (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed as following such centerlines;
- (2) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines;
- (3) Boundaries indicated as approximately following corporate limits shall be construed as following such limits;
- (4) Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks;
- (5) Boundaries indicated as approximately following the shorelines or centerlines of streams, rivers, lakes, or other bodies of water shall be construed as following such shorelines or centerlines; in the event of change in the shoreline or centerline, the boundary shall be construed as moving with the actual shoreline or centerline;
- (6) Boundaries indicated as approximately following designated limits of areas of special flood hazard shall be construed as following such limits, as shown on the official Base Floodway and Floodplain Boundary Maps, and Base Flood Profiles;
- (7) Boundaries indicated as approximately parallel to, or as extensions of, features described above shall be so construed; distances not specifically indicated on the Zoning Map shall be determined by reference to the scale of the map;
- (8) Where features described in Sections (A) through (G) above, as existing on the ground, are at variance with those indicated on the Zoning Map or in other circumstances not covered above, the Board of Zoning Appeals shall interpret the district boundaries.

**(D) Parties Entitled to Seek Interpretations**

Applications for interpretations may be filed by any person having a legal or equitable interest in property that gives rise to the need for an interpretation, provided that interpretations shall not be sought by any person based solely on hypothetical circumstances or where the interpretation would have no effect other than as an advisory opinion.

**(E) Procedure**

(1) Application.

Applications for interpretations of this Ordinance shall be filed on a form provided by the Planning Director and shall contain information describing the nature of the requested information.

(2) Action on Application.

The Planning Director shall inform the applicant in writing of his or her interpretation, stating any specific precedent, the reasons, and the analysis upon which the determination is based.

(3) Standards for Use Interpretations

The following standards shall govern the Planning Director and the Board of Zoning Appeals (on zoning appeals from the Planning Director) in issuing land use interpretations:

- a) Any listed use defined in Article 2, Definitions, shall be interpreted as therein defined.

- b) No use interpretation shall authorize any land use in any district unless evidence is presented demonstrating that it will comply with the general district regulations established for that particular district.
- c) No use interpretation shall authorize any use in a particular district unless such use is substantially similar to other uses specifically listed as Permitted, Accessory, or Conditional in such district and is more similar to such uses than to other uses listed as Permitted, Accessory, or Conditional Uses in another zoning district.
- d) If the proposed use is most similar to a use allowed only as a Conditional Use in the district in which it is proposed to be located, then any use interpretation authorizing such use shall be subject to the issuance of a Conditional Use permit pursuant to Section 3.6.
- e) No use interpretation shall allow the establishment of any use that would be inconsistent with the statement of purpose of the district in question.

**(4) Effect of Favorable Use Interpretations**

Use interpretations shall only authorize a use in a specific district and shall not allow the development, construction, reconstruction, alteration, or moving of any building or structure. Use interpretations shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by the codes and ordinances of the City, including, but not limited to, a building permit, a zoning permit, a certificate of occupancy, subdivision approval, and site plan approval.

**(5) Limitations on Favorable Use Interpretations**

- a) A use interpretation finding a particular use to be allowed as a Permitted, Accessory, or Conditional Use in a particular district, shall be deemed to authorize only the particular use for which it is issued, and such interpretation shall not be deemed to authorize any allegedly similar use for which a separate use interpretation has not been issued.
- b) Once a use interpretation is made for a particular use in a particular district, that use shall be permitted as a Conditional Use for the entire district and shall be available for other property owners in that district through the Conditional Use process.

**(6) Appeals from Planning Director Decisions**

The Board of Zoning Appeals shall hear and decide zoning appeals from any administrative interpretations by the Planning Director acting pursuant to the authority and duties under this Section.

**3.05 AMENDMENTS TO THE TEXT AND ZONING MAP**

**(A) General Provisions**

- (1) Proposed amendments to this Ordinance may be presented by the Planning Commission to City Council requesting an amendment, supplement, repeal, or change of the regulations of the Ordinance. Prior to submission to City Council of a Planning Commission petition or a report on a proposed ordinance, the Planning Commission shall hold a public hearing in accordance with the provisions of Article 7 of this Ordinance. After the public hearing, the Planning Commission shall make its report on the proposed ordinance to City Council. Thereafter, City Council shall proceed to take action on the proposed ordinance in accordance with Chapter 8A, Article Seven, Sections 8 and 9 of the Code of West Virginia, as amended.
- (2) City Council may, from time to time, amend, supplement, or change the rules and regulations and districts fixed by this Ordinance.

**(B) Authority and Procedures**

Whenever public necessity and the public health, safety, and general welfare require, City Council may, by ordinance and after receipt of recommendation thereon from the Planning Commission and subject to the procedures below, amend, supplement, change, or repeal the regulations, restrictions, and boundaries or classifications of property.

### **(C) Application Procedures**

#### **(1) Amendment to the Zoning Map**

- a) A request for rezoning of property shall be filed on prescribed forms with the Planning Director.
- b) The Planning Director will conduct a formal review of the completed application.
- c) The Planning Director shall publish a Class II-0 legal advertisement describing the request for rezoning in a local newspaper of general circulation once a week for two consecutive weeks prior to the scheduled public hearing before the Planning Commission.
- d) The Planning Commission shall hold a duly scheduled public hearing on the rezoning request, prepare a report, and make a recommendation to City Council.
- e) City Council shall hear the case according to its rules and procedures.
- f) If the request for rezoning is approved by Council, the applicant shall receive approval and will be formally notified by mail by the Planning Director. The Planning Director shall amend the zoning map to reflect the approved rezoning.
- g) If the request for rezoning is denied by Council, the applicant is formally notified in writing by the Planning Director of the denial and the right to appeal the decision to Hancock County Circuit Court or Brooke County Circuit Court, as the case may be.
- h) Any person who feels aggrieved by an approval or denial of a rezoning may appeal the decision to the Hancock County Circuit Court or Brooke County Circuit Court, as the case may be.

#### **(2) Amendment to the Ordinance Text**

- a) A request for an amendment, or change, to the text of this Ordinance shall be filed on prescribed forms with the Planning Director.
- b) The Planning Director will conduct a formal review of the completed application.
- c) The Planning Director shall publish a Class II-0 legal advertisement describing the request for a text amendment in a local newspaper of general circulation once a week for two consecutive weeks prior to the scheduled public hearing before the Planning Commission.
- d) The Planning Commission shall hold a duly scheduled public hearing on the text amendment request, prepare a report, and make a recommendation to Council.
- e) City Council shall hear the case according to its rules and procedures.
- f) If the request for the text amendment is approved by Council, the applicant receives approval and is formally notified by mail by the Planning Director. The Planning Director shall amend the ordinance text to reflect the approved amendment.
- g) If the request for the text amendment is denied by Council, the applicant is formally notified in writing by the Planning Director of the denial and the right to appeal the decision to Hancock County Circuit Court or Brooke County Circuit Court, as the case may be.

- h) If the request for the text amendment is denied by Council, the applicant shall not re-submit the same request for a period of one (1) year unless the Planning Director determines that there have been significant changes in conditions in the area proximate to the parcel in question.

(3) Amendment to the Comprehensive Plan

Amendments, supplements or changes to the rules and regulations of this Ordinance shall be considered as amendments to the Comprehensive Plan.

## **3.06 CONDITIONAL USES**

### **(A) General Provisions**

(1) Purpose

It is the purpose of this Section to recognize that there may be cases where community and Comprehensive Plan goals are met by a flexible and individual regulation of land uses within a zoning district. The establishment of a Conditional Use permit procedure provides Weirton with such flexibility to provide for certain uses which shall be permitted only if adequate conditions exist or can be imposed that will make such uses compatible with the purposes of this Ordinance and the Comprehensive Plan. The Conditional Use permit procedure shall provide for some measure of individualized judgment and the imposing of conditions on certain uses, in order to make them compatible with uses in the surrounding area. It is further intended that the Conditional Use permit, through a site plan review process, shall provide a method whereby it can be determined whether or not a use would cause any damage, hazard, nuisance, or other detriment to persons or property in the vicinity.

(2) Standards and Requirements

All such uses are declared to possess characteristics of such a unique and special form that each specific use must be considered as an individual case. Consideration by the Board of Zoning Appeals shall be based on adopted standards and requirements. These considerations shall be both general, applying to all Conditional Uses, and specific, applying to individual types of Conditional Uses. The standards and requirements stipulated in this Article shall be made a condition of approval. In addition, the Board of Zoning Appeals may impose additional, reasonable conditions to fit the particular use and site under review.

(3) Limits of Authorization

A Conditional Use permit shall be deemed to authorize only the particular use specified in the permit.

(4) Review

If a Conditional Use permit is required for any new use, the Planning Director and Board of Zoning Appeals will review the site plan in order to determine if the Conditional Use permit is warranted.

(5) Application for Conditional Use Approval

The applicant shall file a formal and complete application for a Conditional Use permit with the Planning Director. The application shall include:

- a) A preliminary site plan which demonstrates the overall site layout and building locations, parking areas and circulation, access and egress locations, setbacks and buffer areas, lighting, landscaping, signage, and the location and extent of existing development on adjacent parcels.
- b) Preliminary building plans and elevations illustrating proposed building construction and alteration, including an indication of exterior materials, textures, and colors.

- c) Any other information deemed helpful by the applicant or necessary by the Board of Zoning Appeals to explain the nature of the proposed use and its consistency with the standards established by this Section for Conditional Use permits.
- d) The Planning Director will conduct a formal review of the complete application. As part of the formal review process, the Planning Director will notify appropriate municipal departments and agencies and request summaries of agency reviews.
- e) The Planning Director shall publish a Class I legal advertisement describing the request for a Conditional Use permit in a local newspaper of general circulation at least fifteen (15) days prior to the scheduled public hearing before the Board of Zoning Appeals.
- f) The Board of Zoning Appeals shall hold a duly scheduled public hearing to review the complete site plan and application for the Conditional Use permit request.
- g) If the Conditional Use permit is granted by the Board, the applicant receives approval and is formally notified in writing by the Planning Director.
- h) If the Conditional Use is denied by the Board, the applicant is formally notified in writing of the denial and the right to appeal the decision to the Circuit Court of Hancock County or Brooke County, as the case may be, within thirty (30) days.

## **(B) Standards for Approval**

- (1) The Board of Zoning Appeals may approve an application for a Conditional Use permit, subject to such reasonable conditions and restrictions as are directly related to and incidental to the proposed Conditional Use permit, if it finds that the following general standards have been met:
  - a) The proposed use is compatible with the goals of the Comprehensive Plan.
  - b) The proposed use shall be compatible with the appropriate and orderly development of the district, taking into consideration the location and size of the use, the nature and intensity of the operations involved in or conducted in connection with such use, the size of the site in relation to the use, the assembly of persons in connection with the use, and the location of the site with respect to streets giving access to the site.
  - c) The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings, taking into consideration the location, nature and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site.
  - d) Neighborhood character and surrounding property values shall be reasonably safeguarded.
  - e) Operations in connection with the use shall not be offensive, dangerous, destructive of property values and basic environmental characteristics, or detrimental to the public interest of the community. They shall not be more objectionable to nearby properties by reason of fumes, noise, vibration, flashing of or glare from lights, and similar nuisance conditions than the operations of any Permitted Use not requiring a Conditional Use permit in the district.
  - f) The character and appearance of the proposed use, buildings, structures, and/or outdoor signs should be in general harmony or better, with the character and appearance of the surrounding neighborhood.
- (2) Other Conditions and Restrictions

The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed Conditional Use permit.

## **(3) Conditional Approval**

A Conditional Use approval may be denied or revoked where the applicant fails to comply with specific conditions made a part of the approval by the Board or fails to comply with a reasonable request of the Board or the Planning Director for furnishing specific information related to the proposed use. Failure to comply with the conditions of approval shall constitute a violation of this Ordinance.

**(4) Expiration**

In the case where a Conditional Use Permit has not been used within twelve (12) months after the granting thereof, then without further action it shall be null and void. This may be extended to eighteen (18) months upon prior written request of the Board. The word "used" shall mean that the approved Conditional Use Permit has been activated as evidenced by permits, construction, or required licenses.

**(5) Miscellaneous Guidelines**

- a) If there are other valid reasons for denying a Conditional Use application, the denial may be sustained even if the proposed Conditional Use constitutes the highest and best use, which can be made of the subject property. The Board may not deny a permit solely for the purpose of limiting the number of similar uses in an area. However, the Board may require that reasonable minimum distances be maintained between similar uses as a condition of approval.
- b) If the request for a conditional use is denied by the Board of Zoning Appeals, the applicant shall not be re-submit the same request for a period of one (1) year unless the Planning Director determines that there have been significant changes in conditions in the area proximate to the parcel in question (revised 6-12-08)

**3.07 ZONING VARIANCES**

**(A) Variances from Ordinance**

The zoning regulations set forth in this Ordinance are provided to establish procedures, criteria, and conditions which shall be met before the Board of Zoning Appeals may approve variances from the zoning terms of this Ordinance.

**(B) Application for Variance**

A person desiring a variance from the zoning regulations of this Ordinance shall submit a written application for variance approval with the Planning Director. An application for variance approval shall:

- (1) Be made on the forms available from the Planning Director and signed by the owner of the property subject to the variance request or by a person who has been authorized to sign the form by the owner. If the form is signed by a person other than the owner, the person must submit written documentation of his/her authority to sign the form (e.g. a letter from the owner which states that the person has been authorized to sign the form);
- (2) Describe the specific use or standard for which the variance is sought;
- (3) Be accompanied by a copy of an area map which shows the location of the subject property, the locations of related public and utility facilities (e.g., schools, sewer, etc.), and the relationship of the subject property to the adopted transportation plan for the area;
- (4) Be accompanied by a copy of a site plan, drawn to an appropriate scale, which shows:
  - a) The subject property;
  - b) The location of all existing and proposed buildings, structures, and improvements to be made to the subject property, including drainage and erosion control facilities and features;

- c) Accurate dimensions of the parcel, buildings, parking areas, and ingress/egress driveways;
- d) Location, right of way and pavement width of all streets adjacent to the subject property; and,
- e) Be accompanied by any other information reasonably required by the Planning Director; and,
- f) Be accompanied by the required fee.

### **(C) Standards for Variance Approval**

Applications for variance approval shall be considered in accordance with the following procedures.

- (1) After receiving a complete application, the Planning Director shall schedule and announce the date and time of the Board of Zoning Appeal's hearing on the application. At the time the hearing is scheduled, the Planning Director shall provide the applicant with written notice of the hearing date and time.
- (2) Prior to the Board of Zoning Appeals hearing on the application, the Planning Director shall review the application for compliance with this Ordinance. Following such review and prior to the hearing, the Planning Director shall prepare and provide the Board of Zoning Appeals and the applicant with the Planning Director's written comments and recommendation on the application, including the Planning Director's opinion as to any effect with the proposed variance might have upon the integrity of the Ordinance.
- (3) The Board of Zoning Appeals, at its discretion, may visit the subject property at any reasonable time during the review process.
- (4) Notice of the Board of Zoning Appeals hearing on the application for variance approval shall be published as a Class I legal advertisement in a local newspaper of general circulation at least fifteen (15) days prior to the hearing.
- (5) The Board of Zoning Appeals shall conduct a duly scheduled public hearing on the application for variance approval, and may approve the application, approve the application with conditions, or deny the application.
- (6) The Board of Zoning Appeals shall grant approval for a variance request if it finds that the variance:
  - a) Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
  - b) 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;
  - c) Would eliminate an unnecessary hardship and permit a reasonable use of the land; and,
  - d) Will allow the intent of this Ordinance to be observed and substantial justice done.
- (7) The Board of Zoning Appeals shall make written findings of fact in support of its decision. The Planning Director shall promptly provide the applicant with a copy of the Board's written findings.
- (8) If the Board of Zoning Appeals approves the application for variance approval, the City shall issue the applicant a permit subject to the conditions of variance approval and the provisions of this Ordinance and any other applicable law.
- (9) If the request for a variance is denied by the Board of Zoning Appeals, the applicant shall not resubmit the same request for a period of one (1) year unless the Planning Director determines that there have been significant changes in conditions in the area proximate to the parcel in question.

(10) Variances from the use of a parcel or building on any parcel shall not be permitted under any circumstances.

**(D) Conditional Approval**

The Board shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort, and convenience (e.g. to ensure compatibility with surroundings). A variance approval may be denied or revoked where the applicant fails to comply with specific conditions made a part of the approval by the Board or fails to comply with a reasonable request of the Board or the Planning Director for furnishing specific information related to the proposed variance. Failure to comply with the conditions of approval shall constitute a violation of this Ordinance.

**(E) Expiration**

In the case where a variance has not been used within twelve (12) months after the granting thereof, then without further action it shall be null and void. This may be extended to eighteen (18) months upon prior written request of the Board. The word "used" shall mean that the approved variance has been activated as evidenced by permits, construction, or required licenses.

**(F) Relationship to Subject Property**

Variance approval applies to the subject property and may be transferred with ownership of the subject property subject to the provisions and conditions prescribed by or made pursuant to this Ordinance.

**3.08 APPEAL TO BOARD OF ZONING APPEALS**

**(A)** An appeal from any order, requirement, decision, or determination made by an administrative official or board charged with the enforcement of the zoning provisions of this Ordinance, or zoning rule or regulation adopted pursuant to this Ordinance, shall be filed with the Board of Zoning Appeals.

**(B)** The appeal shall:

- (1) Specify the grounds of the appeal;
- (2) Be filed within thirty (30) days of the original order, requirement, decision, or determination made by an administrative official or board charged with the enforcement of the zoning provisions of this Ordinance; and,
- (3) Upon request of the Board of Zoning Appeals, the administrative official or board shall transmit all documents, plans, and papers constituting the record of the action from which the appeal was taken.

**(C)** Within ten (10) days of receipt of the appeal by the Board, the Board shall set a time for the public hearing of the appeal and give notice. The hearing on the appeal must be held within forty-five (45) days of receipt of the appeal by the Board.

**(D)** At least fifteen (15) days prior to the date set for the public hearing, the Board 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 Chapter Fifty-Nine, Article Three of the Code of West Virginia, as amended, and written notice shall be given to interested parties. The publication area shall be the area covered in the appeal.

**(E)** The Board may require the party making the appeal to pay for the cost of public notice and written notice to interested parties.

- (F) At the hearing, any party may appear in person, by agent or by an attorney licensed to practice in the State of West Virginia.
- (G) Every decision by the Board must be in writing and state the 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 of Hancock County or Brooke County, as the case may be, 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 circuit court returns the matter with or without restrictions, the Board of Zoning Appeals 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.
- (H) When an appeal has been filed with the Board of Zoning Appeals, all proceedings and work on the premises in question shall be stayed, unless the official or board from where the appeal was taken certifies in writing to the Board of Zoning Appeals, that a stay would cause imminent peril to life or property. If the written certification is filed, proceedings or work on the premises shall not be stayed. Nothing in this Section prevents obtaining a restraining order.

### **3.09 SUBDIVISION WAIVERS**

#### **(A) Waivers from Ordinance**

A waiver from the subdivision regulations of this Ordinance may be granted by the Planning Commission if the Commission finds that strict enforcement of the regulations would result in practical difficulties or unnecessary hardships to the applicant for the waiver, and that, by granting the waiver, the intent of this Ordinance and the Comprehensive Plan will be observed, public safety and welfare secured, and substantial justice done.

#### **(B) Application for Waiver**

A person desiring a waiver from the subdivision regulations of this Ordinance shall submit a written application for waiver approval with the Planning Director. An application for waiver approval shall:

- (1) Be made on forms available from the Planning Director and signed by the owner of the property subject to the waiver request or by a person who has been authorized to sign the form by the owner. If the form is signed by a person other than the owner, the person must submit written documentation of his/her authority to sign the form (e.g., a letter from the owner which states that the person has been authorized to sign the form);
- (2) Describe the specific use or standard for which the waiver is sought;
- (3) Be accompanied by a copy of an area map which shows the location of the subject property, the locations of related public and utility facilities (e.g., schools, sewer, etc.), and the relationship of the subject property to the adopted transportation plan for the area;
- (4) Be accompanied by a copy of a site plan, drawn to an appropriate scale, which shows:
  - a) The subject property;
  - b) The location of all existing and proposed buildings, structures and improvements to be made to the subject property, including drainage and erosion control facilities and features;
  - c) Accurate dimensions of the parcel, buildings, parking areas, and ingress/egress driveways;
  - d) Location, right of way, and pavement width of all streets adjacent to the subject property; and,
  - e) Be accompanied by any other information reasonably required by the Planning Director; and,

- f) Be accompanied by the required fee.

#### **(C) Standards for Waiver Approval**

Applications for waiver approval shall be considered in accordance with the following procedures.

- (1) After receiving a complete application, the Planning Director shall schedule and announce the date and time of the Planning Commission public hearing on the application. At the time the hearing is scheduled, the Planning Director shall provide the applicant with written notice of the hearing date and time.
- (2) Prior to the public hearing on the application, the Planning Director shall review the application for compliance with this Ordinance. Following such review and prior to the hearing, the Planning Director shall prepare and provide the Planning Commission and the applicant with the Planning Director's written comments and recommendation on the application, including the Planning Director's opinion as to any effect with the proposed waiver might have upon the integrity of the Ordinance.
- (3) The Planning Commission, and its representatives, at its discretion, may visit the subject property at any reasonable time during the review process.
- (4) Notice of the public hearing on the application for waiver approval shall be published as a Class I legal advertisement in a local newspaper of general circulation at least fifteen (15) days prior to the hearing.
- (5) The Planning Commission shall conduct a duly scheduled public hearing on the application for waiver approval, and may approve the application, approve the application with conditions, or deny the application.
- (6) The Planning Commission shall make written findings of fact in support of its decision. The Planning Director shall promptly provide the applicant with a copy of the Commission's written findings.

#### **(D) Conditional Approval**

The Commission shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort and convenience (e.g. to ensure compatibility with surroundings). A waiver approval may be denied or revoked where the applicant fails to comply with specific conditions made a part of the approval by the Commission or fails to comply with a reasonable request of the Commission or the Planning Director for furnishing specific information related to the proposed variance. Failure to comply with the conditions of approval shall constitute a violation of this Ordinance.

#### **(E) Relationship to Subject Property**

Waiver approval applies to the subject property and may be transferred with ownership of the subject property subject to the provisions and conditions prescribed by or made pursuant to this Ordinance.

### **3.10 MUNICIPAL PLANNING COMMISSION**

#### **(A) Establishment**

City Council may establish a Municipal Planning Commission in order to promote the orderly development of Weirton and its environs. The Planning Commission shall be established in accordance with Chapter 8A, Article 2 of the Code of West Virginia, as amended, with all the rights and responsibilities accorded therein. The Planning Commission shall serve in an advisory capacity to City Council and shall have certain regulatory powers over land planning.

**(B) Powers and Duties**

The Planning Commission shall have the powers and duties to:

- (1) Exercise general supervision for the administration of the affairs of the Commission;
- (2) Prescribe rules and regulations pertaining to administration, investigations, and hearings: Provided, that the rules and regulations are adopted by City Council;
- (3) Supervise the fiscal affairs and responsibilities of the Commission;
- (4) With the consent of City Council, hire employees necessary to carry out the duties and responsibilities of the Planning Commission; Provided, that City Council sets the salaries;
- (5) Keep an accurate and complete record of all 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 City Council concerning planning;
- (9) Make an annual report to City Council 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 Chapter 8A, Article 2 of the Code of West Virginia, as amended;
- (11) Adopt a seal, and certify all official acts;
- (12) Invoke any legal, equitable or special remedy for the enforcement of the provisions of Chapter 8A, Article 2 of the Code of West Virginia or any ordinance, rule and regulation or any action taken thereunder;
- (13) Prepare and submit an annual budget to City Council;
- (14) If necessary, establish advisory committees;
- (15) Delegate limited powers to a committee composed of one or more members of the Commission; and
- (16) Contract for special or temporary services and professional counsel with the approval of City Council.

**3.11 BOARD OF ZONING APPEALS****(A) Establishment**

The City Council shall establish a Board of Zoning Appeals consisting of five members to be appointed by City Council. The Board of Zoning Appeals shall be established in accordance with Chapter 8A, Article Eight of the Code of West Virginia, as amended, with all the rights and responsibilities accorded therein.

**(B) Powers and Duties**

The Board of Zoning Appeals shall:

- (1) Hear, review, and determine appeals from an order, requirement, decision, or determination made by an administrative official or board charged with the enforcement of the zoning provisions of this Ordinance;

- (2) Authorize exceptions to the district rules and regulations only in the classes of cases or in particular situations, as specified in this Ordinance;
- (3) Hear and decide conditional uses of the zoning provisions of this Ordinance upon which the Board is required to act under the Ordinance;
- (4) Authorize, upon appeal in specific cases, a variance from the zoning provisions of this Ordinance;
- (5) Reverse, affirm or modify the order, requirement, decision, or determination appealed from and have all the powers and authority of the official or board from which the appeal was taken;
  - a) Adopt rules and regulations concerning:
  - b) The filing of appeals, including the process and forms for the appeal;
  - c) Applications for zoning variances and conditional uses;
  - d) The giving of notice; and
  - e) The conduct of hearings necessary to carry out the Board's duties under the terms of Chapter 8A, Article Eight, Section Nine of the Code of West Virginia, as amended;
- (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 twenty-four (24) hours of demand, for three (3) years;
- (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 Planning Office and shall be public records;
- (10) With consent of Council, hire employees necessary to carry out the duties and responsibilities of the Board; Provided, that City Council sets the salaries; and
- (11) Supervise the fiscal affairs and responsibilities of the Board.

### **3.12 CITY COUNCIL**

#### **(A) General Powers**

City Council is authorized and empowered to initiate amendments to the text of this Ordinance and the Official Zoning Map pursuant to the procedures and standards for amendments set forth in this Ordinance and to take such other actions not delegated to other bodies, which may be desirable and necessary to implement the provisions of this Ordinance.

#### **(B) General Duties**

City Council shall give consideration to the general policy and pattern of development set out in the Comprehensive Plan in the adoption, amendment, or repeal of this Ordinance.

### **3.13 PLANNING DIRECTOR**

#### **(A) The City may employ a Planning Director whose responsibilities would include:**

- (1) Perform reviews of all permit applications as necessary to determine compliance with the provisions of this Ordinance;
- (2) Maintain permanent and current records of all applications for all rezonings, variances, Conditional Use permits, amendments, administrative appeals, and other zoning related records required by this Ordinance and of the hearings and actions hereon;

- (3) Perform reviews of all development permit applications as necessary to determine compliance with the provisions of this Ordinance;
- (4) Conduct investigations as necessary to determine compliance with or violation of this Ordinance;
- (5) Participate in the abatement of violations of this Ordinance and aid in the prosecution of such violations;
- (6) Maintain in current status the official zoning maps; and,
- (7) Provide information on zoning, subdivision, and all other aspects of this Ordinance upon request by citizens and public agencies.

**(B)** The City Manager may designate a staff person to act in the capacity of Planning Director. Such a designation would confer all the duties and responsibilities of the Planning Director, as described in this Ordinance, upon the staff person.

## **ARTICLE 4. PERMIT AND SITE PLAN APPROVAL**

### **4.01 PERMIT REQUIRED**

No permit pertaining to the clearing, grading or preparation of land; the construction, enlargement, moving, remodeling, reconstruction of a structure; the subdivision of a parcel of property; or the change of use of a structure or parcel shall be issued unless approval of the application has been granted by the Planning Director or the Board of Zoning Appeals. The Planning Director or Board of Zoning Appeals shall grant approvals only in conformance with the provisions of this Ordinance except in the case of receiving a written order from a court of law in the form of an administrative review, variance, or judgment.

### **4.02 SITE PLAN REVIEW**

#### **(A) Site Plan Required**

- (1) No land within the jurisdiction of the Weirton Planning Commission shall be developed or altered for the purpose of constructing buildings or establishing uses without first having received site plan approval.
- (2) Plans proposing development within Planned Unit Development (PUD) Districts and Planned Development Districts (PDD) shall be submitted with all land uses identified by major land use category and the proposed intensity of development. As an alternative to this requirement, an applicant may identify the boundaries of the PUD or PDD, and the proposed land use by major category and the proposed intensity of development on a parcel-by-parcel basis; however, Planning Commission approval is required for each parcel prior to the commencement of development.

#### **(B) Application**

All applications for site plan review shall be made on application forms prescribed by the Planning Office and shall follow established submittal deadlines.

#### **(C) Design Requirements and Improvements Requirements**

Requirements, standards, and specifications for engineering design for construction of improvements for site plans shall be equal to or greater than the minimum requirements, standards, and specifications established for design and improvements by the Department of Public Works, Weirton Area Water Board, Weirton Sanitary Board, and Weirton Fire Department. In addition to the plan sheets specified below, the applicant shall submit a complete drainage report, including calculations and justifications.

#### **(D) Site Plan Review**

There are two types of site plan reviews, which have different application requirements and approval procedures. These are:

- (1) Type I: Administrative Review of Site Plans for Permitted Uses by the Planning Director, and
- (2) Type II: Review of Site Plans for Conditional Uses by the Board of Zoning Appeals.

#### **(E) Type I: Administrative Review of Site Plans for Permitted Uses by the Planning Director**

All applications for permitted uses shall be accompanied by a site plan drawn to scale, that includes the following for review by the Planning Director:

- (1) The actual dimensions, size, square footage, and shape of the lot to be built upon;
- (2) The exact sizes and locations on the lot of existing structures, if any;
- (3) The location, square footage, and dimensions of the proposed structure or alteration;

- (4) The location of the lot with respect to adjacent rights-of-way and easements;
- (5) The existing and proposed uses of the structure and land;
- (6) The location and dimensions of off-street parking and means of ingress and egress for such space;
- (7) Height of structure;
- (8) Setbacks; and,
- (9) Signature of applicant.

**(F) Type II: Review of Site Plans for Conditional Uses by the Board of Zoning Appeals**

All applications for Conditional Use Permits shall be accompanied by eight (8) copies of a site plan, drawn to scale, that includes the following for review by the Board of Zoning Appeals, unless determined by the Board to be unnecessary:

- (1) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a land surveyor or registered professional engineer licensed by the State of West Virginia;
- (2) The exact sizes and locations on the lot of existing structures, if any;
- (3) The location, square footage, and dimensions of the proposed structure or alteration;
- (4) The location of the lot with respect to adjacent rights-of-way;
- (5) The existing and proposed uses of the structure and land;
- (6) The number of employees, families, housekeeping units, bedrooms, or rental units the structure is designed to accommodate;
- (7) The location and dimensions of off-street parking and means of ingress and egress for such space;
- (8) Height of structure;
- (9) Setbacks;
- (10) Buffer yard and screening, if applicable;
- (11) Location of garbage collection area and screening;
- (12) Location of existing and/or proposed signs;
- (13) Street typical for internal roadways;
- (14) Location and size of drainage structures;
- (15) Location of stormwater detention system (if applicable);
- (16) Utility lines and easements;
- (17) Signature of applicant;
- (18) Drainage plan and drainage calculations that bear the name, address, signature and seal of a registered professional engineer, with floodplain zones clearly denoted, a typical of all swales, and a design of the drop inlets;
- (19) If applicable, design of stormwater management facilities and drainage calculations that bear the name, address, and seal of a registered professional engineer and that meet the requirements of Article 17.12 of this Ordinance and the design standards of the Natural Resource Conservation Service;
- (20) Parking and landscaping plan;

- (21) Sign plan;
- (22) Approved West Virginia Division of Highways Access Permit, if applicable;
- (23) Approved State of West Virginia NPDES General Permit for Storm Water Associated with Industrial (Construction) Activity, if applicable; and,
- (24) Any other such information concerning the lot or neighboring lots as may be required by the Planning Director or Planning Commission to determine conformance with, and provide for the enforcement of, this Ordinance; where deemed necessary, the Planning Director or Commission may require that in the case of accessory structures or minor additions, all dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be based on an actual survey by a land surveyor or professional engineer licensed by the State of West Virginia, said survey to be provided by the applicant.

**(G) Completeness of Application**

No site plan shall be accepted unless it is complete and is verified as to the correctness of information given by the signature of the applicant attesting thereto.

**(H) Restriction of Approved Site Plans**

Site plans approved by the Planning Director or Board of Zoning Appeals authorize only the use, arrangement, and construction set forth in such approved site plans and no other use, arrangement, or construction. Furthermore, the approval of a site plan shall not be construed to be approval of any violation of the provisions of this Ordinance. The issuance of a permit based upon site plans given approval by the Planning Director or Board of Zoning Appeals shall not prevent the Planning Director or Board from thereafter requiring the correction of errors in said site plans or from preventing operations from being carried on thereunder when in violation with this Ordinance.

**(I) Approved Site Plans**

One (1) copy of the site plan submitted for a permit as required above shall be returned to the applicant after the Planning Director or Board of Zoning Appeals has marked such copy as either approved or disapproved as to the provisions of this Ordinance and attested to same by the signature of the Planning Director or the chairman of the Board of Zoning Appeals, as the case may be, on such copy. The original, similarly marked, shall be retained by the Planning Director.

**(J) Resubmittal of Plans**

The applicant shall submit eight (8) complete sets of the final, revised plans showing conditions, if any, required by the Planning Director or Board of Zoning Appeals. Final revised plans shall be submitted at least ten (10) working days prior to issuance of a permit.

**(K) Rejection Statement**

The Planning Director may initially reject any site plan application submittal for the following reasons:

- (1) Incomplete application; or
- (2) The drawing set or supporting documents are not complete.

**(L) Provision of Written Decision**

After the review of a site plan application, the Planning Director or Board of Zoning Appeals shall render a decision in writing, which decision shall consist of:

- (1) Approval of the site plan based upon the determination that the proposed plan complies with the general, design, and performance standards set forth in this Ordinance; Disapproval of the site

plan based upon the determination that the proposed project does not meet the general, design, and performance standards set forth in this Ordinance; or

- (2) Approval of the site plan subject to any conditions, modifications, and restrictions as required by the Planning Director or Board of Zoning Appeals which will ensure that the project meets the general, design, and performance standards set forth in this Ordinance.

**(M) Deviation from the Approved Site Plan and Additions to Existing Structures**

Minor changes that do not constitute material deviation shall be reviewed and approved by the Planning Director. If the installation of the elements on the site plan materially deviates from the approved site plan (as determined by the Planning Director or other City staff), the site plan shall be resubmitted to the Planning Director or Board of Zoning Appeals, as the case may be, for a new site plan approval in accordance with the procedures and requirements for site plan approval. For purposes of this section, material deviation is one that:

- (1) Adds, removes, or reconfigures an internal street or relocates an access point;
- (2) Affects a condition of site plan approval that was established by the Planning Director or Board of Zoning Appeals during the site plan approval stage;
- (3) Reduces the area devoted to open spaces or buffer landscaping; and/or
- (4) Involves the enlargement of a non-residential building footprint on the site due to future additions that are more than ten (10) percent of the gross floor area or five thousand (5,000) square feet, whichever is less.

**(N) Record Drawings and Certificate of Completion and Compliance**

Where applicable, the developer or owner shall cause as-built drawings to be prepared and submitted to the Planning Director for all streets, drainage ditches and facilities, utility pipes and structures, and finished grade elevations for the project. Said record drawings shall be filed with the Planning Director prior to the release of any performance assurances. As-built drawings, including the approved final plat, shall be submitted on forms specified by the Planning Director.

**4.03 SIGN PERMITS**

Sign permit applications shall be submitted for all signs identified in Article 18, except for those specifically exempted. Such signs may be erected, altered, constructed, moved, converted, or enlarged only after the issuance of a sign permit as required by this Ordinance.

## **ARTICLE 5. SUBDIVISION REGULATIONS**

### **5.01 INTENT**

It is the intent of this Article to provide an orderly process for the division of land into lots, tracts or parcels. This Article is also intended to ensure that subdivided lots, tracts, or parcels can be used safely to build on without danger to the health, safety, and general welfare of both their prospective owners and of the Weirton community, and that subdivisions are provided with and provide for adequate and efficient access and transportation, water, sewer and other utilities, parks, playgrounds, recreation, and other public requirements and facilities.

### **5.02 CLASSIFICATION OF SUBDIVISIONS**

For purposes of this Article, a subdivision is defined as the division of a lot, tract, or parcel of land into two or more lots, tracts, or parcels of land.

#### **(A) Minor Subdivisions.**

- (1) A minor subdivision is defined as any subdivision containing not more than three (3) lots in which all lots have the minimum required frontage on an existing street, do not involve any new street or the extension of municipal facilities, do not require the creation of any new public improvements, and are not in conflict with any provision or portion of the Comprehensive Plan, Official Zoning Map, or this Ordinance. If one or more of the lots within the proposed minor subdivision meet all of these criteria except the minimum lot frontage requirement and / or the minimum lot size requirement, variances may be requested from the Planning Commission for these two conditions. Variances from the requirements of new streets, utility extensions and / or the creation of new public improvements shall not be permitted.

- (2) Procedure for Minor Subdivision.

Whenever any subdivision of land is proposed, the owner of the property shall apply for and secure approval of such proposed subdivision in accordance with the following procedures:

- a) Complete application, and
- b) Review and action by Planning Director.

- (3) Authority of Planning Director to Approve Minor Subdivisions.

- a) Pursuant to Chapter 8A, Article Four, Section 2(a)(2) of the Code of West Virginia, as amended, the Planning Commission conveys upon the Planning Director the authority to review and approve minor subdivision applications as defined by this Ordinance.
- b) The minor subdivision, as defined in this Ordinance, of any lot, tract, or parcel shall not be recorded by the Clerk of the County Commission of Hancock or the Clerk of the County Commission of Brooke unless it has first been approved by the Planning Director.
- c) **Minor Boundary Change.** Minor boundary changes consist of lot line adjustments that do not affect public improvements. Minor boundary adjustments shall be reviewed and approved by the Planning Director by the same procedure, rules, and regulations as for a minor subdivision.
- d) **Merging Parcels.** When two or more contiguous lots, tracts, or parcels of land are proposed to be merged for the sole purpose of enlarging an existing lot, tract, or parcel, the action shall be deemed a minor subdivision, provided the following statement is written on the plat representing the merger:
- e) The property hereon described shall be merged into one property with the adjoining acre parcel which is recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, for the exclusive purpose of increasing

the land of said parcel. The merged properties shall not be used or sold individually unless there is compliance with the Unified Development Ordinance of the City of Weirton.

- f) Plat Drawn from Existing Plat. When a plat is redrawn from an existing recorded plat to improve the quality and accuracy of the plat, it shall be reviewed and approved by the Planning Director.
- g) Plat Drawn from Existing Deed. When a plat is drawn from an existing recorded deed(s) to improve the legal description of the property, it shall be reviewed and approved by the Planning Director, unless the deed was originally prepared or recorded without a plat to circumvent subdivision regulations.

#### **(B) Major Subdivisions.**

- (1) A major subdivision is defined as any subdivision not classified as a minor subdivision, including but not limited to subdivisions of four (4) or more lots, or any size subdivision requiring any new street, other than an internal access drive in a shopping center or office park, or extension of local governmental facilities, or the creation of any public improvements.
- (2) For any change in a plat of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or public improvements or area reserved thereon for public use, or if it affects any plat or plan legally accessed prior to the adoption of this Ordinance, such parcel shall be approved by the Planning Commission by the same procedure, rules, and regulations as for a major subdivision.
- (3) Plat Created for Non-development Purposes. When a plat is created to subdivide a parcel of land for the sole purpose of separating the parcel for non-development purposes, it may be reviewed and approved by the Planning Commission, provided the following language is written on the plat:

#### DEVELOPMENT RESTRICTIONS

The property hereon described shall not be developed unless it is developed in full compliance with the Unified Development Ordinance of the City of Weirton.

Grantor \_\_\_\_\_ Date \_\_\_\_.

Grantee \_\_\_\_\_ Date \_\_\_\_.

#### **(4) Authority of Planning Commission to Approve Major Subdivisions.**

- a) Pursuant to Chapter 8A, Article Four, Section 2(a)(2) of the Code of West Virginia, as amended, major subdivisions, as defined by this Ordinance, of any lot, tract, or parcel shall not be recorded by the Clerk of the County Commission of Hancock or the Clerk of the County Commission of Brooke unless it has first been approved by the Planning Commission.
- (5) Procedure for a Major Subdivision. Whenever any subdivision of land is proposed, the owner of the property shall apply for and secure approval of such proposed subdivision in accordance with the following procedures:
  - a) Complete application
  - b) Sketch plat review by Planning Director
  - c) Preliminary subdivision plat review by Planning Commission with public hearing, and
  - d) Final subdivision plat approval by Planning Commission.

## **5.03 GENERAL PROCEDURES**

**(A)** The plan requirements and processing procedures shall be followed by the applicant as set forth herein and all applications for minor subdivisions shall be submitted to the Planning Director for review and action and all major subdivisions shall be submitted to the Planning Commission for review and action.

**(B)** All subdivision applications shall be for the purposes of procedure, classified as minor or major, as defined in Section 5.2.

**(C) Application Procedures for Minor Subdivisions.**

(1) Preliminary plans and reviews may be eliminated, and final plans prepared at the direction of the Planning Director.

(2) The applicant shall submit three (3) hard copies and one (1) digital copy of a final plan of any minor subdivision to the Planning Director.

**(D) Application Procedures for Major Subdivisions.**

(1) Preliminary or final subdivision plan submittals shall be filed with the Planning Director, who will make the appropriate distributions to municipal departments and agencies for review. All plans shall be submitted with the necessary forms required by this Ordinance. No application shall be considered filed until application fees have been fully paid and all application requirements have been met.

(2) There shall be an additional charge for repeat review of rejected plans, plus any additional costs incurred in processing plans. The fees to be paid are subject to change pursuant to procedures adopted by City Council.

(3) Preliminary and final plan applications will not be accepted for review until all supplementary data and studies as specified in Section 5.11 of this Ordinance have been received by the Planning Director. The applicant shall submit eight (8) hard copies and one (1) digital copy of both the preliminary and final plans to the Planning Director.

(4) All major subdivision applications shall be filed no later than forty-five (45) days prior to a Planning Commission regularly scheduled meeting.

(5) All plans for subdivision, together with planning modules, documents and applicable permits as may be required by other government agencies, shall be submitted to the Planning Commission for review and action.

(6) The applicant, or his or her representative, shall attend all meetings at which his or her application is scheduled for discussion.

(7) The time an application for approval of a plan is duly filed as provided in this Ordinance, and while such application is pending action, no change or amendment of this Ordinance or other governing ordinance or plan shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the applicant was duly filed.

**(E) Preparation of Plans and Specifications.**

(1) Specifications and plans for a subdivision plan including roads, water, sewer, and stormwater management systems shall be prepared by a professional engineer licensed by the State of West Virginia and shall bear his or her seal and signature.

(2) The layout and preparation of plans should be based on site topography with due consideration given to stormwater management, aesthetics, and environmental constraints.

**5.04 PLAN REQUIREMENTS FOR SKETCH PLATS**

- (A) Sketch plats for minor and major subdivisions will be considered as submitted for informal discussion between the applicant and the Planning Director. Submission of a sketch plat shall not constitute formal filing or submission of an application for approval of a subdivision with the Planning Commission.
- (B) As far as may be practical on the basis of a sketch plat, the Planning Director shall informally advise the applicant as promptly as possible of the extent to which the proposed minor or major subdivision conforms to the design standards of this Ordinance and will discuss possible plan modifications necessary to secure conformance.
- (C) Submission of a sketch plat shall not constitute or replace a formal application for a preliminary or final subdivision.

**5.05 PLAN REQUIREMENTS FOR MAJOR SUBDIVISIONS AND PDA'S****(A) Sketch Plat**

- (1) A sketch plat shall be submitted by the applicant as a basis for informal discussion with the Planning Director.
- (2) Sketch plats may be professionally drafted or freehand, done in ink on paper, or may be in the form of electronic prints. Plats shall be submitted on 11" x 17" medium.
- (3) A sketch plat need not be to exact scale nor are precise dimensions required. Scale is at the option of the applicant, but a scale of one (1) inch equals not more than two hundred (200) feet is recommended.
- (4) Data furnished in a sketch plat shall be at the discretion of the applicant. For a sketch plat to be fully useful, it is suggested that the plat include the following information:
  - a) Proposed subdivision name.
  - b) Name and address of the owner of the tract and of the developer.
  - c) Tract boundaries showing all distances and bearings, total acreage of the tract, number of lots proposed, remaining acreage of any unsubdivided land.
  - d) North arrow, graphic scale, and date of drawing.
  - e) Streets on and adjacent to the tract.
  - f) A key map for the purpose of locating the site in the City, showing the relation of the tract to adjoining property and streets, roads, bodies of water, and municipal boundaries within two thousand (2,000) feet of the development property.
  - g) Significant topographical and physical features.
  - h) Proposed general street layout. If a WVDOH Highway Occupancy Permit is required, the approved permit number should be shown on the plat.
  - i) Proposed general lot layout.
  - j) Physical features such as soil types, floodplains, streams, ponds, lakes, wetland areas, and contours at twenty (20) foot intervals.
  - k) Proposed major changes to the physical features.
  - l) An indication of the proposed intensity of use, such as gross density in residential developments or the number and nature of prospective tenants in an office, commercial or industrial development.

- m) All existing buildings.
- n) The names of all platted subdivisions immediately adjacent to the development; and the locations and dimensions of any streets or easements terminating adjacent to the development.

**(B) Preliminary Plan**

- (1) A complete preliminary plan shall include all the information described by this Section, including the studies, analyses, and documents as may be required. All plans, drawings, and other sketches shall conform to the following standards:
  - a) Preliminary plans must be submitted in the form of xerographic copies made from original drawings on reproducible paper or mylar and shall show the property boundaries of the entire tract being subdivided or developed.
  - b) The preliminary plan shall be at a scale of not more than one hundred (100) feet to one (1) inch.
  - c) The size of plan drawings shall be twenty-four inches by thirty-six inches (24"x36"). Where more than two sheets are required, an overall key sheet shall be provided, and match lines must be shown on each sheet. A set of plans shall consist of uniformly sized sheets.
  - d) Tract boundaries with bearings shown to the nearest seconds and distances shown to the nearest one-hundredth (0.01) of a foot shall be illustrated.
  - e) Proposed lot layout with the area of each in acres, calculated to the nearest one-thousandth (0.001) of an acre shall be shown. Proposed lots smaller than one (1) acre shall be further labeled with their lot size to the nearest square foot.
  - f) Plan Content. In order to be considered complete, all preliminary plans shall contain at least the following:
    - i) A preliminary plan shall be submitted with a completed application form with the required fee.
    - ii) Proposed subdivision name.
    - iii) A location map at a scale of not less than one (1) inch equals two thousand (2,000) feet. The location map shall be placed on each sheet and with identical orientation to the plan.
    - iv) North arrow, scale, date of original drawings and any revisions, and a signature approval block located in the lower right corner of each sheet requiring municipal signatures.
    - v) Name of recorded owner of property and applicant along with appropriate tax data from the Hancock County or Brooke County Tax Assessor's Office.
    - vi) Name and seal of the professional engineer or surveyor licensed in the State of West Virginia, responsible for the preparation of the plan.
    - vii) Lot numbers, which shall be assigned to the development by the City of Weirton Addressing System and shall be consecutive throughout the subdivision and not independent for each block or phase of the proposal.
    - viii) Significant physical features within the tract and an adjacent fifty (50) foot perimeter. If the project is a major subdivision, then the perimeter strip shall be extended up to four hundred (400) feet in width. Such physical features shall include:
      - a. Contour lines of not more than two (2) foot intervals for land with an average natural slope of eight (8) percent or less, and at intervals of not more than five (5) feet for land with an average natural slope exceeding eight (8) feet.

- b. Data to which elevation controls refer.
- c. Soil types based on a U.S.D.A. Soil Survey.
- d. Man-made or natural watercourses and their accompanying floodplain, designated wetland areas, swales, ponds, or reservoirs.
- e. Existing vegetation coverage and proposals for improvements.
- f. All existing buildings, sewer mains and on-lot disposal systems, wells, water mains and fire hydrants, culverts, pipelines, gas mains, power lines, telephone lines, and other significant utilities and facilities.
- g. All existing streets on or adjacent to the tract, including street name, right-of-way width, and cart-way width.
- h. All existing property lines, easements, and rights-of-way, and the purpose for which the easements or rights-of-way have been established.
- i. The location and width of all proposed streets, alleys, rights-of-way, and easements.
- j. The minimum building setback line from each street.
- k. Playgrounds, public buildings, public areas, and parcels of land proposed to be dedicated or reserved for public use.
- l. Proposals requiring access to roads under the jurisdiction of the West Virginia Division of Highways shall bear a notice that a highway occupancy permit is required before access to a state road is permitted.
- m. The names of owners of all abutting, unplatte land and the names of all abutting subdivisions.
- n. Where the preliminary plan covers only a part of the applicant's entire holding, a sketch plat shall be submitted of the prospective street layout for the remainder to determine how safe and efficient access will be provided to the remainder of the property and how future subdivision and land development will relate and interact with the current proposal.
- o. All street extensions or spurs as are reasonably necessary to provide adequate street connections and facilities to adjoining or contiguous developed or undeveloped areas.
- p. Where off-site water service is to be provided, the location and size of all water service facilities within the subdivision including wells, storage tanks, pumps, mains, valves, and hydrants.
- q. Maintenance responsibilities and use restrictions for all rights-of-way and easements within or adjacent to the tract shall be described. The ownership of all such rights-of-way and easements shall also be indicated, including the owner's name and address. This information shall not be required for existing public roads.
- r. A statement of the proposed method of water supply, including evidence that such source is capable of providing (i) a reliable supply of potable water in sufficient quantity and (ii) and adequate flows for fire suppression for the entire proposed development.
- s. A statement of the proposed method for sewage disposal. Where on-site sewage disposal facilities are proposed, the applicant shall submit a statement with regard to the suitability of the soil to absorb sewage waste.
- t. A statement describing all proposed public improvements including streets, curbs, and stormwater facilities.

**(C) Final Plan**

- (1) Final plans must be submitted in the form of xerographic copies made from original drawings on reproducible paper or mylar and shall show the property boundaries of the entire tract being subdivided or developed.
- (2) The size of plan drawings shall be twenty-four inches by thirty-six inches (24"x36"). Where more than two sheets are required, an overall key sheet shall be provided, and match lines must be shown on each sheet. A set of plans shall consist of uniformly sized sheets.
- (3) A master plan of the entire development site at a scale of four hundred (400) feet to one (1) inch shall be included with the final plan.
- (4) Final plans shall include the following information and documentation:
  - a) All information required on preliminary plans.
  - b) Final subdivision or development name.
  - c) Sufficient data to readily determine the location, bearing, and length of every street, lot, and boundary line and to produce such lines upon the ground.
  - d) Tangent bearings and the length of all straight lines, radii, and curves for each street.
  - e) All dimensions and angles or bearings of the lines of each proposed lot and of each area proposed to be dedicated to public use.
  - f) Final street names within the subdivision or development.
  - g) A copy of the restrictive covenants proposed by the applicant.
  - h) Copies of all relevant permits or certificates as may be required by County, State, and federal agencies having jurisdiction.
  - i) If any of the supporting plans or studies submitted with the preliminary plan were deemed by the Planning Commission to need extensive revision, final, and correct copies of such plans and studies shall be submitted with the final plan.
- (5) The applicant shall be responsible for returning to the Planning Director one (1) recorded plan within ten (10) days of the plan being recorded with the Clerk of the County Commission of Brooke or the Clerk of the County Commission of Hancock, as the case may be.

**5.06 PRELIMINARY PLAN REVIEW**

- (A) Preliminary plans and supporting data shall comply with the provisions of Section 5.5.2 of this Ordinance.
- (B) The Planning Director shall consider the plan and make his recommendations to the Planning Commission. In its review of the plan, the Planning Director shall consider overall compliance of the plan with this Ordinance and shall, if necessary, refer the plan to the Weirton Area Water Board, the Weirton Sanitary Board, and Public Works to examine the engineering feasibility of the various schemes presented for the location, alignment and grade of streets, sewers, storm sewers, and water supply. The Planning Director shall also consider the suitability of the plan for the development of the site and its relation to the appropriate extension of streets and the arrangement and density of housing, and the compatibility of the plan with the Comprehensive Plan. The comments and recommendations of the Planning Director, along with the comments of the Weirton Area Water Board, the Weirton Sanitary Board, and Public Works, if any, shall be forwarded to the Planning Commission.

(C) The Planning Commission shall publish a notice of the public hearing as a Class I legal advertisement in compliance with Chapter Fifty-nine, Article Three of the Code of West Virginia at least thirty (30) days prior to the date of the public hearing.

(D) The Planning Commission, at a regular meeting open to the public, shall conduct the public hearing to review the preliminary plan, solicit public comment, and make recommendations as necessary to obtain conformance with this Ordinance.

**(E) Effective Period of Preliminary Plan Approval**

(1) Preliminary plan approval shall be granted for a specified period of time depending on the number of lots to be developed, and in accordance with the following:

Total Number of Lots in Subdivision	Effective Period of Preliminary Plat Approval
1-50	4 years
51-100	6 years
101-500	8 years

(2) If all capital improvements are not complete at the end of the specified period, an extension of time may be granted by the Planning Commission. The developer shall formally apply to the Planning Commission, in writing, requesting a time extension and the reasons for the extension. When considering an extension, the Planning Commission shall consider the following criteria:

- Has the developer diligently pursued the completion of the capital improvements on the land granted preliminary plan approval; and
- Has the developer completed at least seventy-five (75) percent of the capital improvements on the land granted preliminary plan approval?

(3) The burden of proving these criteria shall rest with the developer.

(4) The Planning Commission may grant a time extension of up to one (1) year. A developer may request a maximum of two (2) one-year extensions; however, only one extension may be granted at a time.

(5) If an extension of time is not granted, preliminary approval shall be null and void, and the developer shall be required to resubmit a new plat for preliminary plan approval subject to all subdivision regulations and fees in effect at that time.

(6) All residential subdivisions which have received preliminary plan approval from the Planning Commission prior to the effective date of this Ordinance shall be entitled to request an extension of time from the Planning Commission.

## **5.07 FINAL PLAN REVIEW**

(A) The final plan and supporting data shall comply with the provisions of Section 5.5.3 of this Ordinance. Applications not filed in accordance with Section 5.5.3 shall be considered incomplete and shall not be considered for approval.

**(B) Major Subdivisions and All Planned Developments**

- (1) Following the effective period of preliminary plan approval, a final plan and necessary supporting data shall be submitted to the Commission for final approval; provided, however, that an extension of time may be granted by the Commission upon written request. Otherwise, the plan submitted shall be considered as a new preliminary plan.
- (2) The final plan shall conform in all aspects with the preliminary plan as previously reviewed by the Commission and shall incorporate modifications and revisions specified by the Commission in its review of the preliminary plan.
- (3) The Commission shall review the final plan at a regularly scheduled meeting or at a special meeting for that purpose, and shall render its decision in writing, listing all reasons for plan rejection if such is the case, within ninety days from the date of the first Planning Commission at which the final application was reviewed.
- (4) Upon completion of necessary reviews of final plans, the applicant shall present copies of all final plans in the form of clearly legible xerographic prints made from originals drawn on paper or plastic film.

**(C) Performance Bonds**

- (1) If all of the improvements required for a major subdivision have not been installed or completed, and the developer wishes to record the plat, the Planning Commission, at its discretion, may waive the requirement that the developer complete and dedicate all public improvements prior to the signing of the final plat, and require the developer to post a corporate surety bond, a cash bond, escrow account, or a cashier's check with the Planning Commission in an amount equal to a verifiable cost estimate sufficient to secure to the City of Weirton the satisfactory construction, installation, and dedication of the incomplete portion of the required improvements.
- (2) If the owner/developer requests to receive building permits, the owner/developer shall enter into an agreement with the City prior to the issuance of a building permit(s) that any improvements not completed within one year from the date of the agreement or the improvements not completed prior to a request for building occupancy will be completed by the city with funds provided by the corporate surety bond, a cash bond, escrow account, or a cashier's check posted by the developer to receive a final Planning Commission approval.
- (3) If building permits are requested, the City will require a non-refundable administrative fee equal to two percent of the total verifiable cost estimate to cover the City's costs should the City be required to complete the development of the public improvements.
- (4) In cases where development is projected over a period of years, the City may authorize submission of final plats by section or stages of development subject to such requirements or guarantees as to improvements in future sections or stages of development as it finds essential for the protection of any finally approved section of the development.
- (5) As the work of installing the required improvements proceeds, the party posting the financial security may request the Council to release or authorize the release, from time to time, such portions of the financial security necessary for payment to the contractor(s) performing the work.
- (6) Any such request shall be in writing addressed to the Council, and the Council shall have 45 days from receipt of such request within which to allow the City Public Works Director and Utility Director to certify, in writing, to Council that such portion of the work upon the improvements has been completed in accordance with the approved plat and supplemental plans. Upon such certification, the Council shall authorize release by the bonding company or lending institution of an amount as estimated by the City Public Works Director and Utility Director which fairly represents the value of the improvements completed, or, if the Council fails to act within said

forty-five-day period, the Council shall be deemed to have approved the release of funds as requested.

- (7) In the event that the improvements have been guaranteed by the posting of an improvement bond, the developer shall be required to post a bond in the lesser amount prior to the release of the originally posted performance bond. The Council may, prior to final release at the time of completion and certification by the City Engineer, require retention of 10% of the estimated cost of the aforesaid improvements.
- (8) If water mains or sanitary sewer lines are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the City, financial security to assure proper completion and maintenance thereof shall be posted with said public utility or municipal authority and shall not be included with the financial security posted with the City.

#### **5.08 PRIVATE RESTRICTIONS**

(A) The provisions of this Article are not intended to replace any deed restriction, covenant, easement, or any other private agreement regarding a parcel of land. All such restrictions shall be enforced by the parties to the restriction. The City shall not enforce or become involved in the enforcement of such private restrictions, and, in the review of development proposals, the City will only apply those regulations to evaluate the proposal. All subdivider shall submit the proposed private restrictions to the City with or before submitting the final plat or site plan. These deed restrictions and/or covenants shall be consistent with the requirement of the Planning and Zoning Code and Article 5 – Subdivision Regulations.

#### **5.09 SALE OF PROPERTY**

The developer or owner of a major subdivision, which has received preliminary plan approval, may sell one (1) lot within the approved subdivision before receiving final plan approval for the purpose of financing the construction of public improvements within the approved subdivision, provided that the following conditions are met:

- (A) The lot must derive access from existing streets or roads or must derive access from streets which the Planning Commission shall determine are consistent with the final approval of the non-residential subdivision. If neither of these conditions can be met, the nearest property corner of the lot must be within the first five hundred (500) feet of the subdivision entrance for the platted section or be within five hundred (500) feet of a street that the Planning Commission shall determine is consistent with the final approval of the subdivision.
- (B) Water service, including fire service, must be provided to the lot before a building permit shall be issued.
- (C) Sewer service may be provided after the issuance of an approved building permit but prior to the issuance of an occupancy permit.

## **ARTICLE 6. PUBLIC HEARINGS AND PROCEDURES**

### **6.01 PUBLIC HEARING REQUIRED**

- (A)** A decision by the Board of Zoning Appeals, Planning Commission, or City Council, as the case may be, on an appeal, variance, waiver, Conditional Use Permit, zoning map amendment, text amendment to this Ordinance, or Comprehensive Plan amendment shall be made only after a public hearing has been held.
- (B)** Subject to Section 6.01C below, the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
- (C)** The Board of Zoning Appeals, Planning Commission or City Council may impose reasonable and equitable limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the matter at issue may be heard and decided without undue delay.
- (D)** The Board, Commission or Council may continue the public hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made.

### **6.02 NOTICE OF HEARING**

The Planning Director shall give notice of any public hearing required by Section 6.01 above as follows:

- (A)** Notice shall be given to the applicant and any other person who makes a written request for such notice by mailing a written notice to such persons not later than ten (10) days before the hearing.
- (B)** A notice of the public hearing shall be published as a Class I legal advertisement in compliance with Chapter Fifty-nine, Article Three of the Code of West Virginia, as amended, at least thirty (30) days prior to the date of a public hearing held for a major subdivision; and at least fifteen (15) days prior to a zoning appeal, subdivision waiver, Conditional Use Permit, zoning map amendment, or text amendment to this Ordinance.
- (C)** The Class I legal advertisement shall state the date, time, and place of the hearing, reasonably identify the parcel that is the subject of the application, if applicable, and give a brief description of the action requested or proposed.

### **6.03 EVIDENCE**

- (A)** The provisions of this section apply to all hearings for a variance heard by the Board of Zoning Appeals.
- (B)** All crucial findings and conclusions necessary for the approval or denial of the requested action shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings and conclusions be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed during the public hearing.

### **6.04 MODIFICATION OF APPLICATION AT HEARING**

- (A)** In response to questions or comments by persons appearing at the public hearing or to suggestions or comments by members of the Council, Board or Commission, the applicant may agree to modify his application, including the plans and specifications submitted.
- (B)** Unless such modifications are so substantial or extensive that the Council, Board or Commission cannot reasonably be expected to perceive the nature and impact of the proposed changes without

having revised plans submitted, the Council, Board or Commission may approve an application with a condition that the permit will not be issued until plans reflecting the agreed upon modifications are submitted to the Planning Director.

**6.05 RECORD**

- (A) A tape recording shall be made of all public hearings and such recordings shall be kept by the City for at least three (3) years and made accessible within twenty-four (24) hours of demand. Accurate minutes shall also be kept of all such proceedings.
- (B) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the City for at least three (3) years.

**6.06 WRITTEN DECISION**

- (A) Any decision made by the Board, Commission, or Council regarding an appeal, variance, waiver, Conditional Use Permit, zoning map amendment, or text amendment to this Ordinance shall be reduced to writing and served upon the applicant and all other persons who make a written request for a copy.
- (B) In addition to a statement of the ultimate disposition of the case by the Board, Commission, or Council and any other information deemed appropriate, the written decision shall state the findings and conclusions of the Board, Commission, or Council, as well as supporting reasons or facts, whenever this Ordinance requires the same as a prerequisite to taking action.

## **ARTICLE 7. ENFORCEMENT AND REVIEW**

### **7.01 VIOLATIONS**

The Planning Director shall have the authority to investigate potential violations of this Ordinance in the course of their duties as Planning Director or following receipt of a complaint alleging violations of this Ordinance.

### **7.02 PERSONS LIABLE**

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, engineer, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

### **7.03 PROCEDURES UPON DISCOVERY OF VIOLATIONS**

- (A)** If the Planning Director finds that any provision of this Ordinance is being violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Any written notice sent by the Planning Director with respect to a violation shall state the action that may be taken if the violation is not corrected within the period of time specified by the Planning Director in the written notice and shall further state that the Planning Director's decision with respect to the violation may be appealed to the Board of Zoning Appeals. The Planning Director shall only be required to send a single written notice with respect to any violation prior to imposing penalties or seeking other remedies pursuant to this Article; provided, however, that the Planning Director may, at his discretion, send more than one (1) notice with respect to the same violation. The Planning Director may identify more than one (1) violation in the same notice, in which case the Planning Director shall specify all information required by this Section with respect to each reported violation.
- (B)** Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Ordinance or pose a danger to the public health, safety, or welfare, the Planning Director may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 7.4 of this Ordinance or may seek enforcement through whatever other means are available as provided by law, including, but not limited to injunction and mandamus.

### **7.04 PENALTIES AND REMEDIES FOR VIOLATIONS**

Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances, waivers, or Conditional Use Permits, shall constitute a misdemeanor, punishable pursuant to Chapter 8A, Article Ten of the Code of West Virginia, as amended.

### **7.05 PERMIT REVOCATION**

- (A)** A permit issued under the authority of this Ordinance may be revoked by the Planning Director if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Ordinance or any additional requirements lawfully imposed by the permit issuing authority.
- (B)** The Planning Director may, at his discretion, give the permit holder thirty (30) days from the date of the written notice revoking a permit pursuant to Section 7.05(A) in which to remedy the violations of this Ordinance that warrant the revocation of the permit. At any time during the thirty (30) day period, the permit holder may request that the Planning Director review such remedial measures as have been taken by the permit holder to determine whether the violations of this Ordinance have been remedied. Upon such review, if the Planning Director determines that the

violations have been corrected, the Planning Director shall send written notice of reinstatement of the permit to the permit holder. However, if the violations have not been corrected, the Planning Director shall not be required to take any additional action and the permit shall be revoked upon expiration of the thirty (30) day period specified in the original written notice.

(C) No person may continue to make use of land or buildings in the manner authorized by any permit after such permit has been revoked in accordance with this Section.

#### **7.06 JUDICIAL REVIEW**

(A) Every decision of the Planning Commission, Board of Zoning Appeals and City Council is subject to review by certiorari pursuant to Chapter 8A, Article Nine of the Code of West Virginia, as amended.

(B) Within thirty (30) days after a decision or order by the Planning Commission, Board of Zoning Appeals, or City Council, any aggrieved person may present to the Circuit Court of the County of Brooke or the Circuit Court of County of Hancock, as the case may be, a duly verified petition for a writ of certiorari setting forth:

- a) That the decision or order by the Planning Commission, Board of Zoning Appeals, or City Council is illegal in whole or in part; and
- b) Specify the grounds of the alleged illegality.

## ARTICLE 8. NONCONFORMING PROVISIONS

### 8.01 INTENT

It is the intent of this Article to recognize that the eventual elimination, as expeditiously as is reasonable, of existing uses or structures that are not in conformity with the provisions of this Ordinance is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses or structures that would violate the provisions of this Ordinance. It is also the intent of this Article that any elimination of nonconformities shall be affected so as to avoid any unreasonable invasion of established private property rights.

### 8.02 NONCONFORMING USES

The uses that were both in existence and in compliance with all land use and other laws on the date of passage of this Ordinance, and, further, that do not conform to the use regulations set forth in this Ordinance, shall be deemed to be legal, preexisting nonconforming uses that may be continued subject to the following provisions:

#### (A) Continuation.

- (1) Any legal, pre-existing nonconforming use shall continue until or unless modified or terminated as herein provided. Such use may be sold, inherited, or otherwise transferred, provided the use, land, and structure (if any) remain the same.
- (2) Normal structural repair and maintenance may be performed to allow the continuation of a non-conforming use.

#### (B) Expansion.

- (1) No nonconforming use of a lot or nonconforming use of a structure shall be enlarged or increased or extended to occupy a greater area of the lot or structure than was occupied at the effective date of enactment or amendment of this chapter, unless the Board of Zoning Appeals after public hearing, shall interpret that the enlargement or extension is necessitated by the natural expansion and growth of the nonconforming use. Any such enlargement or expansion shall conform to the area, height, and yard requirements of the zoning district in which it is located. A legal, preexisting nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use but shall not be expanded to occupy any parts of such building that were not so arranged or designed or any land outside such building.
- (2) An existing non-conforming residential use located in a non-residential district may, however, be enlarged or altered. Any such enlargement or alteration shall be in compliance with all yard requirements of such structures as required in the specific district.

#### (C) Damage or Destruction.

- (1) Residential dwellings which are nonconforming uses may be rebuilt on the existing foundation in the event of damage or destruction, provided the reconstruction is started within three years of the date of destruction.
- (2) In the case of nonconforming uses other than dwellings, when damage or destruction of a structure in which the nonconforming use is conducted involves 50% or less of the total floor area of the structure, repairs or reconstruction may be undertaken, provided that such restoration is started within 18 months of the date of destruction.
- (3) In the case of nonconforming uses other than dwellings, when the structure in which the nonconforming use is conducted is damaged or destroyed by fire or other means to an extent of more than 50% of its total floor area, the structure shall be reconstructed only to house a conforming use.

**(D) Change of Use.**

- (1) When a legal, pre-existing nonconforming use is superseded or replaced by a Permitted Use, the nonconforming use may not thereafter be resumed.
- (2) A nonconforming use shall not be changed to any use other than a conforming use, except that the owner of a nonconforming use within the R-1, R-2, or R-3 zoning districts may apply for a Conditional Use permit in accordance with the following standards. See Section 10.40.
  - a) The structure in which the use is being requested has had or currently has an existing nonconforming use within the structure.
  - b) The structure or part of the structure's original construction was intended to facilitate commercial and would create a hardship for the owner to convert the use to a conforming use.
  - c) The new use will be in keeping with the character of the neighborhood in which it is located and will have an equal or lesser impact on the neighborhood than the existing or previous nonconforming use.
  - d) Existing single family, two family, and multifamily dwellings are not permitted to request a conditional Use Permit to change the existing use of the property.

**(E) Abandonment.**

When a legal, pre-existing nonconforming use is discontinued or abandoned for twelve (12) consecutive months, the land, structure, or land and structure in combination, may thereafter only be utilized as a Permitted Use in the district in which it is located, and the nonconforming use may not thereafter be resumed. See Article 8.06 (C).

**8.03 Accessory Uses.**

No nonconforming accessory use shall continue after the principal use or structure is terminated by abandonment, damage, or destruction unless such accessory use thereafter is made to conform to the standards for the zoning district in which it is located. No nonconforming accessory use shall become or replace any terminated principal nonconforming use.

**8.04 NONCONFORMING STRUCTURES**

Structures that were in existence and in compliance with all land use and other laws prior to the date of passage of these regulations, however, do not conform to the development regulations set forth in this Ordinance after its adoption, shall be deemed to be legal, pre-existing nonconforming structures that may be continued subject to the following provisions:

**(A) Enlargement.**

No legal, pre-existing structure may be enlarged, moved, or otherwise changed, unless a variance from the terms of this Ordinance is obtained from the Board of Zoning Appeals in such a manner that increases the extent of its non-conformity.

**(B) Structural Alteration.**

A nonconforming structure may be enlarged or structurally altered, provided the enlargement or alteration does not encroach any further into a required yard than the existing nonconforming structure does, and further provided that no new nonconformities are created. All other alterations or enlargements shall require review by the Board of Zoning Appeals, and, after public hearing, the Board may determine undue hardship and may authorize a variance for the reasonable modification of such structure.

**(C) Damage or Destruction.**

Any nonconforming structure which has been partially or completely damaged or destroyed by fire or other means may be rebuilt or repaired on its existing foundation even though such foundation may violate the setback requirements for the zoning district in which the structure is located, provided that the repair or reconstruction and reoccupancy of the structure occurs within 18 months of the date that the original structure was damaged or destroyed.

**(D) Moving.**

Should a nonconforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the requirements of the zoning district in which it is located.

**(E) Accessory Structures.**

No nonconforming accessory structure shall continue after the principal use or structure is terminated by abandonment, damage, or destruction unless such accessory structure thereafter is made to conform to the standards for the zoning district in which it is located. No nonconforming accessory structure shall become or replace any terminated principal nonconforming structure.

**8.05 NONCONFORMING LOTS**

Lots that were both in existence and in compliance with all land use and other laws on the date of passage of this Ordinance, and, further, that do not conform to the area regulations set forth in this Ordinance, shall be deemed to be legal, pre-existing nonconforming lots that may be occupied or used subject to the following provisions:

- (A)** The use is a Permitted Use or a legal, pre-existing nonconforming use.
- (B)** The legal, pre-existing nonconforming lot may not be further developed until compliance with this Ordinance is demonstrated or until a variance from the terms of the Ordinance is obtained from the Board of Zoning Appeals.

**8.06 BURDEN OF ESTABLISHING STATUS**

The burden of establishing legal, pre-existing nonconforming use status rests on: the property owner or party seeking to continue the nonconforming use or occupancy; any person applying for a building permit or zoning permit; or, any other person asserting such status. Such persons shall provide sufficient proof in a form acceptable to the Planning Director of the following:

- (A)** The date of construction of the building or structure, or the date the use was established;
- (B)** The continuous operation of the nonconforming use; and,
- (C)** Such other proof as may be deemed necessary by the Planning Director to verify legal, nonconforming status (e.g., current city business license, current state business license, up to date police and fire tax payment, up to date business and occupation tax payment, current utility payments, or proof that the property owner is actively marketing the property for sell).

**8.07 NONCONFORMING SIGNS**

- (A)** Nonconforming signs shall be regulated by the provisions of Article 12.13 G.

**(B) Repairs.**

Nonconforming signs may be repaired or reconstructed, provided that no structural alterations are made which increase the gross surface area of the sign; however, nonconforming signs which are damaged or destroyed to an extent of more than 50% of their replacement cost at the time of destruction shall not be reconstructed except in conformity with the provisions of this chapter.

**(C) Enlargement.**

Nonconforming signs shall not be enlarged, added to, or replaced by another nonconforming sign, use, or structure, except that the interchange of poster panels shall be permitted.

**(D) Repair or Maintenance.**

Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the safety of the public, provided all other requirements of this section are met.

## **ARTICLE 9. ZONING DISTRICTS, ZONING MAP, AND PERMITTED USES**

### **9.01 ESTABLISHMENT AND INTENT OF ZONING DISTRICTS**

**(A)** The following zoning districts are hereby established within the City of Weirton:

R-1	Low Density Residential District
R-2	Medium Density Residential District
R-3	High Density Residential District
MU	Mixed Use Residential/Commercial District
C-1	Downtown Business District
C-2	General Commercial District
M-1	Light Industrial District
M-2	Industrial District
PADOD	Pennsylvania Avenue Development Overlay District
PDA	Planned Development Area

**(B)** The zoning districts in the City of Weirton have been established with the following intent.

**(1) Low Density Residential District (R-1)**

This district is intended to create, preserve, and enhance areas of the City composed primarily of single-family residences built at low or medium densities on quiet streets. These areas are still stable and essentially in sound condition and should be protected from the intrusion of uses and activities incompatible with the character of a single-family area.

**(2) Medium Density Residential District (R-2)**

This district is intended to create, preserve, and enhance areas of the City that are primarily residential in character, but which are composed primarily of one- and two-family dwellings and provide sufficient parking and open space. These districts most often serve as a transition between R-1 and R-3 districts.

**(3) High Density Residential Districts (R-3)**

This district is intended to create, preserve, and enhance areas of the City that are primarily residential in character but built at higher densities than the previous residential districts. It is expected that these areas would have more traffic on the streets and be conveniently located along public transportation lines. These areas are located near the Central Business District or in the vicinity of business centers.

**(4) Mixed Use Residential/Commercial (MU)**

The purpose of the District, is to protect existing residential and commercial uses and encourage new uses that are complimentary to the context of the mixed-use nature of the area. These areas are designed to accommodate a mixture of high-density residential uses with personal service, office/business, and low-intensity service-oriented uses.

**(5) Downtown Business District (C-1)**

The intent of this district is to create, preserve and enhance Main Street as a highly diversified and integrated part of the City, serving a wide variety of missions to a broad range of persons, both within the City and regionally. This district recognizes the unique role which the Downtown area has played in the formation, growth, and life of Weirton. Due to the linkages with major

transportation routes, this area has evolved to include government, professional office, service, and residential uses. This district will be the civic core of the City and promote these diversified activities, as well as provide recreational amenities to adjoining neighborhoods and higher density housing opportunities.

**(6) General Commercial District (C-2)**

The intent of this district is to capitalize on strategic locations along major thoroughfares and create a regional center for shopping, personal and professional services, employment, professional offices, lodging, entertainment, and education.

**(7) Light Industrial District (M-1)**

In permitting mixed uses, this district will maximize the benefits of location and existing infrastructure such as, state roads, sewer service, and water service. The level and quality of traffic provides accessibility and exposure to an environment suitable for certain industrial, commercial, and professional/business offices which can exist in close proximity to benefit each other. The location of commercial and office uses in this district should not be related to retail trade. Rather, the commercial and office uses should complement and provide basic services to development. All development within this district should maintain a high quality of development so as to promote future investment and development in this area.

**(8) Industrial District (M-2)**

This district is intended to create, preserve, and enhance industrial areas devoted to manufacturing and other non-commercial and non-residential uses which are potentially incompatible with most other activities, and are typically appropriate to areas of the City which are somewhat distant from residential areas and have access to suitable and adequate railroad, waterway, or highway shipping facilities. The district provides an area where industrial/office/warehouse activities can be accommodated in an integrated plan evolving around world-class transportation connections.

**(9) Pennsylvania Avenue Development Overlay District (PADOD)**

The purpose of the Pennsylvania Avenue Development Overlay District, which extends from 11<sup>th</sup> Street to the Pennsylvania State Line, creates regulatory mechanism in area where development and growth is imminent and where both the impact of such business and residential developments on public resources and private properties are not mitigated through the existing regulations. Specifically, the intent of the Pennsylvania Avenue Development Overlay District (PADOD) is to protect existing residential and commercial uses and encourage new uses that are complimentary to the context of the mixed-use nature of the Pennsylvania Avenue Corridor.

**(10) Planned Development Area (PDA)**

The objective of the Planned Development Area (PDA) is to encourage flexibility in the development of land in order to promote its most appropriate use; to improve the design, character, and quality of new developments; to provide and promote redevelopment and reuse opportunities; to encourage a harmonious and appropriate mixture of uses and/or housing types; to facilitate the adequate and economic provision of streets, utilities, and city services; to preserve critical natural environment and scenic features of the site; to encourage and provide a mechanism for arranging improvements and sites so as to preserve desirable features, and to mitigate the problems which may be presented by specific site conditions.

**9.02 ZONING MAP**

**(A)** The boundaries of the zoning districts described in Section 9.01 are hereby established as shown on the Official Zoning Map which accompanies this Ordinance and which, with all notations,

references, and other information shown thereon, shall be as much a part of this Ordinance as if fully described herein.

- (B) The Official Zoning Map shall be retained in the Planning Department and made available for inspection by the general public.
- (C) Copies of the Zoning Map, or portions thereof, may be made. However, the Official Zoning Map is the final and sole authority as to the zoning status of land within the City of Weirton.
- (D) Amendments to the Official Zoning Map shall be adopted by City Council as provided in Section 3.05.
- (E) 23. The Planning Director shall update the official Zoning Map as soon as reasonably possible after the effective date of such amendments. Upon such amendment entries, a revision date shall be entered on the updated map along with the rezoning case number and date of adoption by City Council. A copy of the map, prior to each said amendment, shall be retained in the Planning Department. This procedure shall create a file of chronological copies of official Zoning Maps.
- (F) The Planning Director shall authenticate the entry of each amendment on the official Zoning Map and shall maintain a record of the nature and date of entry of each amendment. Changes to the official Zoning Map other than those authorized by duly approved amendments to this Section shall be prohibited.
- (G) When all or part of the official Zoning Map becomes damaged, lost, destroyed, worn, or difficult to interpret because of its age, condition, number of changes, or otherwise, replacement may be authorized by resolution of Council. A new edition of the official Zoning Map shall not change the zoning status of any property, but it may correct previous errors or omissions. Such replacements shall be authenticated by the Planning Director and shall bear the date of the authorizing resolution.

#### **9.03 PROCEDURE RELATING TO ANNEXED OR VACATED AREAS**

- (A) When the City initiates an ordinance for the annexation of property to the City, the Planning Commission shall prepare an Ordinance to amend the Unified Development Ordinance embracing the proposed zoning provisions to be established for such area proposed to be annexed. Procedure on the proposed ordinance to amend the Unified Development Ordinance shall progress concurrently with the procedure on the annexation ordinance in order that the zoning amendment may be adopted by the City Council at the same time as the annexation ordinance.
- (B) Whenever any street, place, alley, public way, railroad right-of-way, waterway, or other similar area is vacated by proper authority, the districts adjoining each side of such street, alley, public way, railroad right-of-way or similar area shall be extended automatically to the center of such vacation and all area included in the vacation shall then and thenceforth be subject to all appropriate provisions of the extended districts. In the event of a partial vacation, the adjoining district, or district nearest the portion vacated, shall be extended automatically to include all of the vacated area.

#### **9.04 EFFECT OF ESTABLISHMENT OF DISTRICTS**

Following the effective date of this Ordinance:

- (A) Any use not permitted by this Ordinance shall be prohibited, unless such use is deemed by the Planning Commission to not be contrary to the spirit of this Ordinance.
- (B) Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance, or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, other ordinance or regulation shall be controlling.

## **9.05 PERMITTED LAND USE TABLE**

- (A)** The Permitted Land Use Table (Table 1) and its contents are incorporated into this Article and identify the types of land uses that are permitted in each of the zoning districts established within the City.
- (B)** All uses require a permit.
- (C)** To determine the zone(s) in which a particular land use is allowed, find the use in the list of uses in the left column of the Permitted Land Use Table and read across the use row to find the zone column designations.
- (D)** The land uses listed in the Permitted Land Use Table are defined in Article 2 of this Ordinance.
- (E)** Where noted in Table 1, uses are subject to additional regulations in 9.06.
- (F)** The following legend is applicable to the Permitted Land Use Table:
- (G)** P: Use is permitted by right in a particular zone.
- (H)** A: Use is permitted as an Accessory Use in a particular zone.
- (I)** C: Use is allowed as a Conditional Use in a particular zone subject to the limitations and conditions specified in Section 3.6: Conditional Uses.

## **9.06 PLANNED DEVELOPMENT AREA (PDA)**

### **A. Purpose and Intent**

It is anticipated that a Planned Development Area will offer one or more of the following advantages:

- 1) Serve to implement the goals, objectives, and strategies of the City of Weirton Comprehensive Plan, in general, and with specificity to the district or neighborhood in which the proposed PDA is to be located;
- 2) Apply the design principles of new urbanism, neo- traditionalism, and other emerging smart code principles, urban development patterns, and best management practices;
- 3) Promote development patterns that maximize compatibility of differing adjacent land uses;
- 4) Enhance the appearance of neighborhoods by conserving areas of special natural beauty, steep slopes, ecological importance, flood prone areas, and natural green spaces where appropriate, while understanding that land within urban areas is best suited for urban densities and development patterns;
- 5) Counteract poor urban design and mitigate congestion on streets;
- 6) Promote architecture that is compatible with the vernacular examples of architecture common to the City of Weirton and/or its surroundings;
- 7) Promote design principles that allow differing types of land uses to coexist while preserving property values and minimizing potential negative consequences;
- 8) Promote appropriate urban densities that will promote pedestrianism, and which will help make alternative forms of transportation economically and socially feasible; and
- 9) Promote and protect the environmental integrity of the site and its surroundings by providing suitable design responses to the specific environmental constraints of the site and surrounding area.

**B. Minimum Area and Single Ownership Required for a Planned Unit Development; Exception.**

A Planned Development Area shall consist of a parcel or tract of land comprising an area of at least four (4) acres. All land comprising the proposed Planned Development Area shall be titled in the name of a single owner; provided however, multiple ownership shall be permissible if each and every ownership interest is a co- applicant for the Planned Development Area designation and all ownership interests have executed a written agreement, in duplicate, in recordable form, the covenants of which shall run with the land and shall be binding upon any transferees, which shall identify one legal entity responsible for representing the application and which entity shall have authority to act as agent for all owners for all aspects of the Planned Development Area and the Planned Development Area process. An executed original agreement shall accompany the application for any Planned Development Area designation.

**C. General Provisions**

- 1) A Planned Development Area Outline Plan shall indicate all land uses, development standards, and all other applicable specifications which shall govern the Planned Development Area. If the Outline Plan is silent on a particular land use, a development standard, or any other applicable specification, the use, standard, or specification established by the City of Weirton Zoning Ordinance for the underlying district, or any other applicable regulations shall apply.
- 2) Prior to any approval, a Planned Development Area map shall show the location and designation of all improvements. The location of a Planned Development Area shall be designated on the Official Land Use Map or Zoning Map for the City of Weirton and shall be adopted pursuant to rules and regulations governing amendments of this Zoning Ordinance.
- 3) The Planned Development Area must comply with all required improvements, construction standards, design standards, and all other engineering standards adopted and enforced by the City of Weirton, and any other pertinent regulations, except where specifically varied through the provisions of this section of the Zoning Ordinance.
- 4) Designation and Conveyance or Ownership of Permanent Open Space:
  - a. Designation. Within all Planned Development Areas, a minimum of ten (10) percent of the land of the proposed Planned Development Area shall be designated as permanent open space. No plan for a single-family or multi-family residential Planned Development Area shall be approved unless such plan provides for permanent landscaped or natural open space.
  - b. Proximity.
    1. In the case of a mixed-use Planned Development Area, permanent open space shall be allocated to the property in proportion to the uses assigned to the Planned Development Area and shall be located within reasonable proximity (within one-quarter of a mile) to those uses. Provided, however, the permanent open space need not be located in proximity to the use in the case of preservation of existing features.
    2. As an alternative, a payment in lieu of the open space provision may be made to the City for the purchase or provision of permanent open space on a separate parcel within one quarter of a mile of any Planned Development Area.

- c. Proportion. If the Outline Plan provides for the Planned Development Area to be constructed in stages, open space must be provided for each stage of the Planned Development Area in proportion to that stage.
- d. Conveyance. Permanent open space shall be owned by or conveyed to one of the following:
  1. To a municipal or public corporation;
  2. To a nonprofit corporation or entity established for the purpose of benefiting the owners and tenants of the Planned Development Area or, where appropriate and were approved by the Municipal Planning Commission and the City Council, adjoining property owners, or both. All conveyances hereunder shall be structured to ensure that the grantee has the obligation and the right to affect maintenance and improvement of the common open space; and that such duty of maintenance and improvement is enforced by the owners and tenants of the Planned Development Area and, where applicable, by adjoining property owners;
  3. To owners other than those specified in subsections 9.06.4.d.1 and 2 above, and subject to restrictive covenants describing and guaranteeing the open space and its maintenance and improvement, running with the land for the benefit of residents of the Planned Development Area or adjoining property owners, or both; or
  4. Included in single-family residential lots under the individual control of lot owners.
- a. Uses permitted in a Planned Development Area may be any use that is found in the Zoning Ordinance in any district, subject to the approval of the City of Weirton Planning Commission and City Council; however, the City reserves the right to require that a PDA shall consist of only residential uses when circumstances warrant. Examples of such circumstances may include, but are not limited to:
  1. Significant infrastructure constraints that could cause practical difficulties in supporting nonresidential uses;
  2. The character and land use pattern of surrounding neighborhoods; or
  3. Possible deleterious changes in traffic circulation patterns in the immediate area.
  4. A developer may also initiate a request to limit his or her Planned Development Area to residential uses.
- f. For purposes of determining overall project size, two or more parcels of land owned or controlled by the applicant that are wholly or partially separated by a public street or other right-of-way may be considered contiguous and thus may be counted in fulfilling the minimum acreage requirement of a Planned Development Area, provided that the use and development of the public street or other right of way is incorporated into, and is an integral part of the project plans; and provided that there is no other property not owned by the applicant separating the parcels in question. Where there is uncertainty in determining a parcel's qualification to be included in the Planned Development Area, the Planning Commission shall resolve the issue and make a determination as to the project boundaries, after considering the advice of the Planning Director and the request by the applicant.

#### **D. Procedure for Approval of Planned Development Area**

Applications for a Planned Development Area shall be accompanied by all plans, descriptions, narratives, documents, and exhibits required by subsection E hereof. A three-step application process shall be used. The steps in the process are:

- Pre-application Conference;
- Outline Plan Approval; and
- Approval.

- 1) **Development Plan Pre-application Conference.** Prior to filing a formal application for approval for a Planned Development Area, the applicant shall schedule a pre-application conference with the Planning Department. The purposes of the pre-application conference shall be to:
  - a. Allow the applicant to present a general concept and to discuss characteristics of the development concept in relation to adopted municipal plans and policies;
  - b. Allow the Planning Department to inform the applicant of pertinent policies, standards, procedures, and recommendations for the Planned Development Area; and
  - c. The pre-application conference is intended only for the above purposes; neither the developer nor the City of Weirton is bound by any decision made during a pre-application conference.
- 2) **Outline Plan Approval**
  - a. Based upon the pre-application conference, the applicant shall develop and submit an Outline Plan for the proposed Planned Development Area.
  - b. The Outline Plan and application for the Planned Development Area shall be submitted to the Planning Department, and the Director, who, after certifying the application package to be complete, shall initiate a review of the proposed development.
  - c. The application and the results of the review shall then be forwarded to the Planning Commission for its consideration, public hearing, and recommendations together with the Planning Department's report and such other documents as may be pertinent to the Planned Development Area.
  - d. The Planning Commission may hold a special public meeting in the district where the proposed Planned Development Area project is located. If the project crosses district boundaries, the meeting shall be held in the district where the majority of the property is located. The hearing shall be conducted at least seven (7) days prior to the regularly scheduled Planning Commission meeting at which the formal public hearing will be held. The Planning Department will place a Class I advertisement in the newspaper specifying the time and location of the special public meeting, at least five (5) days prior to the meeting.
  - e. Where there are environmentally sensitive features on the site or the subsequent Development Plan is expected to be complex, or there are other important planning implications involved, the Planning Commission may reserve the right to review the subsequent Development Plan. Where the Planning Commission recommends denial of an Outline Plan and the City Council approves the plan, the Planning Commission shall review the subsequent Development Plan.

- f. Upon completion of its review, the Planning Commission shall forward the application to the City Council with:
  1. A favorable recommendation,
  2. An unfavorable recommendation, or
  3. No recommendation.
- g. Effect of Approval of Outline Plan:
  1. When an Outline Plan for a Planned Development Area has been approved by the City Council, by Ordinance, the Plan shall become effective, and its location shall be shown on the Zoning Map or Land Use Map. The Zoning Map or Land Use Map shall be amended to designate the site as a Planned Development Area (PDA).
  2. Upon such amendment of the Zoning Map or Land Use Map, the use and development of the site shall be governed by the Planned Development Area Outline Plan, subject to approval of a subsequent Development Plan.
  3. Notwithstanding approval of an Outline Plan no permit of any kind shall be issued until the Development Plan has been approved.

3) Development Plan Approval:

- a. Purpose of Development Plan Approval. The purpose of the Development Plan is to designate the controls for development of the Planned Development Area. The Development Plan shall show the exact location of each building and improvement to be constructed and a designation for the specific internal use or range of uses for each building.
- b. Time Limit for Approval of Development Plan. The Development Plan shall be submitted to the Planning Department not more than eighteen (18) months following City Council approval of the Outline Plan. The Outline and Development Plans may be submitted as a single plan if all requirements of Section 3.19 are satisfied. The Development Plan may be submitted and approved in stages, with each stage representing a portion of the Outline Plan, at the discretion of the Municipal Planning Commission. The time limit for submitting each stage for approval may be set forth in the Outline Plan, in which case that schedule shall control the timing of development, rather than the time period contained in this paragraph. The City of Weirton Planning Commission may extend the time for application for approval of the Development Plan for good cause, consistent with the purposes of the Zoning Ordinance.
- c. Expiration of Time Limit. Periodically, the Planning Director shall report to the City of Weirton Planning Commission on Planned Development Areas with expired time limits. The original applicants or current developers of the Planned Development Area shall be notified by the Planning Director. The Municipal Planning Commission shall determine whether to consider extending the time or to initiate action to amend the Land Use Map to rescind the Planned Development Area designation.
- d. Relationship of Development and Outline Plan. The Development Plan shall conform to the Outline Plan as approved.
- e. Procedure for Approval of a Development Plan: The applicant must have the Development Plan approved prior to issuance of any building permit.

1. Development Plan Submission. The Development Plan and supporting data shall be filed with the planning staff.
2. Review. The Planning Director shall review the Development Plan to include site plan review, in accordance with the requirements of the Zoning Ordinance.
3. Staff Approval. It shall generally be the responsibility of staff to review Development Plans unless the City of Weirton Planning Commission reviews the Development Plans, or where no Development Plan is required.
4. City of Weirton Planning Commission Review. If the Planning Commission has retained Development Plan approval authority, the Planning Commission shall hold a public hearing in accordance with its rules and regulations for amendments. The Commission may approve, deny, or approve with modifications.
- f. Expiration of Development Plan. The Development Plan shall expire 2 years after approval, unless grading and/or building permits have been obtained and are still current and valid on that date. This rule shall also apply to each stage of a Development Plan approved in stages. The applicant may request, in writing, an extension of time, and the approving authority may extend the time limit where deemed appropriate. Such extension may be considered at the time of Development Plan approval.
- g. Effect of Approval of Development Plan. No permit of any kind shall be issued for any purpose within a Planned Development Area except in accordance with the approved Development Plan, and after acceptance by the City of Weirton of all required guarantees for improvement.

#### **E. Pre-Application Conference, Outline Plan, and Development Plan Requirements**

- 1) Planned Development Area plans and supporting data shall include all documentation listed in this Section of the Code unless certain documentation is deemed superfluous by the Planning Director due to the specific circumstances of the particular request.
- 2) Pre-application Conference Requirements:
  - a. A written letter of intent from the applicant describing the applicant's intention for developing the site;
  - b. A preliminary scaled drawing of the site depicting the proposed location and extent of the land uses, major streets, and the approximate location of any existing easements, natural features, and topographic or geologic constraints;
- 3) Outline Plan Requirements
  - a. A drawing of the proposed Planned Development Area shall be prepared at scale not less than 1' = 50'-0", or as considered appropriate by the Planning Director, and shall show in concept major circulation; generalized location and dimensions of buildings, structures, and parking areas; open space areas, recreation facilities, and other details to indicate the character of the proposed development. The submission shall include:
    1. A site location map;
    2. Map data such as north point, scale, and date of preparation;

3. The name of the proposed development, with the words "Outline Plan" in the title block;
4. Boundary lines and acreage of each land use component;
5. Existing easements and rights-of-way, including location, width, and purpose;
6. Existing land use on abutting and adjacent properties;
7. Other conditions on adjoining land: topography (at 2-foot contour intervals) including any embankments or retaining walls; use and location of major buildings, railroads, power lines, towers, and other influences; name of any adjoining subdivision plat;
8. Existing streets on and adjacent to the tract, including street name, right-of-way width, walks, curbs, gutters, culverts, and drainage ways;
9. Proposed public improvements: streets and to other ~~her~~ major improvements planned by the public for future construction on or adjacent to the tract;
10. Existing utilities on the tract;
11. Any land on the tract within FIRM Zone A; and/or A-E (the 100-year floodplain) and/or floodway;
12. Other conditions on the tract, including water courses, wetlands, sinkholes, wooded areas, isolated trees six (6) inches or more in diameter, existing structures, and other significant features;
13. Existing vegetation to be preserved and the locations, nature, and purpose of proposed landscaping;
14. A master plan for types, quantities, and maximum square footage allotments for all signs proposed to be placed within the development, including illustrations of proposed sign types;
  - a. Miscellaneous: The Planning Director shall inform the applicant of any additional documents or data requirements necessary for Outline Plan approval after the Pre-application Conference. The developer must submit 20 copies of any page of any portion of the plan that exceeds 11 inches by 17 inches in size. If fewer copies than required are submitted, the Planning Director may deem the application to be incomplete and shall not schedule hearing dates until the situation is resolved.
  - b. Written Statement of Character of the Planned Development Area: An explanation of the character of the Planned Development Area and the reasons why it has been planned to take advantage of the flexibility of these regulations. The written statement shall include:
    1. Objectives. A specific explanation of how the proposed Planned Development Area meets the objectives of all adopted land use policies which affect the land in question.
    2. Ownership. A statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.
    3. Scheduling. Timing of proposed development indicating:
      - a) Stages in which the project will be built, including the area, density, use, public facilities, and open space to be developed with each stage. Each stage of development shall be described and mapped; and

- b) Projected dates for beginning and completion of each stage of land development.

4. Proposed Uses.

- a) Residential Uses: type, gross area, architectural concepts (narrative or representative illustration), number of units, bedroom breakdown, and proposed occupancy limits for each residential component; and
- b) Nonresidential Uses (for any mixed- use PDA): specific nonresidential uses, including gross floor areas (GFA), architectural concepts (narrative or representative illustration), and building heights.

5. Facilities Plan. Preliminary concepts and feasibility reports for:

- a) Streets, roadways, and bikeways;
- b) Sidewalks and pedestrian pathways;
- c) Water supply system;
- d) Sanitary sewers;
- e) Stormwater management;
- f) Public utilities;
- g) Streetscaping, furniture, and lighting
- h) Landscaping

4) Development Plan Requirements. The application for Development Plan approval shall include, but shall not be limited to, the following documents:

- a. Such additional information as may have been required by the Outline Plan approval;
- b. An accurate map exhibit of the entire phase for which Development Plan approval is being requested, showing the following:
  1. Precise location of all buildings to be constructed, and a designation of the specific use or range of uses for each building. Single-family residential development on individual lots need not show precise locations of buildings on each lot, but plans shall show building setback lines and other design constraints;
  2. Design and precise location of all streets, sidewalks, curbs, drives, and parking areas, including construction details, street lighting, traffic control devices, signage, centerline elevations, pavement type, pavement design, curbs, gutters, culverts details, and any other information required by the City Engineer;
  3. Location of all public utility lines and easements, both proposed and existing;
  4. A final detailed landscape plan. Tabulation on each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre, type of unit, bedroom breakdown, and limits on occupancy;
  5. Stormwater management plans including stormwater calculations, location and size of storm lines (both existing and proposed), detention/ retention facilities with construction details. Stormwater management plans are to conform to local, state, and federal regulations; and

6. Sediment and erosion control plans per local, state, and federal regulations.
- c. If lands to be subdivided are included in the Planned Development Area, a subdivision plat meeting the requirements of a preliminary plat, as modified by the Outline Plan approval, is required where platting is to be proposed concurrent with the Development Plan review and approval process.
- d. Projected construction schedule.
- e. Agreements and covenants which govern the use, maintenance, and continued protection of the Planned Development Area and its common spaces, shared facilities, and private roads.
- f. Guarantee of Performance for Completion of Improvements. A performance bond with corporate surety or other guarantee acceptable to the City of Weirton shall be provided for all proposed public improvements and shall be executed at time of permit application or platting, whichever comes first. Improvements that must be guaranteed include facilities that shall become public and may include other facilities or improvements as may be specified in the Outline or Development Plan approval. If the project is to be built in phases, the bond or guarantee shall be posted prior to the commencement of work on each phase. The bond or guarantee shall specify the time for completion of improvements and shall be in an amount of one hundred twenty-five percent (125%) of the estimated verifiable cost of the improvements, as determined by the project contractor or engineer, and as approved by the City Engineer.

## F. Review Considerations

In considering a Planned Development Area Outline Plan, the Planning Director in his report to the City of Weirton Planning Commission, the Planning Commission in its recommendation to City Council, and the City Council in its decision, shall evaluate the project in light of as many of the following objectives as may be relevant to the specific proposal:

- 1) The extent to which the Planned Development Area meets the purposes of the Zoning Ordinance, the Comprehensive Plan, and any other adopted planning objectives of the City of Weirton;
- 2) The extent to which the proposed plan meets the requirements, standards, and stated purpose of the Planned Development Area regulations;
- 3) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons why such departures are or are not deemed to be in the public interest;
- 4) The proposal will not be injurious to the public health, safety, and general welfare;
- 5) The physical design of the Planned Development Area and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic and promotes alternative forms of transportation, provides for and protects designated permanent open space, and furthers the amenities of urban ambience, light and air, recreation, and visual enjoyment;

- 6) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods;
- 7) The desirability of the proposed plan to the City of Weirton's physical development, tax base and economic well-being. At the discretion of the Planning Commission and City Council, special consideration in the form of increased development flexibility may be given to projects that are intended to rehabilitate or replace dilapidated areas, brownfields, or other areas of general visual or economic blight. Such special consideration shall not be granted to projects intended for construction on lands that consist of sixty percent (60%) or more of greenfield or previously undeveloped lands.
- 8) The proposal will not cause undue traffic congestion and can be adequately served by existing or programmed public facilities and services.
- 9) The proposal preserves significant ecological, natural, historical, and architectural resources to the extent possible.
- 10) The proposal will enhance the appearance, image, function, and economic sustainability of the community at large.
- 11) Projects which are designed to a more human scale, support multi-modal transportation options, promote pedestrianism, reserve useful open space, provide significant amenities to residents, and incorporate architectural detailing, massing and scale that is consistent with historical community norms shall have a significant advantage in the review process over those that merely seek to maximize inappropriate forms of density, circumvent customary development standards, or promote a pattern of development that can be generally recognized as "urban sprawl," as defined in the definition section of the Zoning Ordinance. Projects that fail to achieve these objectives will likely result in a recommendation for denial by the Planning Department and/or Planning Commission.
- 12) The proposal makes reasonable accommodations in housing, recreational amenities, and pedestrian facilities for individuals with disabilities.
- 13) The proposal dedicates and provides a percentage of the total number of dwelling units to be offered at sale or rental prices deemed affordable to individuals of low and moderate income, as defined by the U.S. Department of Housing and Urban Development. Generally, between three to five percent (3% - 5%) of all units should meet this goal.
- 14) For any PDA containing only residential uses, clustering of units should be utilized (and may be required by the City) in order to preserve meaningful open space and/or recreational amenities for the residents. In addition, such projects shall be required to provide a mixture of different dwelling types and sizes. Examples of dwelling types include townhouses, row houses, patio homes, zero lot line houses, single- family detached housing, apartments, duplexes, condominiums, etc.

#### **G. Changes in the Approved Planned Development Area**

- 1) Changes Requiring Outline Plan Approval. Changes which alter the concept or intent of the Planned Development Area including but not limited to:
  - a. Significant increases in density;
  - b. Significant changes in the proportion or allocation of land uses;

- c. Change in the list of approved uses;
- d. Changes in the locations of uses;
- e. Changes in functional uses of open space, where such change constitutes an intensification of use of the open space; and/or
- f. Changes in the final governing agreements where such changes conflict with the approved Outline Plan.

2) Changes Requiring Development Plan Approval. These changes shall include the following:

- a. Changes in lot arrangement, or addition of buildable lots that change approved density of the development;
- b. Changes in site design requirements, such as location of required landscaping, signage, building height, architectural character, cube and/or footprint, or other such requirements of the Zoning Ordinance;
- c. Changes to the internal street system or off- street parking areas;
- d. Changes in drainage management structures;
- e. Changes in access to the development site, where such change amounts to an intensification in the traffic patterns of roadways of classification higher than local; and/or
- f. All other changes not expressly addressed under this subsection shall require new Development Plan approval.

**Table 1. Permitted Land Use Table**  
**“P”=Permitted “C”=Conditional “A”=Accessory**

Land Uses	R-1	R-2	R-3	MU	C-1	C-2	M-1	M-2	PADOD	Supplemental Regulations
Accessory Dwelling Unit	C	C	A	A					A	<a href="#">10.01</a>
Animal Clinic / Hospital				P	P	P			P	
Animal Kennel						P			P	
Animal Grooming Service				P	P	P			P	
Animal Shelter				P	P	P			P	
Art Gallery / Artist Studio	C	C	C	P	P	P			P	<a href="#">10.40</a>
Assisted Living Facility				P	P		P		P	
ATM				A	A	A	A	A	A	
Automobile Repair Facility				C	C	P	P		P	<a href="#">10.02</a>
Automotive Rentals / Sales						P			P	
Automotive Supply				P		P			P	
Bakery, Commercial				P	P	P	P			
Bars and Nightclubs				C	P	P			C	<a href="#">10.3</a>
Bars, Neighborhood				C	P	P			C	<a href="#">10.3</a>
Bed and Breakfast Inn	C	C	C	P	P				P	<a href="#">10.4</a>
Boarding, Lodging, or Rooming House				P	P		P		P	
Brew Pub				C	P	P			P	<a href="#">10.3</a>
Building Materials						P	P	P	P	
Bus Shelter	C	C	C	P	P	P			P	<a href="#">10.40</a>
Business Condominium				P	P	P			P	
Car Wash/Detailing				P		P	P		P	<a href="#">10.05</a>
Cemetery	P	P	P						C	<a href="#">10.06</a>

Land Uses	R-1	R-2	R-3	MU	C-1	C-2	M-1	M-2	PADOD	Supplemental Regulations
Charitable, Fraternal, or Social Organization	C	C	C	P	P	P			P	<a href="#">10.40</a>
Club/Lodge				P	P	P			P	
Community Center	C	C	P	P	P	P			P	<a href="#">10.07</a>
Composting Operation							P	P		<a href="#">10.08</a>
Conference Center					P	P				
Country Club						P				
Craft Production Facility (Microbrewery, Microdistillery, Microcidery)						P				
Crematory	A	A	A	A	A	A				
Day Care Facility, Adult			P	P	P	P			P	
Day Care Facility, Child			P	P	P	P			P	
Drive-through Facility				A		A			A	<a href="#">10.09</a>
Dry Cleaning and Laundry Pick-up				P	P	P			P	
Dry Cleaning and Laundry Service - commercial				P	P	P	P		P	
Dwelling, Duplex, Triplex, Quadplex	C	C	P	P					C	<a href="#">10.10</a>
Dwelling, Mixed Use				P	P	P			P	<a href="#">10.11</a>
Dwelling, Multi-Family		C	P	P	P				C	<a href="#">10.12</a>
Dwelling, Single family detached	P	P	P	P					P	
Dwelling, Single family attached (townhouses)	P	P	P	P					P	<a href="#">10.13</a>
Dwelling, Transitional Facility	P	P	P	P	P				P	

Land Uses	R-1	R-2	R-3	MU	C-1	C-2	M-1	M-2	PADOD	Supplemental Regulations
Electric Charging Station	P	P	P	P	P	P	P	P	P	
Family Day Care Home	A	A	A	A					A	<a href="#">10.14</a>
Farmer's Market				P	P	P				
Flea Market						P				
Funeral Home				P	P	P			P	
Garage Sales	A	A	A	A					A	<a href="#">10.15</a>
Gasoline Service Station					P	P			P	<a href="#">10.16</a>
Golf Course						P				
Government Buildings	C	C	C	P	P					<a href="#">10.40</a>
Greenhouse, Commercial / Nursery							P			
Group Residential Facility	P	P		P	P	P			P	
Group Residential Home	P	P	P	P	P	P			P	
Heavy Machinery Sales / Rental						P		P		
Heliport or Helipad						A				
Home Occupation, Category I	A	A	A	A					A	<a href="#">10.17</a>
Home Occupation, Category II			A	A					A	<a href="#">10.17</a>
Hospital						P				
Hotel / Motel					P	P				
Industrial Equipment Repair							P	P		
Industrial Park								P		
Industrial Supplies							P	P	P	

Land Uses	R-1	R-2	R-3	MU	C-1	C-2	M-1	M-2	PADOD	Supplemental Regulations
Industry, Heavy								P		
Industry, Light						C	P	P		<a href="#">10.18</a>
Laboratories							P	P		
Laundromat	C	C	C	P	P	P			P	<a href="#">10.40</a>
Limited Video Lottery Establishment				C	P	P			C	<a href="#">10.19</a>
Manufacturing, Heavy								P		
Manufacturing, Light						C	P	P		<a href="#">10.18</a>
Medical Clinic	C	C	C	P	P	P			P	<a href="#">10.40</a>
Medical/Behavioral Health Facility	P	P	P	P						
Mineral Extraction							C	C		<a href="#">10.20</a>
Mineral Processing								C		<a href="#">10.20</a>
Mobile Home Parks			C							<a href="#">10.21</a>
Nursing Home			P	P		P			P	
Office	C	C	C	P	P	P	P	P	P	<a href="#">10.40</a>
Office Park								P		
Oil / Gas Extraction	C	C	C	C	C	C	C	C	C	<a href="#">10.22</a>
Outdoor Storage							A	A		
Parking, Commercial					P	P				
Passenger Station, Motor Bus, Railroad					P			P		
Personal Services	C	C	C	P	P	P			P	<a href="#">10.40</a>
Place of Worship	C	C	P	P	P	P			P	<a href="#">10.23</a>
Printing / Publishing	C	C	C				P	P	P	<a href="#">10.40</a>

Land Uses	R-1	R-2	R-3	MU	C-1	C-2	M-1	M-2	PADOD	Supplemental Regulations
Professional Services	C	C	C	P	P	P			P	<a href="#">10.40</a>
Public Park and Recreation Facility	P	P	P	P	P	P	P	P		
Railroad Facilities								P		
Recreation Facility, Commercial Indoor				P	P	P				
Recreation Facility, Commercial Outdoor				P		P		P		
Recycling Collection Center / Solid Waste Transfer Station					C	C	P	P		<a href="#">10.25</a>
Redevelopment of Closed School	C	C	C	C	C	C	C	C	C	<a href="#">10.26</a>
Redevelopment of Closed Place of Worship	C	C	C	C	C	C	C	C	C	<a href="#">10.26</a>
Research and Development Center							P	P		
Restaurant	C	C	C	P	P	P			P	<a href="#">10.40</a>
Retail Establishment	C	C	C	P	P	P			P	<a href="#">10.40</a>
Salvage Yard							C	C		<a href="#">10.27</a>
School – High School / Technical /Trade / College / University	C	C	C	C	C	C	C	C	C	<a href="#">10.28</a>
School – Nursery / K--8	C	C	C	C	C	C			C	<a href="#">10.28</a>
Self-Storage Facility				C	C	C	P	P	C	<a href="#">10.29</a>
Sexually Oriented Business							C			<a href="#">10.30</a>
Shopping Center, Large Scale						C				<a href="#">10.31</a>
Shopping Center, Medium Scale						P			C	<a href="#">10.31</a>

Land Uses	R-1	R-2	R-3	MU	C-1	C-2	M-1	M-2	PADOD	Supplemental Regulations
Shopping Center, Small Scale				P	P	P			P	<a href="#">10.31</a>
Sidewalk Café / Sales				A	A	A			A	
Sidewalk Vendor Stand				C	C	C			C	<a href="#">10.32</a>
Sober Living Home	P	P	P	P	P	P	P	P	P	
Solar Energy Facility, large								P		<a href="#">10.33</a>
Solar Energy Facility, small	A	A	A	A	A	A	A	A	A	<a href="#">10.33</a>
Substance Abuse Treatment Facility				C		C				<a href="#">10.34</a>
Telecommunications Class I	P	P	P				P	P		<a href="#">10.35</a>
Telecommunications Class II							P	P		<a href="#">10.35</a>
Telecommunications Class III							C	C		<a href="#">10.35</a>
Temporary Shelter			P	P	P	P			P	<a href="#">10.36</a>
Terminal, Truck				P	P	P		P	P	
Terminal, Water Port								P		
Timbering	C	C	C	C	C	C	C	C	C	<a href="#">10.37</a>
Warehousing and Distribution							P	P		
Wholesale Establishment							P	P		
Wind Energy Facility, large								P		<a href="#">10.38</a>
Wind Energy Facility, small	A	A	A	A	A	A	A	A	A	<a href="#">10.38</a>
Wrecker Service						C	C	P		<a href="#">10.39</a>

**ARTICLE 10. USE STANDARDS****10.01 Accessory Dwelling Unit:**

- (A) Only one accessory dwelling unit (ADU) shall be permitted per lot. An ADU shall not contain more than two bedrooms.
- (B) Separate detached garages and separate accessory units shall not be permitted on the same lot. ADU may be created as a second story within detached garages if the height of the ADU and/or garage does not exceed the height of the principal structure on the lot.
- (C) The gross floor area of the ADU shall not exceed 50 percent of the principal building's floor area and the building footprint of the ADU shall not exceed 40 percent of that of the principal residence. The building footprint shall include patios but not porches. The building footprint shall include patios but not porches.
- (D) The ADU shall not exceed 800 square feet in gross floor area in the R-3 and MU Districts, or 1,200 square feet in the R-1 and R-2 Districts. This restriction applies only to that portion of a structure that constitutes the living area for an ADU.
- (E) In order to maintain the architectural design, style, appearance, and character of the main building as a single-family residence, the ADU shall have a roof pitch, siding, and window projections identical to that of the principal dwelling.
- (F) An ADU shall not exceed two stories or the height of the principal dwelling, whichever is less.
- (G) No additional parking is required for an ADU. Existing required parking for the primary dwelling must be maintained or replaced on-site.

**10.02 Automobile Repair Facility, Sales/Rental, and Service Facilities:**

- (A) Buildings shall be oriented to the front of the lot facing the main street;
- (B) Outdoor sales areas must be setback a minimum of ten (10) feet from the property line.
- (C) Buffering requirements of Article 12.10(F) shall apply.
- (D) Exterior noise shall be a factor in determining the appropriateness of this use. All potential adverse noises shall be mitigated as required by the Board of Zoning Appeals;
- (E) Lighting shall be shielded and subdued so as not to interfere with the quiet use and enjoyment of surrounding properties as determined by the Planning Director;
- (F) Traffic flow shall be patterned in such a manner so as not to interfere with the quiet use and enjoyment of surrounding properties;

**10.03 Bars and Nightclubs, Neighborhood Bars, and Brewpub**

- (A) Plans and specifications for exterior design, interior layout, service area and signage must be submitted for review at the time of the application for a Conditional Use Permit and shall comply with all district regulations, including any architectural requirements of this code; and with the West Virginia Alcohol Beverage Control Administration. Violations and enforcement actions on record at the Alcohol Beverage Control Administration will be considered by the Board of Zoning Appeals.
- (B) An establishment identified as a Neighborhood Bar shall not exceed two thousand five hundred (2,500) square feet of floor area.
- (C) Any Conditional Use approval granted by the Board of Zoning Appeals shall be contingent upon the safe and orderly operation of a bar that does not cause a nuisance or a hazard to the area.

**(D)** The Board may consider evidence of public nuisance as determined by the City of Weirton Police Department or City Manager at a duly advertised public hearing to review the Conditional Use Permit, which may be revoked if the Board finds the above conditions are not being met.

**10.04 Bed & Breakfast Inn:**

**(A)** Single family homes used as bed and breakfast inns shall have a minimum heated floor area of 2,500 square feet and shall meet the definition of a bed and breakfast outlined in Article 2.

**(B)** Single family homes used as bed and breakfast inns may not subdivide existing rooms into less than 200 square feet.

**(C)** The bed and breakfast inn shall be owner-occupied. The structure shall be virtually indistinguishable from the surrounding houses.

**(D)** Meals shall be served to overnight guests only.

**(E)** Cooking facilities within bedrooms are prohibited.

**(F)** Parking shall be provided using on-street parking, if available, or off-street parking within the rear of the home. One space per guestroom and one per employee must be provided.

**(G)** No more than two identification signs with a total area of two (2) square feet may be used. Signs shall not be internally illuminated.

**(H)** All bed and breakfast inns shall comply with the provisions of the West Virginia Code 29-3-16c Safety Standards for Bed and Breakfast Establishments.

**(I)** Employment may not exceed two (2) full-time employees not including the owner.

**10.05 Car Wash / Detail Establishment:**

**(A)** Traffic flow and ingress-egress shall not cause traffic hazards on adjacent streets.

**(B)** On-lot traffic circulation aisles and parking areas shall be clearly marked.

**(C)** Adequate provisions shall be made for the proper and convenient disposal of refuse. For a truck wash, the applicant shall provide evidence that adequate measures will be in place to prevent pollutants from being washed into the groundwater or waterways.

**(D)** Water from the operation shall not flow onto sidewalks or streets.

**(E)** Any chemicals that may be hazardous to aquatic life shall be stored within an area that will completely contain any leaks or spills.

**10.06 Cemetery:**

**(A)** Minimum lot area: 20 acres.

**(B)** Minimum front setback: the requirements of the district shall apply.

**(C)** Minimum rear setback: 50 feet.

**(D)** Minimum side setback: 50 feet.

**(E)** Buffering requirements of Article 12.10(F) shall apply.

**(F)** Restrictive covenants by owners to perpetuate required maintenance and approve future improvements shall be recorded.

**10.07 Community Center:**

**(A)** Off-street parking shall be provided on-site.

**(B)** The principal building shall face the fronting street and shall not be set back a distance that inhibits pedestrian access.

**10.08 Composting:**

**(A)** As a Principal or Accessory Use, composting shall comply with the following:

**(B)** On a lot of less than five (5) acres, composting shall be limited to the composting of biodegradable vegetative material, including grass clippings, trees, shrubs, leaves, and vegetable waste, and shall not include animal wastes or fats.

**(C)** Composting shall only be conducted in ways that fire, rodent, or disease-carrying insect hazards or noxious odors are not created.

**(D)** Composting of manure shall be setback a minimum of one hundred fifty (150) feet from any dwelling on an adjacent lot and be located and graded to prevent manure from being washed into a creek or lake by storm water.

**(E)** Compost shall be kept free of other garbage.

**(F)** All composting shall be conducted in accordance with the guidelines issued by the West Virginia University Cooperative Extension Service.

**10.09 Drive-thru Facility:**

**(A)** A maximum of two outdoor menu boards are permitted, beyond the signs normally permitted, with a maximum sign area of forty (40) square feet each. The words on such signs shall not be readable from a street or residential lot line.

**(B)** Traffic circulation onto, within and off of the lot shall be clearly marked. Any drive-thru use shall be designed with adequate capacity for waiting vehicles, and to avoid conflicts with traffic onto, around and off the site.

**10.10 Dwellings, Duplex, Triplex, Quadplex:**

**(A)** Such dwellings must be visually compatible with the surrounding neighborhood.

**(B)** Parking must be provided off-street with a paved surface and located within the side or rear yard. Minimum parking requirements must be met.

**(C)** The minimum lot area requirements shall be as follows:

- (1)** Duplex (two-family dwelling): 7,000 square feet.
- (2)** Triplex (three-family dwelling): 8,000 square feet.
- (3)** Quadplex (four-family dwelling): 9,000 square feet.

**10.11 Dwellings, Mixed Use:**

**(A)** Residential driveway character should be maintained.

**(B)** No outdoor sales or display is permitted in the front or side yards.

**(C)** All mixed-use buildings shall have at least two occupiable stories with at least fifty (50) percent of the habitable area of the building dedicated to residential use. The remainder of the building may be used for neighborhood commercial uses as permitted within the district.

**(D)** For mixed use dwellings fronting directly on Main Street, residential uses shall only be permitted to be located on floors above the first floor. First floor uses shall be reserved for commercial retail uses only.

- (E) New construction, additions, and renovations, rehabilitations, or remodels of existing structures shall meet all requirements of this Zoning Code

#### **10.12 Dwellings, Multi-Family:**

- (A) For multi-family dwellings fronting directly on Main Street, residential uses shall only be permitted to be located on floors above the first floor. First floor uses shall be reserved for commercial retail uses only.
- (B) Parking spaces shall be located no more than 300 feet from the building's primary entrance.
- (C) All parking spaces and driveways shall be surfaced with bituminous, brick, concrete, or stone block paving material.
- (D) The means of a building's ingress and egress shall meet requirements as outlined in the Building Code.
- (E) The facility shall be accessible for fire-fighting purposes and evacuation at all levels and on all sides.
- (F) Trash receptacles and equipment shall be located 50 feet from the nearest residential unit and to the side or rear yard, screened from view using landscape treatment or privacy fence.
- (G) The primary vehicular entrance to the apartment shall, at a minimum, have direct access to a collector, connector, or arterial road.
- (H) The maximum height of an outdoor parking area and roadway lighting shall be 25 feet.
- (I) Buffer areas between apartment development and any other adjacent residential lot shall be increased by 10 feet in addition to the required buffer area width.
- (J) No less than fifteen (15) percent of the property must be dedicated to landscaped open space in the form of an additional yard or parking space. This requirement is in addition to required yard setbacks, parking, driveways, and other site requirements. Maintenance of the open space will be provided by a homeowner's association or the owner of the complex.

#### **10.13 Dwellings, Single-family Attached (Townhouses)**

- (A) The minimum size of each townhouse unit is 1,200 square feet and a minimum width of twenty (20) feet.
- (B) The minimum lot area shall be 8,000 square feet plus 1,000 square feet for each additional dwelling unit over three.
- (C) All off-street parking spaces for townhouse developments shall be incorporated into the building. Guest parking shall be located no more than 300 feet from each townhouse.
- (D) Trash receptacles and equipment shall be located 50 feet from the nearest residential unit and to the side or rear yard, screened from view using landscape treatment or privacy fence.
- (E) The primary entrance to the residential units shall be from a collector, connector, or arterial road.
- (F) The maximum number of contiguous units per structure shall be six (6).

#### **10.14 Family Day Care Home:**

- (A) Shall obtain a license from the WV Secretary of State and the DHHR. Each facility shall also be inspected by the City Building Inspector and Fire Marshal to ensure the safety of both children and employees.
- (B) Shall maintain an exterior appearance that resembles and is compatible with existing dwellings in the neighborhood.

- (C) There shall be no outdoor advertising or signage permitted for a childcare home.
- (D) A family day care home is not permitted to have additional parking beyond the normal requirements of a residential district.
- (E) All family day care homes shall be considered a home occupation and are subject to the rules and regulations as stated in 10.17.

#### **10.15 Garage Sales**

Temporary sales events as defined within Article 2.03

- (A) No more than three (3) events are merited within any twelve (12) month period for each individual and property address.
- (B) Sale areas must be contained within the individual's property and may not encroach into a public right of way.
- (C) Sale events shall not be permitted to last more than three (3) days per event.
- (D) Tents may be used during the event subject to subsection (B) above and must be removed immediately following the conclusion for each event.
- (E) All items must be removed from the exterior of the premises at the end of the sales event.

#### **10.16 Gasoline Service Station:**

- (A) All storage areas, pits, lifts, and working areas shall be within a building. All lubrication, repair, or similar activities shall be performed in an enclosed building, and no dismantled parts shall be placed outside.
- (B) All gasoline pumps, air pumps, and islands upon which pumps are normally located shall be set back from the street line at least 15 feet and at least fifty feet from other property lines. The layout of all pumps shall conform to the requirements of the City Building Code.
- (C) No junked motor vehicle or part thereof or no unregistered motor vehicle shall be permitted outside an enclosed service station, except that not more than six (6) motor vehicles may be located outside a building for a period not to exceed five (5) days for each vehicle, provided that the vehicle owners are awaiting the repair of the motor vehicle.
- (D) The exterior display and parking of equipment or vehicles for rent or sale shall be permitted, provided that the area devoted to this purpose is in addition to the minimum lot size required for a service station, the area devoted to this purpose does not exceed twenty (20) percent of the total area of the entire site, the maximum sign area for a service station is not exceeded and the location of the equipment or vehicles being rented or sold does not interfere with the required off-street parking requirements for the service station and does not interfere with the on-lot traffic circulation indicated on the approved site plan.

#### **10.17 Home Occupation:**

- (A) A home occupation shall be conducted completely indoors and may be within a principal or accessory building. The total amount of floor area of all buildings used for a home occupation shall not be greater than twenty (20) percent of the total floor area of the principal dwelling unit or a maximum of three hundred (300) square feet, whichever is less.
- (B) There shall be no outdoor operations or outdoor storage of materials, products, or equipment.
- (C) There shall be no use of show windows, business display, or advertising visible from outside the premises.

- (D) The use shall not require the parking of storage of or regular servicing by a vehicle with an aggregate gross vehicle weight of more than ten thousand (10,000) pounds,
- (E) The following uses shall not be permitted as a home occupation: veterinarian office, stable, kennel, funeral home, industrial uses, wholesale, or retail sales on the premises (except as accessory to custom crafts and except for sales over the telephone, over the computer or through the mail), restaurant, repairs of motor vehicles or trucking company terminal, manufacturing, or repair of machinery, automobiles, trucks, and motorcycles.
- (F) No machinery or equipment shall be permitted that produces noise, noxious odor, vibration, glare, electrical interference, or radio or electromagnetic interference beyond the boundary of the property. Only general types and sizes of machinery that are typically found in dwellings for hobby, domestic, or sewing purposes shall be permitted. No use shall generate noise or glare in excess of what is typical in a residential neighborhood.
- (G) In addition to the off-street parking provided to meet the normal requirements of the dwelling, the lot on which the home occupation is located shall include sufficient parking for the maximum number of vehicles on-site at one time. A defined driveway shall be provided and shall be shown on the site plan. The applicant shall prove that such driveway provides for safe sight distance.
- (H) The exterior of the residential building and the lot shall not be changed in such a way as to decrease its residential appearance, except for permitted parking spaces and the permitted sign.
- (I) A home occupation shall not be conducted in a way that is perceptible from beyond the lot line between the hours of 9:00 p.m. and 7:00 a.m. This time limit shall also apply to any loading or unloading of vehicles on the property or on a street that causes noise to adjoining residents.
- (J) The use shall not involve the storage or use of hazardous, flammable, or explosive substances, other than types and amounts commonly found in a dwelling.
- (K) The address of the home occupation shall not be advertised in such a way that would encourage customers or salespersons to come to the property without an appointment.
- (L) Number of Employees:
  - (1) Category I: No more than one (1) employee who is not a permanent resident of the dwelling may work on the premises, except for businesses that involve field or on-site service, including salesmen, plumbers, cleaners, home repair, and other similar service activities. Such home occupations may employ up to four (4) persons, provided that such workers spend no more than one (1) hour per week at the home office.
  - (2) Category II: No more than two (2) employees who are not permanent residents of the dwelling may work on the premises, except for businesses that involve field or on-site service, including salesmen, plumbers, cleaners, home repair, and other similar service activities. Such home occupations may employ up to four (4) persons, provided that such worker spend no more than one (1) hour per week at the home office.
- (M) Any instruction or tutoring shall be limited to a maximum of two (2) students for Category I and four (4) students for Category II on the property at any one (1) time.
- (N) A permit shall be required for any home occupation.

#### **10.18 Light Industry / Manufacturing:**

- (A) Light industrial uses shall be those in which the principal permitted activity is the nuisance light manufacturing, fabricating, processing, cleaning, servicing, testing, repair, and assembly facilities not listed elsewhere as permitted or Conditional Uses are permitted here if such uses conform to the following regulations:

- (1) Outdoor storage of materials and equipment will be permitted only in areas which do not front on public streets and only if enclosed or screened by a wall, planting, or other suitable barrier, providing year-round visual screening.
- (2) Above-ground storage tanks will be permitted to the rear of the property and must be fully screened from view on adjacent properties.
- (3) Buffer planting is required when adjoining a residential zoned district.

**10.19 Limited Video Lottery Establishment:**

- (A) It shall be unlawful to open or operate a limited video lottery establishment within one thousand (1,000) feet of any church or school.
- (B) The measurement of distances for the purpose of this Ordinance shall be the distance between two premises from front door to front door of each location, along the street or streets and be at least 150 feet from an existing location that offers Limited Video Lottery.

**10.20 Mineral Extraction & Processing:**

- (A) Minimum front, side, and rear yards: 150 feet.
- (B) Maximum number of principal entrances from major thoroughfare: one.
- (C) Buffering requirements in accordance with Article 12.10(F) shall be enforced. A six (6) foot fence is required when use abuts a residential district.

**10.21 Mobile Home Parks:**

- (A) Lighting shall be shielded and subdued so as not to interfere with the quiet use and enjoyment of surrounding properties as determined by the Board of Zoning Appeals.
- (B) Noise shall be of such a nature so as not to interfere with the quiet use and enjoyment of surrounding properties.
- (C) Traffic flow shall be patterned in such a manner so as not to interfere with the quiet use and enjoyment of surrounding properties.
- (D) Other conditions which the Board of Zoning Appeals may deem warranted under the particular or unique circumstances of the situation necessary to meet the contour of the land and to protect the quiet use and enjoyment of surrounding properties.
- (E) Shall be subject to submission, review, and approval of a site plan.
- (F) Shall provide improved active open space based upon a ratio of one-half ( $\frac{1}{2}$ ) acre for each twenty-five (25) spaces.

**10.22 Oil and Gas Extraction:**

- (A) No well may be located closer than six hundred twenty-five (625) feet to any residential, church, or school use.
- (B) All oil and gas exploration shall be subject to the Oil and Gas Laws, Chapter Twenty- two, Article Four, of the Code of West Virginia, as amended, and the rules and regulations of the West Virginia Department of Environment Protection.

**10.23 Place of Worship:**

- (A) A place of worship may provide a day-care center as an ancillary service.
- (B) Any religious establishment, educational institution, or public use which provides a day-care center shall also meet the express standards and criteria for a day-care center.

- (C) Ingress and egress provisions shall be adequate to minimize congestion on adjacent highways and local streets during peak use periods.
- (D) All off-street parking lots shall be suitably paved and screened from adjoining residential properties by appropriate plant material or structures.
- (E) Fire and safety provisions shall be adequate to meet local and state requirements.

#### **10.24 Portable Storage Containers**

- (A) Only one (1) portable storage container per property is permitted.
- (B) Portable storage containers shall be utilized only for the storage, loading, and unloading of personal property belonging to the property owner or lease holder unless otherwise permitted under the provisions of this Article.
- (C) Portable storage containers must not remain at property in any zoning districts in excess of thirty (30) days within one calendar year.
- (D) If such a container remains on a site for longer than 30 days it shall be considered an Accessory Building and must obtain a building permit and adhere to all requirements of this Code the UDO including setbacks, placement, architectural standards, and all applicable Building Code requirements.
- (E) Portable storage container shall not be utilized for the purpose of storing materials, equipment or merchandise related to a home occupation or otherwise used for commercial purposes unless permitted according to subsections (D), (F) and (G) of this article.
- (F) A structure designed to utilize Portable Storage Containers is permitted only in Industrial Districts or as an accessory structure in Commercial Districts.
- (G) Portable Storage Containers are not permitted in any Residential District or any residential adjacent Commercial District unless clad with building materials to complement the existing character of the neighborhood. Any such structure must comply with the provisions of subsection (D) above.
- (H) Portable storage containers associated with construction at a site where a building permit has been issued are permitted for the duration of construction and shall be removed from the site within fourteen (14) days of the end of construction.
- (I) No construction equipment, building materials, hazardous or flammable substances may be stored inside any container unless it is being used according to subsection (H) above.
- (J) No portable storage container shall be located on a public right-of-way or public property unless the permit holder is the public entity on whose property or right-of-way the portable storage container will be located.

#### **10.25 Recycling Collection Center/Solid Waste Transfer Station:**

- (A) All materials shall be kept in appropriate containers, with appropriate sanitary measures and frequent emptying to prevent the attraction of insects or rodents and to avoid fire hazards.
- (B) Adequate provision shall be made for movement of trucks if needed and for off-street parking.
- (C) A fifteen (15) foot buffer yard with screening as described in Article 12.10(F) shall be provided between this use and any abutting residential use or district.
- (D) This use may be a principal or Accessory Use, including being an Accessory Use to a commercial use, an industrial use, a public or private primary or secondary school, a place of worship or a City-owned use, subject to the limitations of this Section. On residential properties, only recyclables produced by the resident household may be collected and stored.

- (E) Materials to be collected shall be of the same character as the following materials: paper, fabric, cardboard, plastic, metal, aluminum, and glass. No garbage shall be stored as part of the use, except for garbage generated on-site or garbage accidentally collected with the recyclables. Only materials clearly being actively collected for recycling may be stored on site.
- (F) The use shall only include the following operations: collection, sorting, baling, loading, weighing, routine cleaning, and closely similar work. No mechanical operations shall routinely occur at the site other than operations such as baling of cardboard and shredding of newspaper. Unless located in an industrial zone, no burning or melting or mechanical shredding of metal or land filling shall occur unless as an approved conditional use in a C-1 or C-2 Zoning District.
- (G) The use shall not include the collection or processing of pieces of metal that have a weight greater than fifty (50) pounds, except within an industrial district.

#### **10.26 Redevelopment of Closed Schools and Places of Worship**

- (A) Is permitted one (1) sign. Sign size is permitted based on the linear frontage of the property at a ratio of one (1) square foot of sign size for every linear frontage of property to a maximum of forty (40) square feet.
- (B) Not create off street parking out of any portion of the required front, side, or rear yard setbacks. Any allowable parking shall be situated towards the interior of the lot and shall be paved.
- (C) Not provide for any significant alteration to the exterior of the structure.

#### **10.27 Salvage Yard**

Salvage yards will be considered conditional uses within manufacturing districts; therefore, they are prohibited in other districts but must still adhere to the listed regulations.:

- (A) All junkyards shall be completely enclosed by a fence or wall at least six (6) feet in height. Any items stored or maintained within the confines of the fence shall not be visible above the top of the fence from the exterior of the junk or salvage yard.
- (B) No highly inflammable or explosive material shall be stored in bulk, with the exception of fuel tanks or drums which are directly connected with heating appliances.
- (C) All materials or waste causing fumes or dust, constituting a fire hazard or attraction to rodents or insects, may be stored outdoors only in enclosed containers.
- (D) No operations shall be permitted which cause a general nuisance, herein defined as a use considered to be inconsistent with the public comfort, convenience, health, safety, and general welfare, including uses generating the following:
  - (1) Fire and explosive hazards
  - (2) Electric and radioactive disturbance
  - (3) Noise and vibration
  - (4) Dust, dirt, fly ash
  - (5) Glare
  - (6) Smoke, odors; and
  - (7) Other forms of air pollution not previously listed.

#### **10.28 School:**

- (A) A public school may provide a day-care center as an ancillary service.

- (B) Any religious establishment, educational institution, or public use which provides a day-care center shall also meet the express standards and criteria for a day-care center.
- (C) Ingress and egress provisions shall be adequate to minimize congestion on adjacent highways and local streets during peak use periods.
- (D) All off-street parking lots shall be suitably paved and screened from adjoining residential properties by appropriate plant material or structures.
- (E) Fire and safety provisions shall be adequate to meet local and state requirements.
- (F) Educational institutions in the R-1, R-2, and R-3 Zoning Districts shall be limited to public and private schools accredited by the State of West Virginia whose primary purpose is the education and training of children and youths.

**10.29 Self-Storage Facility:**

- (A) Existing buildings may be used for self-storage if all materials to be stored are kept within the walls of the facility.
- (B) Outdoor storage shall be limited to recreational vehicles, boats, and trailers. No junk vehicles shall be stored. Outdoor storage areas shall be screened in compliance with Article 14.
- (C) Trash, radioactive or highly toxic substances, garbage, refuse, explosives or flammable materials, hazardous substances, animal carcasses or skins, or similar items are prohibited.
- (D) The interior traffic aisles, required off-street parking areas, loading areas and access ways shall be paved with a hard surface and shall be kept clear of stored items.
- (E) Portable Storage Containers are not permitted to be utilized for Self-Storage Units unless they are designed to fully comply with the provisions of this Article and Article 10.24.
- (F) Maximum building length: 250 feet.
- (G) Minimum separation between buildings: 20 feet.

**10.30 Sexually Oriented Business:**

- (A) No such adult establishment shall be located less than 1,000 feet from a school, place of worship, library, day care center, civic building, park, historic district, lot in residential use, lot with residential districting, or other adult establishment as measured from door to front door along the curb line of public streets providing access.
- (B) All doors, windows, and other apertures shall be located and covered or screened in with opaque glazing to discourage and prevent visibility or viewing of the interior.
- (C) The maximum floor area of each use shall be 1,500 square feet.
- (D) No exterior signage, building element, advertisement, display, or other promotional material shall be pornographic in nature or convey any such idea or element or relate to specified anatomical areas, as defined in Article 2, and shall not be visible from a public right of way or pedestrian walk.

**10.31 Shopping Center:**

- (A) Building Design Standards. All buildings shall meet the following standards:
  - (1) Rear and side facades shall be of finished quality and shall be of color and materials that are similar to the front facade and blend with structures within the development as well as with structures in the surrounding area. Any property with more than one building on the site shall have a common and coherent architectural theme throughout the development.

- (2) Building facades must be interrupted at least once within every one hundred (100) horizontal feet, with offsets of four (4) or more feet in depth along any building facade facing a public street or public parking. Offsets shall be continuous from grade to the roofline.
- (3) Building facades of two hundred (200) feet or more which face public streets or public parking shall, in addition to offsets, include other design elements to break up the façade, such as awnings, porches, canopies, towers, balconies, bays, changes in building materials, gables, and planted trellises.
- (4) Principal buildings shall have clearly defined, highly visible customer entrances with features such as canopies, porticoes, arches, and integral planters that incorporate landscaped areas and/or areas for sitting.
- (5) Rooflines shall be varied to add visual interest, to reduce the scale of larger buildings, and to create consistency with buildings in the surrounding area.

**(B) Common Use Area.** Large-scale shopping centers shall contain a common use area that will serve as a focal point for the center and provide walkways, seating, and landscaping. Water features, courtyards, mini-parks, and plazas are encouraged. The common use area shall meet the following requirements:

- (1) It shall generally be located between the street and the front facade of the primary shopping center or large retail establishment building, within 200 feet of this building.
- (2) It shall be equal to or greater in size than five (5) percent of the gross floor area of the large-scale shopping center.
- (3) It shall be directly connected to the sidewalk in front of the large-scale shopping center, without intervening driveways or streets.
- (4) It shall consist of one contiguous area, and the shape and location of the common use area shall be approved by the Council in consultation with the Planning Commission.
- (5) It shall contain shade trees, ornamental plantings, and seating; it may also contain outdoor dining areas.

**(C) Parking and Driveway Design Standards.** Parking lots shall be landscaped according to the following regulations:

- (1) The ends of all parking rows shall be divided from drives by planting islands.
- (2) A perimeter planting area at least ten (10) feet in width shall be provided along all property lines and street ultimate rights-of-way lines.
- (3) Each commercial use shall provide access easements for its parking aisles and driveways guaranteeing access to all abutting lots zoned for commercial development, unless all possible interconnections between two abutting lots must cross twenty (20) linear feet or more of wetlands, floodplain, or natural slopes of 15% or more. Parking areas on adjacent lots shall be directly connected by a driveway. These interconnections shall be constructed during the initial land development.
- (4) Large-scale shopping centers shall provide a pickup area for public transportation located between the street and the front façade of the large retail use or shopping center. The pickup area must include a ten (10) foot by twenty (20) foot waiting area that is separated from other sidewalks in the development. The pickup area must also include an area where a forty-foot bus can park without blocking any lanes of the development's driveways.
- (5) Properties with frontages of 600 feet or less on any individual street are only permitted one driveway intersection per street. Properties with frontages greater than 600 feet may be permitted

a maximum of two driveways per street frontage, provided that such driveways are at least 300 feet apart. Regardless of frontage, a development may be restricted to a single driveway depending on usage and interior and exterior traffic patterns.

**(D) Pedestrian Circulation Design Standards**

- (1) There shall be clear grade separated pedestrian connections between all parking areas and all buildings.
- (2) Continuous internal pedestrian walkways, no less than 5 feet in width, shall provide a direct link from the public sidewalk or street right-of-way to the principal customer entrance of all principal retail establishments on the site. Walkways shall also connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, and building and store entry points.
- (3) Unobstructed sidewalks, no less than 6 feet in width, shall be provided along the full length of the building along any façade featuring a customer entrance, and along any façade abutting public parking areas. Along facades with building entrances, the required 6-foot-wide sidewalk area shall be set back from the façade by a 3-foot area that either contains planting beds or additional sidewalk width.
- (4) All internal pedestrian walkways and crosswalks shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort.
- (5) Buildings and sidewalks shall be handicapped accessible.

**(E) Screening Requirements.**

- (1) Loading docks, utility meters, HVAC equipment, trash dumpsters, and other service functions shall be incorporated into the overall design theme of the building so that the architectural design is continuous. These areas shall be located and screened so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets.
- (2) Outdoor sales and storage areas shall not be located within twenty (20) feet of any public street or public sidewalk and shall be screened so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets.
- (3) Outdoor areas for the storage and sale of seasonal inventory shall be permanently defined and screened with walls or fences. Materials, colors, and design of screening walls, or fences shall conform to those used as predominant materials and colors of the building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors of the building.
- (4) Outdoor storage areas shall not exceed 10% of the gross building floor area of any uses.

**10.32 Sidewalk Vendor Stand:**

- (A) At all times, a sidewalk vendor shall be in possession of a valid government-issued identification, business license, sidewalk vending permit, and health department permit, if applicable. The city-issued sidewalk vending permit and business license shall be prominently displayed in a publicly visible location at all times while vending. No trash or refuse generated by sidewalk vending activities shall be disposed of in public trash receptacles.
- (B) For public safety reasons, including pedestrian, public and vendor safety, a sidewalk vendor shall not operate in such a manner that the vendor, the vendor's cart, the vendor's display, the vendor's goods, or any combination thereof:
  - (1) Reduces the clear space for pedestrian and other public use to a width of less than four (4) feet; or

- (2) Impedes public use of the sidewalk or right-of-way as required by the Americans with Disabilities Act; or
- (3) Impedes access to or the use of abutting property, including, but not limited to, residences and places of business; or
- (4) Impedes emergency access for the police, fire department, or medical personnel to any abutting property; or
- (5) Within eighteen (18) inches from the edge of the curb face.

### **10.33 Solar Energy Facility.**

**(A) Large Solar Energy Facilities shall meet the following standards:**

- (1) The applicant shall demonstrate through project planning and proposed mitigation that a proposed facility's visual impacts will be minimized for surrounding properties and the community. This may include, but not be limited to, information regarding site selection, facility design or appearance, buffering, and screening of ground-mounted electrical and control equipment.
- (2) Where the installation of the facility constitutes a land development, all provisions of applicable ordinances shall be met.
- (3) Noise from any facility shall not exceed 50 decibels at the lot line adjacent to any lot in a nonresidential zoning district and 15 decibels at the lot line adjacent to any lot in a residential zoning district. The decibel measurement shall be taken at the exterior of any occupied structure on any property other than that occupied by the facility. Methods for measuring and reporting acoustic emissions from the facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 — 1989, titled "Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier."
- (4) Construction of any facility shall comply with all rules, laws, and regulations of the United States Federal Aviation Administration. Documentation of compliance shall be provided to the City.
- (5) All electrical components of facilities shall conform to relevant and applicable local, state, and national codes, and relevant and applicable international standards.
- (6) Facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
- (7) Facilities shall not display advertising, except for reasonable identification of the facility manufacturer.
- (8) Transmission and power lines shall be placed underground or out of sight.
- (9) The following project information shall be submitted to the City for every proposed solar-energy facility.
  - a) Project narrative including the following: an overview of the project, project location, the approximate generating capacity, the number, representative types and heights of facilities to be constructed, including their generating capacity, dimensions, and respective manufacturers, and description of any ancillary facilities to the solar-energy system.
  - b) An affidavit or similar evidence of agreement between the property owner and the solar-energy facility owner or operator demonstrating permission to apply for necessary permits for construction and operation of a solar-energy facility.
  - c) Identification of the properties on which the proposed facility will be located and the properties adjacent to the proposed location.

- d) A site plan showing the planned location of each proposed solar-energy facility, property lines, setback lines, access roads, and the location of any ancillary structures, including equipment, cabling, buildings, structures, transmission lines, and substations.
- e) A design certification by a certified engineer consisting of the proposed foundation design and analysis of soil conditions.

(10) Solar-energy facilities shall not exceed a maximum height of 15 feet, measured from ground level to the tallest point on the facility.

(11) Preliminary and final land development approval is required for the construction of any solar-energy facility when it is the principal use on a site or lot.

(12) All solar-energy facilities and any associated accessory equipment shall comply with all areas, dimensional, and yard setbacks for the zoning district in which the facility is located, as well as any other zoning provisions that apply, including buffering and landscaping. Required landscape buffering may be modified so that tall tree species may be replaced with lower-growing tree species where the required tree species may interfere with the functioning of the solar energy facility, only where the required landscape buffer is adjacent to property where nonresidential uses are permitted.

(13) Secure perimeter fencing shall be installed around the solar-energy facility. The fencing shall not be constructed within any required landscape buffer or setback. The fencing shall be chain link construction with rubberized coating in neutral earth tone colors such as black or brown.

(14) Decommissioning. Unless otherwise stipulated as part of the conditional use permit, the applicant/owner shall provide written notice to the Planning Director, or designee, at least thirty (30) days in advance of the cessation or abandonment of this use. Within one hundred and eighty (180) days of the cessation or abandonment of this use, or other time period mandated by the City, the applicant/owner shall remove all photovoltaic systems (including but not limited to inverters, modules/solar panels, and solar trackers), all other structural elements related to the photovoltaic system use and restore the property to its pre-use grade.

**(B) Small Solar Energy Facility.**

- (1) Small solar energy facilities shall be permitted in all zoning districts as an accessory use to any lawfully permitted principal use or accessory use on the same lot or parcel upon issuance of the proper permit pursuant to and upon compliance with all requirements of this article and as elsewhere specified in this chapter.
- (2) Design and installation standards. All wiring must comply with applicable electrical codes and specifications. The solar PV system must be constructed to comply with any applicable fire safety codes.
- (3) Setback requirements. The solar energy system shall not be placed in the established front yard and shall be subject to the same side and rear yard setbacks as other accessory structures. The required setbacks are measured from the lot line to the nearest part of the system. No part of the ground-mounted system shall extend into the required setbacks due to a tracking system or other adjustment of solar-PV-related equipment or parts.
- (4) Height restrictions. Notwithstanding the height limitations of the zoning district:
  - a) For a building-mounted system installed on a sloped roof, the system must be installed at the same angle as the roof on which it is installed, with a maximum distance measured perpendicular to the roof of 18 inches between the roof and the highest edge of the system.
  - b) For a building-mounted system installed on a sloped roof, the highest point of the system shall not exceed the highest point of the roof to which it is attached.

- c) For a building-mounted system installed on a flat roof, the highest point of the system shall not exceed six feet above the roof to which it is attached.
- d) Ground-mounted systems may not exceed 10 feet in height, measured from the tallest part of the structure when installed.

(5) Lot Coverage. The footprint of the ground-mounted solar energy system shall not exceed twenty-five percent (25%) of the lot area of the property on which it is placed.

(6) Screening and visibility.

- a) Building-mounted systems on a sloped roof shall not be required to be screened.
- b) Building-mounted systems mounted on a flat roof shall not be visible from the public right-of-way within a fifty-foot radius of the property, at a level of five feet from the ground, in a similar manner as to any other rooftop HVAC or mechanical equipment. This can be accomplished with architectural screening such as a building parapet or by setting the system back from the roof edge in such a manner that the solar PV system is not visible from the public right-of-way within a fifty-foot radius at a level of five feet from the ground.

(7) Nonconformance. If a building-mounted system is to be installed on any building or structure that is nonconforming because it violates the height or setback restrictions of the zoning district in which it is located, the building-mounted system may be granted a special exception so long as the building-mounted system does not extend above the peak or highest point of the roof to which it is mounted.

(8) Vacant, abandonment, and/or decommissioning. The owner shall remove all solar energy systems, solar panels and support structures, buildings, cabling, electrical components, roads, and any other associated equipment within ninety (90) days of cessation or abandonment of the use.

#### **10.34 Substance Abuse Treatment Facility:**

- (A) The facility shall comply with all building, safety and health regulations, the American with Disabilities Act, fire regulations, and all applicable State core standards and licensing requirements, and any standards set forth in any contract with a state agency.
- (B) Prior to occupancy of the facility, the person or entity licensed or certified to establish and operate the facility shall provide a certified copy of such license.
- (C) No treatment facility shall be established or maintained within seven hundred (700) feet measured in a straight line between the closest property lines of the lots or parcels of the following facilities:
  - (1) A residential facility for persons with a disability;
  - (2) A residential facility for elderly with more than five (5) elderly persons in a residence; or
  - (3) Any of the following facilities: Protective housing facility, transitional housing facility, assisted living facility or rehabilitation/treatment facility, a non-residential treatment facility, and elementary schools.

#### **10.35 Telecommunications Facility:**

- (A) Classification:
  - (1) Class I telecommunications facilities shall include but are not limited to such facilities as television antennas, ham radio antennas, AM/FM reception. Any Class I facility cannot be utilized for cell phone reception.
  - (2) Class II telecommunications facilities shall include but are not limited to such facilities as antennae and associated electronic equipment designed expressly for use by cell phone

companies, as regulated under the Federal Telecommunication Act of 1996, that is not intended to be supported by or attached to a new telecommunications tower, as defined.

(3) Class III telecommunications facilities shall include but are not limited to such facilities as antennae and associated electronic equipment that is supported by or attached to a new telecommunications tower, as defined herein, and is designed expressly for use by cell phone companies, as regulated under the Federal Telecommunications Act of 1996.

**(B) Permitted:**

- (1) Class I facilities.
  - a) Permitted in any zoning district;
  - b) Maximum height of 60 feet above grade; and
  - c) Standard Building Permit required.
- (2) Class II facilities.
  - a) Permitted in any zoning district except R-1, R-2, and R-3; Facilities are permitted in R-1, R-2, and R-3 if it is a co-location of an antennae and associated electronic equipment on public facilities in accordance with City of Weirton Ordinance 1434.
  - b) Antenna or associated electronic equipment shall be designed for co-location on an existing, permitted telecommunications tower, or attachment to an existing building, water tank or other existing structure. Unless specifically attached to an existing permitted telecommunications tower, these facilities must be designed utilizing the latest stealth technologies as defined in this Ordinance.
  - c) Standard Building Permit required.
- (3) Class III facilities
  - a) Permitted as a Conditional Use in all zoning districts except R-1, R-2, and R-3;
  - b) Reserved for applicants seeking to erect a new tower structure, with associated antennae and electronic equipment;
  - c) Towers shall be designed in such a manner as to permit future co-location of other carriers' antennae, rather than construction of additional single-use towers;
  - d) Minimal adverse visual impact of towers and telecommunications facilities shall be achieved through careful design, siting, landscaping, and innovative camouflaging techniques;
  - e) Security fencing shall be provided around the equipment shed. A clear zone shall be established at a distance equivalent to the tower height around the base within which no existing structures are permitted; and,
  - f) Potential damage to property caused by towers and telecommunications facilities shall be avoided by ensuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or determined to be structurally unsound.

**10.36 Temporary Uses**

**(A) A temporary permit may be issued by the Planning Director for any of the following:**

- (1) Customary routine and accessory short-term special events or sales, provided that:**

- a) Only a non-profit organization proposes a temporary use to clearly and primarily serve a charity. Public service or religious purpose shall be eligible to receive approval of a temporary commercial use in a district where that use is not permitted: and
- b) The Planning Director shall establish a reasonable and maximum limit on the duration of the use per calendar year.

- 2) Temporary construction-related trailer. Contractor's offices/trailers and equipment sheds may be permitted for the period of active construction or selling of units. No sleeping or cooking accommodation is allowed.
- 3) The temporary erection of a tent or similar temporary structure that is not totally enclosed for a maximum of fourteen (14) days in any four (4) month period, such as for a wedding in the rear yard of a dwelling, a festival at a place of worship, seasonal fireworks, or a special sale within the lot of a lawful commercial use. The seasonal sale of plants, produce, and other lawn and garden supplies is permitted within any commercial or industrial zone without a temporary permit.

(B) Prior to the issuance of a permit for a temporary use or structure, the Planning Director may require an applicant to present a statement from the owner of record of the land recognizing the application and accepting responsibility to ensure that the use or structure is removed once the permit expires. Any temporary structure or use shall be removed completely upon expiration of the permit without cost to the City. If the structure or use is not removed in a timely fashion after proper notification, the City may remove the use or structure at the cost of the person who owns the land upon which the structure or use is located.

### **10.37 Timbering**

- (A) A plan showing all haul roads, harvesting areas, property lines, skid trails, streams, and all impacted streets shall be submitted to the Planning Director for review. The plan shall also show all proposed stormwater runoff as well as sediment and erosion control measures. Drainage calculations shall be prepared and submitted with the plan to indicate the impact of the timbering activities on any watershed areas. The City Engineer shall review the plans and provide a recommendation to the Planning Director.
- (B) The applicant shall provide the Planning Director with a list of the names and addresses of all property owners adjacent to the timbering activities. The list may be prepared using current information available from the Offices of the Tax Assessors in Hancock and Brooke Counties. Upon receipt of a properly completed application and adjacent property owners' list, the Planning Director shall notify the property owners by mail of the time, place, and location of the public hearing.
- (C) The speed limit on all City streets to be traveled by logging trucks shall be established by the City Engineer. Any violations of the speed limits shall be cause for revocation of any and all permits and the immediate suspension of all work.
- (D) All applicable State and local regulations and laws shall apply.
- (E) No logging activities shall occur during the hours of 6:00 p.m. through 6:00 a.m. Additional limitations may be imposed by the Planning Director if appropriate.
- (F) The contractor shall be responsible for all necessary repairs to City streets which may have been damaged during timbering activities. These repairs shall be paid for by the contractor and shall be performed at any time during the timbering activities and immediately upon completion of all timbering activities. The Director of Public Works shall determine the need for all street repairs.

- (G)** The contractor shall provide the City with a performance bond (representative to be registered in West Virginia) in an amount to be determined by the Director of Public Works prior to the commencement of any work. This bond amount shall not be construed to relieve the contractor of any obligations concerning street repairs and / or reimbursement for City services. Furthermore, the amount of the bond shall not be the maximum amount of obligation on the part of the contractor.
- (H)** All logging trucks shall be cleaned of any mud before entering City streets. At a minimum, the contractor shall place a stone blanket near the intersection of the hauling road and the nearest paved street with which to ensure the cleaning of mud from the logging trucks prior to accessing City streets.
- (I)** If, due to negligence on the part of the contractor or any other reason, the City is required to clean any streets of mud and debris resulting from the timbering operation, or is required to perform any emergency street repairs, the contractor shall be billed and shall compensate the City for this work at a rate to be determined by the Director of Public Works.

#### **10.38 Wind Energy Facility.**

- (A) Large Wind Energy Facility.**
  - (1) No wind energy facility, or addition of a wind turbine to an existing wind energy facility, shall be constructed or located within the City unless a permit has been issued to the facility owner or operator approving construction of the facility under this Ordinance.
  - (2) The permit application or amended permit application shall be accompanied with a fee in the amount as set by Council. Developers shall be responsible for all expenses of the City in the evaluation and approval of a permit.
  - (3) Any physical modification to an existing and permitted wind energy facility that materially alters the size, type, and number of wind turbines or other equipment shall require a permit modification under this Ordinance. Like-kind replacements shall not require a permit modification.
  - (4) The permit application shall demonstrate that the proposed wind energy facility will comply with this section. Among other things, the application shall contain the following:
    - a) A narrative describing the proposed wind energy facility, including an overview of the project; the project location; the approximate generating capacity of the wind energy facility; the approximate number, representative types and height or range of heights of wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
    - b) An affidavit or similar evidence of agreement between the property owner and the facility owner or operator demonstrating that the facility owner or operator has the permission of the property owner to apply for necessary permits for construction and operation of the wind energy facility.
    - c) Identification of the properties on which the proposed wind energy facility will be located, and the properties adjacent to where the wind energy facility will be located.
    - d) A site plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, buildings, and structures, including permanent meteorological towers, associated transmission lines, and layout of all structures within the geographical boundaries of any applicable setback.
    - e) Documents related to decommissioning, including bonds or escrow amounts needed for decommissioning.

- f) Other relevant studies, reports, certifications, and approvals may be reasonably requested by the City to ensure compliance with this Ordinance.
- (5) Design Safety Certification: The design of the wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute. The applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.
- (6) Height. Commercial applications are considered to be generally less than 200 feet in height measured from the ground to the highest point of blade rotation.
- (7) Controls and Brakes: All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
- (8) Electrical Components: All electrical components of the wind energy facility shall conform to relevant and applicable local, state, and national codes, and relevant and applicable international standards.
- (9) Visual Appearance; Power Lines:
  - a) Wind turbines shall be a non-obtrusive color such as white, off-white, or gray.
  - b) Wind energy facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
  - c) Wind turbines shall not display advertising.
  - d) On-site transmission and power lines between wind turbines shall, to the maximum extent practicable, be placed underground.
- (10) Warnings:
  - a) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
  - b) Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10) feet from the ground.
  - c) All warning devices, labels, and similar safety devices shall be kept in good repair and legible during the useful life of the facility.
- (11) Climb Prevention/Locks: Wind turbines shall not be climbable up to fifteen (15) feet above ground surface. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
- (12) Setbacks
  - a) Wind turbines shall be set back from the nearest occupied building a distance not less than the required setback requirements for that zoning classification or 1.1 times the turbine height, whichever is greater. The setback distance shall be measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.
  - b) Wind turbines shall be set back from the nearest occupied building located on a non-participating landowner's property a distance of not less than five (5) times the hub height, as

measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.

- c) All wind turbines shall be set back from the nearest property line not less than the required setback requirements for that zoning classification or 1.1 times the turbine height, whichever is greater. The setback distance shall be measured to the center of the wind turbine base.
- d) All wind turbines shall be set back from the nearest public and/or private road less than 1.1 times the turbine height, as measured from the right-of-way line of the nearest public road to the center of the wind turbine base.

(13) Use of Public Roads

- a) The Applicant shall identify all state and local public roads to be used within the City to transport equipment and parts for construction, operation, or maintenance of the wind energy facility.
- b) The City's engineer or a qualified third-party engineer hired by the City and paid for by the applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.

(14) The City may require a bond on the road in compliance with State and City regulations.

- (15) Any road damage caused by the applicant, or its contractors shall be promptly repaired at the applicant's expense.
- (16) The applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged roads.

(17) Local Emergency Services

- a) The applicant shall provide a copy of the project summary and site plan to local emergency services, including the volunteer fire department(s).
- b) Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the wind energy facility.

(18) Noise and Shadow Flicker

- a) Audible sound from a wind energy facility shall not exceed fifty (55) dBA, as measured at the exterior of any occupied building on a non-participating landowner's property.
- b) The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.

(19) Signal Interference: The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television, or similar signals, and shall mitigate any harm caused by the wind energy facility.

(20) Liability Insurance: There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate. Certificates shall be made available to the City upon request.

(21) Decommissioning

- a) The facility owner and operator shall, at its expense, complete decommissioning of the wind energy facility, or individual wind turbines, within (12) twelve months after the end of the useful life of the facility or individual wind turbines. The wind energy facility or individual wind turbines will presume to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.

- b) Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of thirty-six (36) inches, and any other associated facilities.
- c) Disturbed earth shall be graded and re-seeded unless the landowner requests in writing that the access roads or other land surface areas not be restored.
- d) An independent and certified professional engineer shall be retained to estimate the total cost of decommissioning ("Decommissioning Costs") without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net Decommissioning Costs"). Said estimates shall be submitted to the City after the first year of operation and every fifth year thereafter.
- e) The facility owner or operator shall post and maintain decommissioning funds in an amount equal to net decommissioning costs, provided that at no point shall decommissioning funds be less than twenty-five percent (25%) of decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or Federal or State chartered lending institution chosen by the facility owner or operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the State and is approved by the City.
- f) Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the City.
- g) If the facility owner or operator fails to complete decommissioning within the aforementioned 12 months, then the landowner shall have six (6) months to complete decommissioning.
- h) If neither the facility owner or operator, nor the landowner complete decommissioning within the periods prescribed above, then the City may take such measures as necessary to complete decommissioning, utilizing all or any of the decommissioning funds. The entry into and submission of evidence of a participating landowner agreement to the City shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the City may take such action as necessary to implement the decommissioning plan.
- i) The escrow agent shall release the decommissioning funds when the facility owner or operator has demonstrated and the municipality concurs that decommissioning has been satisfactorily completed, or upon written approval of the municipality in order to implement the decommissioning plan.

(22) Public Inquiries and Complaints

- a) The facility owner and operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.
- b) The facility owner and operator shall make reasonable efforts to respond to the public's inquiries and complaints.

**(B) Small Wind Energy Facility.**

- (1) Small wind energy facilities shall be permitted in all zoning districts as an accessory use to any lawfully permitted principal use or accessory use on the same lot or parcel upon issuance of the proper permit pursuant to and upon compliance with all requirements of this article and as elsewhere specified in this chapter.
- (2) In order to ensure safety to adjoining properties, all small wind energy facilities shall require a zoning permit issued by the Zoning Officer after a review of proposed construction plans and

operational data relative to the proposed small wind energy facility. The applicant shall submit the following information to secure a zoning permit:

- a) Construction plans prepared by a registered engineer showing the location of the proposed tower and related equipment for the small wind energy system, the type of materials used to construct the tower or pole on which the small wind energy system will be mounted, and all manufacturer's data relative to the complete operational characteristics of the facility, including but not limited to safety and performance standards and/or characteristics, noise characteristics, and supplemental information as requested by the Zoning Officer.
- b) A recorded plat demonstrating that the parcel on which a ground-mounted facility is proposed is a minimum of one acre in area (43,560 square feet) and a minimum of 1/2 acre (21,780 square feet) for a facility proposed to be mounted on an existing principal or accessory structure.
- c) Dimensions to scale demonstrating that a facility proposed to be mounted on an existing principal or accessory structure shall not exceed the maximum height, when combined, of a structure permitted in the zoning district.

(3) All small wind energy facility towers, poles, or supporting structures shall be set back from all property lines a minimum distance of 1.25 times the total height of the tower or pole and all equipment mounted thereon from all adjacent property lines. The total height shall include the height of any structure that a tower or pole is mounted on if it is not mounted directly at ground level.

(4) All small wind energy facility towers or poles shall be enclosed by a six-foot fence with a lockable entry. The climbing apparatus for the tower or pole shall stop 12 feet above the ground level.

(5) Small wind energy facility operations shall not cause interference to television or radio reception on neighboring properties. The City reserves the right to suspend and/or rescind the zoning permit if such interference becomes evident and is a nuisance to neighboring property owners.

(6) Small wind energy facility operations shall not exceed what is typical in a residential neighborhood. The City reserves the right to suspend and/or rescind the zoning permit if it is determined by the Zoning Officer that the noise characteristics and/or levels generated by a particular facility exceed that.

(7) Small wind energy facility operations shall not constitute an undue safety hazard to neighboring properties due to repeated failure and/or breakage of the rotor blade(s). If, in the opinion of the City Engineer, such a safety hazard and/or nuisance exists, the City reserves the right to suspend and/or rescind the zoning permit until the safety hazard(s) have been corrected to the satisfaction of the City.

#### **10.39 Wrecker Service**

- (A) Buildings shall be oriented to the front of the lot facing the main street;
- (B) Outdoor storage of vehicles shall not be permitted in the front yard.
- (C) Buffering requirements of Article 12.10(F) shall apply.
- (D) Lighting shall be shielded and subdued so as not to interfere with the quiet use and enjoyment of surrounding properties as determined by the Planning Director;
- (E) Traffic flow shall be patterned in such a manner so as not to interfere with the quiet use and enjoyment of surrounding properties.

**10.40 Conditional Use Change of Nonconforming Use in R-1, R-2, and R-3 Zoning Districts.**

- (A) A nonconforming use shall not be changed to any use other than a conforming use, except that the owner of a nonconforming use within the R-1, R-2, or R-3 zoning districts may apply for a Conditional Use permit in accordance with the following standards:
- (B) The structure in which the use is being requested has had or currently has an existing nonconforming use within the structure.
- (C) The structure or part of the structure's original construction was intended to facilitate commercial and would create a hardship for the owner to convert the use to a conforming use.
- (D) The new use will be in keeping with the character of the neighborhood in which it is located and will have an equal or lesser impact on the neighborhood than the existing or previous nonconforming use.
- (E) Existing single family, two family, and multifamily dwellings are not permitted to request a conditional Use Permit to change the existing use of the property.

## **ARTICLE 11. DEVELOPMENT STANDARDS**

### **11.01 INTENT**

It is the intent of this Article to provide density and dimensional standards which serve to define the development character of an area, and to ensure the compatibility of development with the environmental characteristics, accessibility levels, and special amenities offered by the development site and with surrounding land uses. The standards are established in Table 2, Development Standards.

### **11.02 DEVELOPMENT STANDARDS TABLE**

The Development Standards Table (Table 2) and its contents are incorporated into this Article and identify the types of development standards to which property can be developed in each zoning district established throughout the City.

**Table 2. DEVELOPMENT STANDARDS**

Zoning District	Minimum Lot Area	Minimum Lot Width	Maximum Height	Minimum Setbacks		
				Front	Rear	Side
<b>R-1</b>						
Single Family DU	6,000 sf	60 ft	35 ft	20 ft	30 ft	5 ft
Townhouse/ Condominium	8,000 sf + 1,000 sq for each additional DU	20 ft	35 ft	20 ft	30 ft (c)	15 ft (d)
All other uses	6,000 sf	60 ft	35 ft	20 ft	30 ft	5 ft
Accessory Structure	---	---	15 ft	(a)	3 ft (b)	3 ft
<b>R-2</b>						
Single Family DU	6,000 sf	60 ft	35 ft	20 ft	30 ft	5 ft
Two Family DU	7,000 sf	60 ft	35 ft	20 ft	30 ft	5 ft
Townhouse/ Condominium	8,000 sf + 1,000 sq for each additional DU	20 ft	35 ft	20 ft	30 ft (c)	15 ft (d)
Triplex	8,000 sf	55 ft	35 ft	20 ft	---	20 ft (e)
Multifamily with 3+ DU	8,000 sf + 1,000 sq for each additional DU	55 ft	35 ft	20 ft	---	20 ft (e)
All other uses	6,000 sf	60 ft	35 ft	20 ft	30 ft	5 ft
Accessory Structure	---	---	15 ft	(a)	3 ft (b)	3 ft

Zoning District	Minimum Lot Area	Minimum Lot Width	Maximum Height	Minimum Setbacks		
				Front	Rear	Side
<b>R-3</b>						
Single/Two Family DU	3,000 sf	30 ft	35 ft	20 ft	15 ft	5 ft
Accessory Structure	---	---	15 ft	(a)	3 ft	3 ft
Multi-Family DU	4,000 sf	30 ft	55 ft	20 ft	15 ft	5 ft
Townhouse/Condominium	8,000 sf + 1,000 sq for each additional DU	20 ft	35 ft	20 ft	30 ft (c)	15 ft (d)
All other uses	6,000 sf	60 ft	35 ft	20 ft	30 ft	5 ft
Accessory Structure	---	---	15 ft	(a)	3 ft (b)	3 ft
<b>MU Mixed Use</b>						
Single Family DU	6,000 sf	60 ft	35 ft	20 ft	30 ft	5 ft
Townhouse/Condominium	8,000 sf + 1,000 sq for each additional DU	20 ft	35 ft	20 ft	30 ft (c)	15 ft (d)
Multifamily with 3+ DU	8,000 sf + 1,000 sq for each additional DU	55 ft	35 ft	20 ft	---	20 ft (e)
All other uses	6,000 sf	60 ft	35 ft	20 ft	30 ft	5 ft
Accessory Structures	---	---	15 ft	(a)	3ft (b)	3ft
<b>C-1 Downtown Business</b>						
All uses	---	---	60 ft	Average of setbacks for the block where property is located. Where no average exists or where it is difficult to determine, the Zoning Officer shall make the determination in keeping with existing character.	15 ft	0 ft (f)
Accessory Structures	---	---	60 ft	(a)	15 ft	0 ft (f)

Zoning District	Minimum Lot Area	Minimum Lot Width	Maximum Height	Minimum Setbacks		
				Front	Rear	Side
C-2 General Commercial						
All uses	6,000 sf	---	38 ft	Average of setbacks for the block where property is located. Where no average setback exists or where it is difficult to determine, the Zoning Officer shall make the determination in keeping with existing character	15 ft	5 ft (g)
Accessory Structures	---	---	20 ft	(a)	5 ft (h)	5 ft (h)
M-1 Light Industrial						
All uses	20,000 sf	---	38 ft	20 ft	15 ft (i)	15 ft (i)
Accessory Structures	---	---	20 ft	(a)	15 ft (j)	15 ft (j)
M-2 Industrial						
All uses	20,000 sf	---	38 ft	15 ft	15 ft (k)	15 ft (k)
Accessory Structures	---	---	20 ft	(a)	15 ft (i)	15 ft (i)

- (a) Must be located behind the rear wall of the principal structure. (See 12.05)
- (b) Accessory structures being accessed by vehicles in a R-1, R-2, or R-3 area require a 10 ft foot minimum setback from a rear alley.
- (c) Right of way minimum of 10-foot rear of each property line and 10 feet right away between end units and adjoining property
- (d) 15' foot minimum right of way from the side of the end unit.
- (e) Side setback is 20 feet unless side is the shared common wall.
- (f) Minimum setback if located adjacent to a residential use is 5 ft.
- (g) Minimum setback if located adjacent to a residential use is 15 ft.
- (h) Minimum setback if located adjacent to a residential use is 10 ft.
- (i) Minimum setback if located adjacent to a residential use is 50 ft.
- (j) Minimum setback if located adjacent to a residential use is 20 ft.
- (k) Minimum setback if located adjacent to a residential use is 100 ft.

## **ARTICLE 12. SITE STANDARDS**

### **12.01 INTENT**

It is the intent of this Article to provide general performance standards to ensure that development within the City will be designed, arranged, and constructed in a safe, orderly, energy-efficient, and visually attractive manner, and will reflect the basic character of the development site and its immediate surroundings as well as the nature of the proposed use for the site. It is further the intent of this Article to provide general performance standards to ensure that development within the City will be designed, arranged, and constructed to promote the public safety, health and general welfare; to provide for suitable neighborhoods with adequate streets, utilities, and appropriate building sites, as well as provide for adequate and efficient access, water, sewer, and other utilities, schools, parks, recreation, open space, and other public requirements and facilities.

### **12.02 GENERAL SITE ARRANGEMENT**

Structures shall be placed and arranged so as not to adversely affect adjacent property. Adverse effects shall include, but are not limited to, the removal of lateral support, the creation of hazard, nuisance, danger, or inconvenience, the unreasonable loss of light and air, or the unreasonable loss of privacy or views. Developments shall be arranged so as to be visually attractive both within the development site and in relation to adjacent developments. Site design elements of the development shall be integrated to the degree of their compatibility with each other and shall be separated to the degree of their incompatibility. Insofar as is practicable, developments shall be arranged so as to preserve or enhance vistas.

### **12.03 ACCESS AND CIRCULATION**

#### **(A) External Circulation**

- (1) The type and arrangement of streets and driveways for the development shall be in compliance with the City's Comprehensive Plan and the provisions of this Section.
- (2) Principal vehicular access points to the development shall be designed to encourage smooth traffic flow with minimum hazards to pedestrian, bicycle, and other vehicular traffic. Accommodations for controlled turning movements into and out of the development and improvements to the approach street shall be provided where existing or anticipated heavy traffic flows indicate need.
- (3) Pedestrian access to the site shall be in compliance with and coordinate to existing and proposed pedestrian systems and the systems of adjacent developments.
- (4) Access for cyclists and pedestrians shall be by safe and convenient routes, which need not be limited to the vicinity of vehicular access points. Accommodations for safe intersections of bicycle and/or pedestrian routes with adjacent vehicular routes shall be provided where existing or anticipated heavy traffic flows indicate need.

#### **(B) Internal Circulation**

- (1) Internal circulation systems shall provide the types, amounts, and locations of accessibility appropriate to the type and size of the development and shall be designed so as to facilitate the movement of persons, goods, services, and waste products in a safe and efficient manner, with maximum pedestrian orientation and a minimum of impervious cover areas.
- (2) Safe and convenient vehicular access shall be provided for emergency and service vehicles.
- (3) Whenever appropriate to the type and size of the development, safe, efficient, and conveniently located bicycle and/or pedestrian circulation systems shall be provided.
- (4) The integration or separation of circulation systems and patterns shall be provided as appropriate to the type and size of the development and to the existing or anticipated traffic flows.

**(C) Clear Vision Triangle Easements**

Where necessary to ensure proper visibility for the safe flow of vehicular traffic at street intersections and major driveway intersections with streets, clear vision triangle easements shall be provided at the corners of such intersections in accordance with Section 12.06.C. Major driveways are considered to be those private drives serving multi-family or non-residential developments. No structure or planting that would interfere with safe sight lines shall be permitted within the clear vision triangle easement.

**12.04 DESIGN STANDARDS FOR SINGLE-LOT DEVELOPMENT AND THE SUBDIVISION OF PROPERTY****(A) Minimum Standards.**

Each subdivision shall contain the improvements specified in this Article, which shall be installed in accordance with the requirements of the City by the developer. Each subdivision shall be required to reserve or dedicate land as specified in this Section and shall adhere to the minimum standards of design established herein.

**(B) Suitable Building Area.**

Every lot or tract shall have sufficient suitable building area for the use intended. In determining whether suitable area exists, the following areas shall be eliminated for consideration as development area or suitable building area:

- (1) Area within the floodway or floodway fringe; and
- (2) Area with slopes in excess of twenty-five (25) percent. The Planning Director shall review the application along with the topographical map and if it is determined that any proposed soil disturbance shall occur on any slopes in excess of twenty-five (25) percent, a professional soils engineer licensed in the State of West Virginia shall review the application and certify that the proposed activities shall not adversely impact surrounding properties nor cause a public safety hazard. The applicant shall be responsible for obtaining the services of a professional soils engineer and shall assume responsibility for all associated costs.; and
- (3) Area subject to utility easements and setbacks; and
- (4) Area within the right-of-way for existing or planned streets.

**(C) Name of Subdivision or Development**

The name of the subdivision or development shall not duplicate nor closely approximate the name of an existing subdivision or development in the City of Weirton.

**(D) Applicability of Lot Design Standards**

Each lot in a subdivision shall comply with the standards included on Table 2, Development Standards contained herein, and any other standards provided in this Ordinance. Newly created or revised lots shall be designed so that any existing structures continue to meet the requirements of this Article or so that any existing nonconformity is not increased, extended, or enlarged.

**(E) Lot Arrangement**

Lots shall be arranged in such a manner that there will be no foreseeable difficulties in obtaining building permits and any required on-lot sewage disposal and other development-related permits which may be required subsequent to Final Plat approval.

**(F) Access to Streets**

Every subdivided lot shall have frontage on a street meeting the standards in this Ordinance.

**(G) Lot Dimensions and Sizes**

Lot dimensions and sizes shall comply with Table 2, DEVELOPMENT STANDARDS contained herein and any other standards provided in this Ordinance.

**(H) Flag Lots**

The creation of flag lots in new subdivisions shall be prohibited except as follows:

- (1) A flag lot shall be permitted if necessary to allow a property owner reasonable use and benefit from his land or to alleviate situations that would otherwise cause extreme hardship for the owner.
- (2) Flag lots shall be permitted within Minor Subdivisions, where necessary to eliminate access onto arterials or thoroughfares, to reasonably utilize irregularly shaped land, or to reasonably utilize land with difficult topography.
- (3) No flag lot shall be allowed if it increases the number of access points onto an arterial or thoroughfare street.
- (4) Subdivisions or individual lots approved after the effective date of this Ordinance shall not be re-subdivided to create flag lots.

**(I) Location of Lot Lines**

- (1) Side lot lines extending from a street should be approximately perpendicular or radial to the street right-of-way line.
- (2) Lot lines shall be located to permit efficient installation and maintenance of utility lines on utility easements and to maximize buildable area.

**(J) Flooding and Stream Protection**

- (1) All subdivisions and developments shall be designed to minimize flood damage throughout the subdivision or development. Furthermore, all subdivisions shall locate and construct public utilities and facilities, including sewer, gas, and water systems to minimize flood damage.
- (2) Lots shall be designed so that adequate building area exists outside the floodplain to permit a dwelling unit or other proposed structure without violating other provisions of this Ordinance.

**(K) Historic and Natural Assets**

In any subdivision or development, due consideration shall be given to safeguard the heritage of the City by preserving any archaeological site or any property therein, or located on adjacent property thereto, that embodies important elements of its cultural, social, economic, political, or architectural history. All due consideration shall be given to promoting the use and conservation of such property for the education, pleasure, and enrichment of the residents of the City and the State as a whole.

**(L) Completing Development in Phases**

- (1) If a subdivision or development is to be built in phases or stages, then the phases shall be clearly indicated on the Preliminary Plat and the developer shall submit a proposed schedule for completion of phases and improvements as part of the application. The schedule shall relate completion of improvements to completion of the phases or stages of the entire subdivision or development. Once a completion schedule is approved by the City, no buildings may be occupied and no subdivision lots may be sold except in accordance with the schedule.
- (2) The order of phases set out in the phasing plan may be changed and the schedule modified with the approval of the Planning Commission provided no part of a facility or improvement intended to benefit several phases of the project will be significantly delayed by the change.

**12.05 ACCESSORY BUILDINGS/STRUCTURES**

- (A) Accessory buildings, sheds, pools, and other similar structures shall be constructed in the rear yard. The Planning Department may permit the placement of an accessory building in a side yard if no practical alternative exists.
- (B) Garages may be constructed in the side yard if aligned with, or behind the front line, of the primary structure.
- (C) In the case of a corner lot, no wall of an accessory building shall be nearer to a side street than the side line of the primary structure.
- (D) Accessory buildings attached to the principal building by an approved breezeway or similar structure shall meet all yard requirements for a principal building.
- (E) Mailboxes, newspaper boxes, walls, fences, birdhouses, flagpoles, and pump covers may be placed in any front, side, or rear yard.
- (F) Swimming Pools

**(1) Household**

All swimming pools installed or constructed as an Accessory Use on a residential lot shall comply with the following regulations:

- 1) The swimming pool shall not involve any commercial use.
- 2) An enclosure around in-ground pools shall meet the requirements of the City of Weirton Building Code.
- 3) A pool and any deck or shelter that is elevated above the average surrounding ground levels shall meet the applicable setback requirement for an accessory building. Patios around pools that are level with the average surrounding ground level are not required to meet setbacks. A pool is not permitted within the required front yard.
- 4) A proper method shall be provided for drainage of the water from the pool that will not overload or flood any: 1) on-lot septic system; or 2) portion of a building or property not owned by the owner of the pool. A pool shall not be located so as to interfere with the operation of a well or on-lot septic system.

**(2) Non-household**

All commercial pools, public and private, shall comply with the following regulations:

- 1) The water surface shall be setback at least 25 feet from any lot line.
- 2) Minimum lot area: two (2) acres.
- 3) Any water surface within one hundred (100) feet of an existing dwelling on a separate lot shall be separated from the dwelling by evergreen screening in agreement with Section 12.05
- 4) The water surface shall be surrounded by a secure, well-maintained fence at least six (6) feet in height.
- 5) A proper method shall be provided for drainage of the water from the pool that will not overload or flood any on-lot septic system or portion of a building or property not owned by the owner of the pool. A pool shall not be located so as to interfere with the operation of a well or on-lot septic system.

**12.06 LOT STANDARDS**

Unless otherwise specified, the following provisions shall apply throughout the City of Weirton, regardless of the underlying regulating district.

**(A) General Requirements**

- (1) Every building hereafter erected shall be located on a lot with frontage upon a public street. In no case shall there be more than one principal building used for residential purposes, and no more than two structures located on one lot, except as provided in this Ordinance.
- (2) No yard or lot existing upon adoption of this Zoning Ordinance shall be reduced in size or area below the minimum requirements of the regulating district. Yards or lots created after the effective date of this Ordinance shall meet the minimum requirements established by this Ordinance.
- (3) If the lot does not have the minimum lot area specified for the district, it is considered to be non-conforming and persons applying for a permit to develop the property must provide documentation to prove such lot was in existence prior to the enactment of this Ordinance. The minimum setback requirements for the district shall remain applicable.
- (4) Generally, all buildings shall front directly upon a street in a manner that creates a public space that is conducive to pedestrian use. With the provision of open alley access, lots may front upon a central plaza, courtyard, or a square, but shall be of sufficient design to allow for the provision of emergency services. Street frontage elevations for interior facing buildings shall maintain the appearance of fronting on the main roadway by use of architectural features that gives the appearance that the building is facing the street.
- (5) The yard directly opposite the front door of the house shall be the designated rear yard.
- (6) Cornices, eaves, sills or other similar architectural features, or other required means of egress, rain leads, or chimneys or other similar structures that do not include space usable by persons may extend or project into a required yard not more than four feet. Unenclosed exterior stairways and fire escapes may extend or project into a required side or rear yard not more than four feet.
- (7) An ADA accessory ramp may encroach upon any required yards to the extent necessary to perform its proper function.
- (8) The front yard setback will conform to the clearly prevailing setback pattern of developed lots within the block fronting the same street. When an unimproved lot is situated between two lots with existing principal buildings that each have front yard setbacks less than the setback required in that district, then the front yard setback may be reduced to a depth equal to the average of the two adjacent lots, provided that in no case shall a front yard be reduced by more than fifty (50) percent of the required front yard for that district.

**(B) Corner Lots**

- (1) For single and two-family residential structures, a setback area equal to the minimum front yard setback shall be provided along all portions of a corner lot abutting any public street, except where the applicant proves that the provisions of a smaller setback of a different yard for a residential building will conform with the clearly prevailing yard pattern on numerous existing developed adjoining lots fronting on the same street.
- (2) Mixed-use or non-residential buildings on corner lots shall be considered to have two (2) front yards and shall utilize the minimum front setback for each facade.

**(C) Clear Vision Triangle Clearance**

- (1) A triangular area as described in this Section shall be graded and kept free of sight obstructions between a height of three feet and twelve feet above the established street grade, including structures, non-transparent fences, vegetation and signs, but not including sign posts of less than one foot in width or utility posts or the trunks of trees. The clear vision triangle shall be measured at the intersection of the pavement or curb cut and a diagonal line connecting two points measured thirty (30) feet along each of the street right-of-way lines determines the triangular space.

## **12.07 EXTERIOR LIGHTING**

### **(A) Purpose**

It is the goal of this Section to provide guidance to developers in implementing minimum requirements for lighting for all new developments. The City recognizes that inappropriate and poorly designed or installed outdoor lighting causes unsafe and unpleasant conditions, limits residents' ability to enjoy the nighttime sky, and results in unnecessary use of electric power. Conversely, the City also recognizes that some outdoor lighting is appropriate and necessary in areas such as residential subdivisions, and civic, commercial, and industrial centers. To ensure appropriate lighting while minimizing its undesirable side effects, the following regulations are established.

### **(B) Applicability**

Lighting facilities shall be required for all off-street parking areas and off-street loading areas and for all driveways providing ingress and egress thereto for all new developments. In the approval of any development plan, the Planning Director, Planning Commission or Board of Zoning Appeals, as the case may be, shall have the authority to require lighting to be incorporated for other uses or locations where in their reasonable discretion such lighting is warranted.

### **(C) General Provisions and Standards**

- (1) All exterior lights and illuminated signs shall be designed, located, installed, and directed in such a manner as to prevent glare from encroaching onto adjoining properties or public rights-of-way.
- (2) In any district, any operation or activity producing intense glare shall be so conducted that direct and indirect illumination from the source of light shall not cause illumination in excess of one-half of one (0.5) footcandle above background when measured at any residence district boundary line. Flickering or intense sources of light shall be so controlled as not to cause a nuisance across any lot lines.
- (3) No use shall produce a strong, dazzling light or a reflection of a strong, dazzling light beyond its lot lines. In general, lighting fixtures that shield the reflector or lens or any high brightness surface from viewing angles above sixty (60) degrees from horizontal shall be utilized.
- (4) All outside lighting, including sign lighting, shall be directed in such a way as not to create a nuisance to any adjacent use and roadway. All luminaries and fixtures shall be equipped with a glare shielding device, cutoff downward cast in the case of freestanding area lighting. The height of all luminaries must also be approved by the Planning Director. Intensity of outdoor lighting shall be limited within usable areas of a site (i.e., parking, walkways, etc.) to an average intensity at the ground of twenty-five (25) footcandles with a maximum intensity at any given point on the ground of eighty (80) footcandles, unless otherwise approved by the Planning Director.
- (5) The height of a luminary shall be limited as follows:
  - a) In any residential district, the maximum height permitted shall be twenty (20) feet.
  - b) In any other district, the maximum height shall be twenty-five (25) feet, except where otherwise specified.
  - c) Ball diamonds, playing fields, and tennis courts having a unique requirement for nighttime visibility may be exempted from Subsections 1 and 2 if, in the judgment of the Planning Director, their limited hours of operation and the location of the luminaries will adequately protect neighboring residential uses.
  - d) The Planning Director may further limit the height of luminaries when it is determined that proposed lighting may have a detrimental impact upon nearby properties.

- (6) Uplighting of any architectural feature of a building or of a sign is permitted, but such lighting may consist only of low wattage fixtures (designed for bulbs not exceeding 75 watts) trained directly onto the surface intended to be illuminated, unless otherwise permitted in Section 18.4 of this Ordinance.
- (7) When outdoor lighting installation or replacement is part of a development proposal for which site plan approval is required under these regulations, the Planning Director or Board of Zoning Appeals, as the case may be, shall review and approve the lighting installation as part of its site plan approval.
- (8) The applicant shall submit sufficient information, in the form of an overall exterior lighting plan, to enable the Planning Director or Board of Zoning Appeals, as the case may be, to determine that the applicable provisions will be satisfied.
- (9) When an outdoor lighting installation is being modified, extended, expanded, or added to, the entire outdoor lighting installation shall be subject to the requirements of this Section.

**(D) Installation and Maintenance**

- (1) Electrical feeds to lighting standards shall be run underground, not overhead.
- (2) Lighting fixtures shall be maintained by the property owner so as to always meet the requirements of this Ordinance.

**(E) Exemptions**

The following uses shall be exempt from the provisions of this Ordinance:

- (1) Roadway and airport lighting and lighting activated by motion sensor devices.
- (2) Temporary circus, fair, carnival, or civic uses.
- (3) Construction or emergency lighting provided such lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting.

**12.08 FENCES AND WALLS**

**(A)** Fences and walls are permitted by-right in all districts. All fences and walls require a permit before erection, installation or construction may be initiated. Any fence or wall shall be durably constructed and well-maintained. Privacy fences shall be constructed so that the finished side of the fence faces toward abutting properties or rights-of-way unless the fence is not visible from the adjoining property. Fences that have deteriorated shall be replaced or removed.

**(B)** No fence, wall, or hedge shall obstruct the sight distance requirements established in this Ordinance. No fence or wall shall obstruct the flow of stormwater.

**(C) Fences**

- (1) Any fence located in the required front yard of a lot in a residential district shall not exceed four (4) feet in height and shall be constructed of split rail, wooden picket, chain link, or other material as determined by the Building Inspector which will not present or create a solid visual obstruction. For the purposes of this Section, on a corner lot each street frontage shall be considered a front yard.
- (2) A fence in a residential district that is not within a required front yard is permitted a maximum height of eight (8) feet, except a maximum height of ten (10) feet is permitted to enclose a tennis or racquet sport court or a non-household swimming pool or an electric substation. Privacy fences shall be constructed such that the finished (sheathed) side is oriented towards adjoining lots, streets, or the public right-of-way.

- (3) A fence located in the required front yard of a commercial district shall not exceed four (4) feet in height. Any fence exceeding this height will require a variance.
- (4) A fence in a commercial district that is not within a required front yard is permitted a maximum height of eight (8) feet.
- (5) A fence in an industrial district is permitted a maximum height of ten (10) feet in any front, side, or rear yard.
- (6) A fence may be constructed on a lot line, except a fence shall not be placed within a street right-of-way and a fence of a commercial establishment shall be setback a minimum of five feet from the abutting lot line of an existing dwelling or an undeveloped residentially zoned lot. Homeowners are encouraged but not required to setback fences at least two (2) feet from an abutting lot line in order to allow for maintenance over the long-term, however, no fence shall be located closer than three (3) feet from an adjoining residence.
- (7) A fence shall not be constructed out of fabric, junk, junk vehicles, appliances, tanks, or barrels.
- (8) Electric, barb, and razor fences are prohibited in all residential districts and on all properties abutting residential and commercial properties. They are permitted within industrial districts provided they adhere to and contribute to height regulations.
- (9) Fences are only permitted as an accessory structure with permitted uses and may not be placed on a vacant lot.

**(D) Walls**

- (1) Engineered retaining walls necessary to hold back slopes are exempted from setback regulations and the regulations of this Section and are permitted by-right as needed in all districts.
- (2) In a residential district, a freestanding wall (other than a necessary retaining wall) shall have a maximum height no greater than four (4) feet within a required front yard or is within ten (10) feet of a lot line other than a required front yard or seven (7) feet in other locations.
- (3) A wall shall not be constructed out of fabric, junk, junk vehicles, appliances, tanks, or barrels. Elements of electric, barb and razor fences, as part of any wall structure, are prohibited in all zones.

**12.09 GRADE AND FILL REQUIREMENTS****(A) Permits**

- (1) A grading and fill permit is required for any project that is not otherwise covered by a building permit.
- (2) Commercial, Industrial and Planned Development
  - a) Grading/fill permits for a specific site/area within the designated district shall be issued administratively and are good for one year after the issuance date; excluding Development plans previously approved by the Planning Commission.
- (3) Residential
  - a) Grading/fill permits for regular grading/filling shall be issued to the property owner administratively and are good for one year after the issuance date.

**(B) Regular Grading/Filling (less than 2,000 cu. yd.) at a specific site and/or project.**

- (1) Plan Requirements

- a) General Vicinity Map

- i) Site drawing indicating the dimensions of the area of Grading/filling including the depths of the cut and/or fill. The total cubic yard amount of dirt being disturbed and/or added shall be indicated. Dimensions to all property lines and building/structures on the property. Structures on a neighboring property shall be indicated when closer than 100 ft. to the work area.
- ii) List of all clean fill material being placed on site (i.e., borrow soil, stone, rock, asphalt, concrete, sand, gravel, earth, topsoil and/or other appropriate and acceptable materials).
- iii) Erosion control and re-vegetation plan.
- iv) All fill material placed on site shall be graded within fourteen (14) days of its placement on site.

**(C) Engineered Grading (more than 2,000 cu. yd.) at a specific site and/or project.**

**(1) Plan Requirements**

- a) General Vicinity Map
  - i) Site drawing indicating the dimensions of the area of Grading/filling including the depths of the cut and/or fill. The total cubic yard amount of dirt being disturbed and/or added shall be indicated. Dimensions to all property lines and building/structures on the property. Structures on a neighboring property shall be indicated when closer than 100 ft. to the work area.
  - ii) List of all clean fill material being placed on site (i.e., borrow soil, stone, rock, asphalt, concrete, sand, gravel, earth, topsoil and/or other appropriate and acceptable materials).
  - iii) Erosion control and re-vegetation plan.
  - iv) All fill material placed on site shall be graded within fourteen (14) days of its placement on site.
  - v) Soils Engineering Report and Plan.

**12.10 LANDSCAPING**

**(A) Intent**

It is the intent of this Article to encourage the preservation of existing trees and vegetation; to identify landscape standards and plant classifications; to reduce radiant heat from surfaces and conserve energy; to provide shade; to reduce wind and air turbulence; to minimize potential nuisances such as the transmission of noise, dust, odor, litter, and glare of automobile headlights; to provide visual buffering and to provide for the separation of spaces; to enhance the beautification of the City; to reduce the amount of imperious surface; to reduce stormwater runoff; to safeguard and enhance property values and to protect public and private investment; and, to protect the public health, safety, and general welfare.

**(B) Applicability**

These landscape regulations shall apply to multi-family developments consisting of more than two units, commercial, office, industrial, and institutional development. Previously approved development need not comply unless new site development approval is being sought.

**(C) Preservation of Existing Vegetation**

Existing vegetation shall be retained and maintained whenever possible so as to permit such vegetation to contribute to landscaping requirements. Such retained vegetation may receive partial

or total credit towards planting requirements within the buffer. This requirement does not preclude vegetation lost in the construction of those improvements shown on the subdivision or site plan.

#### **(D) Maintenance of Landscaping and Screening**

All vegetative and other screening devices required by this Article shall be maintained so as to continue their effectiveness. Any required plantings which die or otherwise fail to satisfy the requirements of this Article shall be replaced by the developer, or the successors to the developer, with equal or similar species and size.

#### **(E) Landscape Standards and Plant Classifications**

- (1) Plant materials used in conformance with the provision of this Chapter shall conform to the standards of the American Association of Nurserymen and shall have passed any inspection required under state regulations. Trees shall be balled and burlapped or in containers. Shrubs, vines, and ground covers can be planted as bare root as well as balled and burlapped or containers. All trees shall be measured from the top of the root ball to the top of the tree mass.
- (2) After cultivation, all plant materials shall be mulched with a two (2) to three (3) inch layer of shredded bark, peat moss, or another suitable material over the entire area of the bed.
- (3) The owner of the premises shall be responsible for the maintenance, repair, and replacement of all landscaping materials on the premises at the owner's expense. All landscape areas shall be kept free of refuse and debris. Fences, walls, and other barriers shall be maintained in good repair. It is the responsibility of each private property owner to remove any dead, diseased, or dangerous trees or shrubs, or parts thereof, which overhang or interfere with line of sight, traffic control devices, public sidewalks, rights-of-way, or property owned by the City. The City shall have the authority to order the removal of any such trees or shrubs.

##### **(4) Large Shade Trees**

Large shade trees must be a locally adapted species with an expected mature height of thirty-five feet or greater and an expected mature crown spread of at least thirty feet or greater. Large shade trees, existing or planted, must be a minimum of 8 feet high, and have a minimum caliper of 2 inches measured 6 inches above grade. Shade trees may be deciduous or evergreen. In the case of overhead utility lines, relief from the large shade tree requirement may be granted by the Planning Director.

##### **(5) Small Trees**

All required small trees must be a minimum of 8 feet high and have a minimum caliper of 1-1/2 inches measured 6 inches above grade. When mature, small trees should be 10 to 15 feet or higher. Small trees may be deciduous or evergreen.

##### **(6) Shrubs**

Upright shrubs must be a minimum of eighteen (18) inches tall when planted and must reach a minimum height of thirty (30) inches within two (2) years. All shrubs must have a minimum spread of twelve (12) to fifteen (15) inches when planted. At least fifty (50) percent of the required shrubs must be evergreen.

##### **(7) Groundcover**

All required groundcover type plants must be a minimum of one and one-half (1-1/2) to two and one-half (2-1/2) inch pots with a four (4) inch minimum length. Groundcover must be planted with on-center spacing equivalent to the average mature spread for each particular species.

(8) All portions of the landscaping area not planted with shrubs and trees or covered by a wall or other screening device shall be planted with ground cover and/or grass or covered with a natural mulch with a minimum depth of two (2) inches.

**(F) Buffer and Screening Requirements**

- (1) New non-residential and/or multi-family development adjacent to single-family residential property (existing or zoned) shall provide a landscape buffer yard ten (10) feet wide planted with eight (8) large shade trees and ten (10) shrubs per one hundred (100) lineal feet of buffer yard between the non-residential or multi-family uses and single-family residential uses. Nothing shall be construed that this requirement shall dictate layout of landscaping material. The entire length shall be evaluated and required material provided. This requirement may supersede the minimum setback requirement for the zoning district. Preservation of existing vegetation is preferred.
- (2) The use of a ten (10) foot landscaped buffer area shall remain the preferred method of buffering non-residential and multi-family residential developments from single-family residential uses. However, where a natural buffer strip is considered to be impracticable or inappropriate, an opaque fence at least six (6) feet in height so as to continually restrict a clear view beyond said buffer yard may be substituted in whole or in part for a natural buffer provided its specifications are approved by the Planning Director.
- (3) Non-residential or multi-family developments existing at the time of adoption of this Ordinance are exempt from this requirement except as follow undeveloped properties, expansions of more than forty (40) percent of existing floor area and rezoned.
- (4) An earth berm may be used in combination with any of the above types of screening, but not more than two-thirds (2/3) of the required height of such screening may be provided by the berm. The berm shall be installed with a slope of 1:3 and a minimum crest of two (2) feet.
- (5) All screening shall follow the lot line of the lot to be screened or be so arranged within the boundaries of the lot as to substantially hide from adjoining properties the building, parking, loading areas, or other activity required to be screened.
- (6) In all districts, garbage cans and trash receptacles must be suitably screened from view from adjacent streets or properties prior to garbage pick-up.
- (7) Modifications. Under conditions where a strict interpretation of requirements may be either physically impossible or create practical difficulties, an alternative compliance procedure may be used to maintain the spirit—rather than the letter—of the law. The proposed solution must equal or exceed standard landscaping requirements as a percentage landscaped area. Requests to the Planning Director for use of alternative landscaping schemes may be justified only when one (1) or more of the following conditions apply:
  - a) The sites involve space limitations or unusually shaped parcels.
  - b) Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical.
  - c) Due to a change of use of an existing site, the required buffer yard is larger than can be provided.
  - d) Existing utility lines or easements complicate the placement of required plant materials.
  - e) Low impact development designs to meet Stormwater requirements are being used on the site. These may include items such as rain gardens, bio-swales, and similar treatments.
  - f) The applicant must provide a justification statement that describes which of the requirements established by the Landscaping Ordinance will be met with modifications, which project

conditions justify using alternatives, and how the proposed measures equal or exceed normal compliance.

- (8) Where compliance is required as a result of change in use or expansion of an existing building and compliance with this Section will necessitate removal of existing pavement, the Planning Director may approve a reduction of minimum planting areas, provided that proposed plantings, screens, and other landscape features are substantially equivalent to the minimum requirements in terms of landscaping.
- (9) After initial approval of the landscape plan the Planning Director may approve any substitute landscape proposal/landscaping material equivalent to the approved landscape plans.

#### **(G) Parking Lot Landscaping Standards**

- (1) The following landscape requirements applied to parking lots are intended to screen parking areas from the street, prevent large expanses of unbroken paving, and provide shade to cool paved areas during the hot summer months.
- (2) Perimeter Requirements
  - a) Where a parking area borders an abutting property line, a landscaped strip with a minimum width of six (6) feet shall be located between the parking area and the property line, except where driveways or other access points occur. At least one large shade tree shall be planted every 60 feet in the landscaped strip and a continuous hedgerow consisting of one shrub per every three (3) linear feet, with a maximum height of 3.5 feet at maturity shall be provided. This subsection shall apply to major land developments only.
  - b) Where perimeter landscaping required by this Section conflicts with the buffer yard requirements, the more stringent requirements shall apply.
- (3) Interior Coverage Requirements
  - a) All rows of parking spaces, when a lot contains twenty (20) or more parking stalls, shall be provided a terminal island with concrete curbs and at least one hundred thirty (130) square feet of area to protect parked vehicles, provide visibility, confine moving traffic to aisles and driveways, and provide space for landscaping.
  - b) Landscaped islands with concrete curbs and at least one hundred thirty (130) square feet of area shall be provided every fifteen (15) spaces or less within a row of spaces for commercial developments. Planting islands should be evenly spaced throughout the parking lot to consistently shade paved areas. Islands shall be utilized where needed to control vehicular circulation and define major drives.
  - c) To prevent cars from parking too close to trees or damaging shrubs, an extended curb or wheel stop must be provided. Planting islands parallel to parking spaces must be a minimum of five (5) feet wide to allow car doors to swing open.
- (4) Street Frontage Planting Requirements
  - a) In addition to the requirements of Sections 2 and 3 above, landscaping shall be provided along all property boundaries abutting the right-of-way of any street.
  - b) A landscaping strip five (5) feet in width shall be located along the right-of-way except where driveway or other openings may be required.
  - c) One tree shall be planted for each thirty (30) linear feet of the landscaping strip in addition to other planting materials.

## **12.11 PARKING AND LOADING STANDARDS**

### **(A) General Regulations**

- (1) Off-street parking, loading, and unloading facilities shall be provided in accordance with the specifications of this article in any district for uses that are established, enlarged or extended onto any lot after the effective date of this Ordinance.
  - a) All parking areas established prior to the effective date of this chapter that are not in conformance with all provisions of this article shall be allowed to continue as previously laid out. When an expanded use results in an increase of more than ten (10) percent in the number of currently required spaces, additional parking must be provided in accordance with the standards of this article.
  - b) The facilities required herein shall be available throughout the hours of operation of the particular business or use for which such facilities are provided.
  - c) As used herein, the term "parking space" includes either covered garage space or uncovered parking lot space located off or beyond the public right-of-way.
- (2) Required parking areas shall be available for the parking of operable vehicles of residents, customers, and employees, and shall not be used for the storage of vehicles or materials, or for the parking of vehicles used for loading or unloading, or in conducting the use.
  - a) Off-street loading space shall be provided for all retail business, wholesale, and industrial uses as well as for any expansion of such uses or change in use requiring the regular delivery or shipping of goods, merchandise, or equipment to the site by trucks, in accordance with the requirements of this Article.
  - b) Required loading space shall be available for the loading and unloading of vehicles and shall not be used for the storage of vehicles or materials, or to meet off-street parking requirements, or in conducting the use.

### **(B) Minimum Off-Street Parking Requirements**

- (1) For the purposes of this Section, the number of employees shall be the number of persons employed on the largest shift.
- (2) In the case of a land use classification not listed, the minimum parking space requirement shall be determined by the Planning Director. In making such determinations, the Planning Director shall be guided by the requirements for similar uses, the number and kind of vehicles likely to be attracted to the use, and studies of minimum parking space requirements for such use in other jurisdictions.
- (3) The minimum number of off-street parking space requirements for all land uses identified in this Ordinance are included in Table 3, Off-Street Parking Requirements.

**Table 3. Off-Street Parking Requirements**

Land Use	Minimum Off-Street Parking Requirement
Accessory Dwelling Unit	No additional spaces required. See 10.01 (G).
Animal Clinic and Hospital	2 spaces for every doctor and 1 space for each additional employee
Animal Grooming Service	1 space per 250 sf of GFA
Animal Kennel	3 spaces per 1,000 sf of GFA
Animal Shelter	1 space per employee and 1 space per 400 sf of GFA in enclosed buildings
Art Gallery	2 spaces per 1,000 sf of GFA
Artist Studio	1 space per studio
Assisted Living Center	0.5 spaces for each unit
Automobile Repair Facility	1 space per service bay and 1 space per employee
Automotive Rentals/Sales	2 spaces per 1,000 sf of GFA in enclosed sales area, 1 space per 2,500 sf of GFA in open sales area, 2 spaces per service bay, and 1 space per employee (minimum 5 spaces required)
Automotive Supply	2.5 spaces per 1,000 sf of GFA and 1 space per employee
Bar/Nightclub	1 space per 4 persons at maximum occupancy
Boarding House	1 space per leased bedroom and 1 space for owner
Building Materials	5 spaces per 1,000 sf of sales area GFA and 1 space per employee
Car Wash/Detailing	1 space per employee and 1 drying/2 stacking spaces per washing space (washing spaces shall not be counted toward the requirements)
Cemetery/Crematory	1 space per employee and parking spaces along internal drives
Club or Lodge	1 space per 4 persons at maximum occupancy
Community Center	3 spaces per 1,000 sf of GFA and 1 space per employee
Composting Operation	1 space per employee
Conference Center	1 space per 3 employees and 1 space per 4 persons at maximum occupancy of each banquet/meeting room
Country Club	1 space per 5 members
Dance/Social Club	1 space for every 4 persons at maximum occupancy and 1 space per employee
Day Care Facility, Adult	1 space per 4 clients and 1 space per employee
Day Care Facility, Child	1 space per employee and 1 space per 5 children
Distribution Center	1 space per employee and 1 space per vehicle used in the operation of the distribution center

Land Use	Minimum Off-Street Parking Requirement
Driving Range, Golf	1 space per 2 employees and 1 space for every 1.5 tees
Dry Cleaning and Laundry Pick-Up	1 space per employee
Dry Cleaning and Laundry Service	3 spaces and 1 space per employee
Dwelling, Mixed-Use	1.5 spaces per dwelling unit plus, required spaces for non-residential use
Dwelling, Multi-Family	1 bedroom – 1 space per unit 2 bedroom – 1.6 spaces per unit 3 bedroom – 1.8 spaces per unit 4 bedroom – 2 space per unit For each additional bedroom add 0.5 spaces
Dwelling, Single-Family	2 spaces per unit
Dwelling, Two-Family	1.5 spaces per unit
Emergency Shelter	1 space per employee and 0.5 spaces per 10 beds
Equipment Rental/Sales	1 space per 1,000 sf of GFA
Family Day Care Home	Required perking for residential use plus, 2 spaces
Farmer's Market	1 space per 100 sf of GFA
Financial Service (Bank)	4 spaces per 1,000 sf of GFA, 4 stacking spaces per drive-through lane, and 1 space per employee
Flea Market	1 space per 200 sf of GFA
Funeral Home	1 space per 4 persons at maximum occupancy
Garden Center	2.5 spaces per 1,000 sf of GFA
Gasoline Service Station (without convenience store)	3 spaces per 1,000 sf of enclosed floor area and 1 pace per every 2 service bays
Gasoline Service Station (with convenience store/mini-mart)	1.5 spaces per fuel nozzle, 3 spaces per 1,000 sf of enclosed floor area, a 1 space per 2 service bays
Golf Course	1 space per 2 employees and 2 spaces per golf hole
Greenhouse, Commercial	1 space per 3 employees and 1 space per 125 sf of enclosed sales area
Grocery Store	4.5 spaces per 1,000 sf of GFA
Group Home	1 space per employee and 1 space per 5 residents (or, if residents are unable to drive, 1 space per 1,000 sf of GLA)

Land Use	Minimum Off-Street Parking Requirement
Health/Sports Club	5 spaces per 1,000 sf of GFA
Heavy Machinery Sales	2 spaces per 1,000 sf of GFA in enclosed sales area, 1 space per 2,500 GFA in open sales area, and 1 space per employee
Heliport or Helipad	1 space per employee, 1 space per vehicle used in the operation, and sufficient space to accommodate that number of vehicles during peak hours
Home Improvement Center	1 space per 250 sf of GFA
Home Occupation	Applicable dwelling unit requirements
Hospital	1 space per 4 patients at designed capacity and 1 space per employee
Hotel	1 space per room or suite, one space per three employees, and 1 space per 3 persons at maximum occupancy of the largest banquet/meeting room
Industrial Equipment Repair	1 space per 2 employees and 2 space per 1,000 sf of floor area open to the public
Industrial Park	1 space per employee, 1 space per vehicle used in the operation of the industry, and 10 customer/visitor spaces
Industrial Supplies	2 spaces per 1,000 sf of GFA and 1 space per employee
Industry, Heavy	1 space per employee, 1 space used in the operation of the industry, and 5 customer/visitor spaces
Industry, Light	1 space per employee, 1 space used in the operation of the industry, and 5 customer/visitor spaces
Instructional Studio	3 space per 1,000 sf of GFA
Laboratory	4 spaces per 1,000 sf of floor area up to 20,000 sf; 2 additional spaces required per 1,000 sf over 20,000 sf
Laundromat	5 spaces per 1,000 sf of GFA
Limited Video Lottery Establishment	1 space per 4 persons at maximum occupancy
Manufactured Housing Sales	1 space per 2,000 sf of sales area
Manufacturing, Heavy	1 space per employee, 1 space used in the operation of the industry, and 5 customer/visitor spaces
Manufacturing, Light	1 space per employee, 1 space used in the operation of the industry, and 5 customer/visitor spaces
Medical Clinic	1 space per exam room and 1 space per employee (includes doctors)
Mineral Extraction/Processing	1 space per employee, 1 space used in the operation of the industry
Motel	Same as "Hotel"
Motorcycle Sales	1.5 spaces per 1,000 sf of display area GFA
Movie Theater, Indoor	1 space per 4 seats

Land Use	Minimum Off-Street Parking Requirement
Nursery, Plant	1 space per employee and 1 space per 400 sf of GFA
Nursing Home	1 space per 4 beds and 1 space per employee
Office Building	3 spaces per 1,000 sq. ft. of floor area up to 20,000 sq. ft.; plus 2 spaces per 1,000 sq. ft. of floor area greater than 20,000 sq. ft.
Office Park	per 1,000 sq. ft. of floor area up to 20,000 sq. ft.; plus 2 spaces per 1,000 sq. ft. of floor area greater than 20,000 sq. ft.
Oil/Gas Extraction	1 space per employee and 1 space per vehicle used in the operation of the industry
Passenger Station, Motor Bus, Railroad	1 space per 4 persons at maximum capacity
Personal Services	1 space per 250 sf of GFA
Pharmacy	2.5 space per 1,000 of GFA
Place of Worship	1 space per 4 fixed seats and 1 space per 60 sf of the main assembly where no fixed seats are present
Printing/Publishing	1 space per employee and spaces to accommodate all trucks and loading vehicles (not less than 1 space per 100sf)
Professional Services	3 spaces per 1,000 sf and 1 space per employee
Public Park and Recreation Facility	1 space per 1,000 sf of indoor area and 5 spaces per acre of outdoor area
Recreational Facility, Commercial Outdoor	1 space per employee and 5 spaces per acre of outdoor area
Recreation Facility, Commercial Indoor	1 space per employee and 1 space per 300 sf GFA
Recyclable Collection Center/Solid Waste Transfer Station	1 space per employee
Redevelopment of Closed Church or School	Required spaces for new use(s)
Research and Development Center	per 1,000 sq. ft. of floor area up to 20,000 sq. ft.; plus 2 spaces per 1,000 sq. ft. of floor area greater than 20,000 sq. ft.
Drive-Through Restaurants	1 space per 75 sf of GFA, 1 space per 2 employees, and 7-8 stacking spaces per drive-through window; a restaurant that has a pick-up window only (no menu board and ordering done ahead of time) requires 2-3 stacking spaces per pick-up window
Sit-Down Restaurants (No Drive-Through)	1 space per 65 sf of GFA

Land Use	Minimum Off-Street Parking Requirement
School	
Nursery/Kindergarten	1 space per classroom and 1 space per employee
Elementary/MS	1 space per classroom and 1 space per employee
HS /Technical/Trade	1 space per 5 students and 1 space per employee
College/University	1 space per 5 students and 1 space per employee
Self-Storage Facility	4 spaces per 100 units and sufficient aisle widths to allow parking in front of storage units without impeding traffic circulation
Sexually Oriented Business	1 space per 200 sf of GFA
Shopping Center, Large Scale	1 space per 300 sf of GFA
Shopping Center, Medium Scale	1 space per 250 sf of GFA
Shopping Center, Small Scale	1 space per 200 sf of GFA
Snack Bar/Snack Shop	1 space per 3 seats and 1 space per 2 employees
Sporting Goods	3 spaces per 1,000 sf of GFA
Telecommunications Tower	1 space for maintenance
Transient Amusement Enterprise	5 spaces per sf of GFA and 1 space per 3 persons at outdoor design capacity
Truck Terminal	1 space per employee and 1 space per vehicle used in operation
Water Port Terminal	1 space per employee and 1 space per vehicle used in the operation of the industry and 5 customer/visitor spaces
Utility Service Facility	1 space per 4 employees
Warehouse and Distribution	1 space per employee and 1 space per vehicle used in the operation of the warehouse
Wholesale Establishment	1 space per employee and 3 spaces per 1,000 sf of sales floor open to the public
Wrecker Service	1 space per employee and 1 space per vehicle used in operation

**(C) Parking Requirement Exemptions**

- (1) The following properties shall be exempted from adhering to the requirements in this Article:
  - a) All lots within the C-1 Downtown Business District.
  - b) All lots that have frontage on Main Street between Virginia Avenue and Market Street.
  - c) All lots that have frontage on West Street and/or Washington Street.
- (2) Whenever there exists a lot with one or more buildings on it, constructed before the effective date of this Ordinance, and a change in use that does not involve any enlargement of a building is proposed for such lot, and the parking requirements that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practically be used for parking, then the developer need only comply with the requirements to the extent that (1) parking space is practically available on the lot where the development is located, and (2) satellite parking space is reasonably available. However, if satellite parking space is not available, then it shall be a continuing condition of the permit authorizing development on such lot that the developer obtain satellite parking when it does become reasonably available.
- (3) If as the result of land being taken, a reduction of parking spaces occurs as the result of the following conditions:
  - a) Involuntary land acquisition by the state or municipal government through the invocation of eminent domain; or
  - b) Voluntary land transfer to the state, county, or municipal government in the interest of a public project; and
  - c) The land acquisition results in the existing use being unable to meet the current parking standards; the use shall be deemed an existing non-conforming use and shall be regulated by Article 8. In addition, the future parking requirements for any change to another permitted land use for the zoning district shall be based on the parking spaces existing at the time of the acquisition. This credit for lost parking spaces from the acquisition shall not exceed 20% of the new total parking requirement.
  - d) The burden of proof and documentation thereof of the total number of existing parking spaces shall rest upon the owner of the property being transferred and shall be submitted to the City at the time of conveyance.

**(D) Parking Requirement Reductions**

- (1) All required parking or loading spaces shall be located on the same zoning lot as the Principal Use(s) it serves, except as provided below.
- (2) Satellite Parking. In lieu of actual construction of required on-site parking spaces, all or any portion of the off-street parking required in this Article may be provided by satellite parking.
  - a) Required parking for use(s) on a zoning lot may be located on another zoning lot, either by itself or combined with parking for other uses, subject to certification by the Planning Director that the following requirements have been met:
    - i) The use being served by the off-site parking shall be a permitted Principal Use, as established in Article 9, in the zoning districts within which the zoning lot containing such parking is located;
    - ii) The off-site parking spaces shall be located within three hundred (300) feet walking distance of a public entrance to the structure or zoning lot containing the use for which such spaces

are required. A safe, direct, attractive, lighted, and convenient pedestrian route shall exist or be provided between the off-site parking and the use being served; and,

- iii) The continued availability of off-site parking spaces necessary to meet the requirements of this section shall be ensured by an appropriate condition that the continued validity of the zoning compliance or conditional use permit shall be dependent upon the permit holder's continued ability to provide the requisite number of parking spaces.

(3) Reduction by Variance. A reduction of up to twenty (20) percent of the minimum number of required parking spaces may be permitted through the granting of a variance by the Board of Zoning Appeals if, based on substantial evidence in the record of its proceedings, the Board finds that compliance with the full minimum off-street parking space requirements of this Section would not be warranted for the particular use(s) and site.

(4) Shared Parking. Up to one-half of the parking spaces required for one (1) use may be used to satisfy the parking requirements for a second use on the same zoning lot, subject to certification by the Planning Director; provided that the peak usage of the parking facility by one (1) use will be at night or on Sundays (such as with theaters, assembly halls, or churches), and the peak usage of the parking facility by the second use will be at other times.

- a) The developer shall provide a reciprocal parking and access easement agreement between the owners and operators of the facilities generating the need for common shared parking lots.
- b) Shared parking reductions are available for multiple uses on single or multiple adjacent lots under single ownership, and for multiple contiguous sites sharing parking facilities by use of a Shared Use Parking Agreement.
- c) The owner of the shared parking facility shall guarantee availability of all spaces needed to meet the minimum requirements of this Article.

#### **(E) Parking Design Standards**

All parking spaces and associated vehicle accommodation areas shall meet the following minimum design requirements:

- (1) All parking spaces and vehicle accommodation areas shall be surfaced with asphalt or concrete, which shall be maintained in a safe, sanitary, and neat condition.
- (2) Off-street parking pads shall be permitted for single-family and two-family dwellings, as long as they meet the following requirements:
  - a) Parking pads shall meet the requirements of 12.10.E.(1).
  - b) Parking pads shall allow for a dimension of at least 10' x 20' in size for each vehicle.
- (3) Except for single-family and two-family dwellings or for attendant parking, each parking space shall be arranged so that any vehicle may be parked and removed without moving another vehicle.
- (4) Except for single-family and two-family dwellings, parking spaces shall be provided with adequate aisles or turnaround areas so that all vehicles may enter adjacent streets in a forward manner.
- (5) No parking area or vehicle accommodation area shall be located within a street right-of-way. Parked vehicles in off-street parking spaces shall be prevented from intruding on travel lanes, walkways, public streets, sidewalks, or adjacent properties by means of walls, curbs, wheel stops, or other appropriate means.

- (6) No stacking lane required for vehicles awaiting service shall be located such that it creates interference with the use of the abutting street(s) or with travel lanes or aisles of the vehicle accommodation area.
- (7) The size of parking spaces shall be adequate for the safe parking of vehicles and vehicle accommodation areas shall be provided so that parking and backing-up can be accomplished in one continuous maneuver.
- (8) Parking facilities shall be designed to connect with similar facilities on adjacent zoning lots where appropriate to eliminate the need to use the abutting street(s) for cross movements.
- (9) Curbed islands shall be required at the ends of and between parking aisles for traffic control and drainage control for all new non-residential development in excess of 10,000 gross square feet.
- (10) All off-street parking facilities shall be provided with a drainage system meeting the design standards contained in this Article.
- (11) Adequate provision shall be made for the ventilation of and dispersion and removal of smoke and gases from above-ground and below-ground parking structures.
- (12) All parking spaces shall be delineated with painted lines.

#### **(F) Design Standards for Handicapped Parking Spaces**

- (1) Parking facilities designed to accommodate ten (10) or more vehicles shall provide, as part of the required number of parking spaces, one (1) handicapped parking space for every twenty-five (25) parking spaces, or fraction thereof. Such spaces shall be defined with pavement marking and a sign, and clearly reserved for exclusive use by handicapped persons.
- (2) Each required handicapped parking space shall be ten (10) feet by twenty (20) feet. In addition, each space shall be adjacent to a five (5) foot wide access aisle. The access aisle may be shared by two (2) handicapped spaces by being placed between them. However, one (1) out of every six (6) required handicapped parking spaces shall be van accessible and have an adjacent access aisle of eight (8) feet instead of five (5) feet.
- (3) Handicapped parking spaces shall be located in areas of less than five (5) percent slope in any direction.
- (4) All required handicapped spaces shall be well-marked by clearly visible signs or blue pavement markings illustrating the universal handicapped parking logo.

#### **(G) Design Standards for Parking Lot Spaces**

- (1) An off-street parking space shall include a rectangular area with a length of eighteen (18) feet and a width of nine (9) feet, exclusive of access drives, aisles, ramps, columns, or outdoor work areas. Such space shall have a minimum vertical clearance of eight (8) feet.
- (2) A motorcycle parking space shall include a rectangular area with a length of eight (8) feet and a width of four (4) feet. Such space shall have a minimum vertical clearance of eight (8) feet.
- (3) An off-street parking space designed for parallel parking shall include a rectangular area with a length of twenty (20) feet and a width of nine (9) feet.
- (4) Parking aisles between parking spaces shall be required to comply with the standards contained in Table 4, Dimensions and Angles of Parking Spaces.

**Table 4. Dimensions and Angles of Parking Spaces**

Parking Angle (in degrees)	Aisle Width (in feet)	Aisle Traffic Flow
45°	13'	One-way
60°	16'	One-way
90°, or angled parking opening onto two-way aisles	20'	Two-way
Parallel	12'	One-way

**(H) Loading Space Design Standards**

- (1) Uses and buildings with a gross floor area of five thousand (5,000) square feet or more shall provide off-street loading spaces in accordance with Table 5, Required Loading Spaces provided that loading spaces shall not be required for uses, which do not receive or transmit goods or wares by truck delivery.
- (2) The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development.
- (3) All loading spaces and associated vehicle accommodation areas shall meet the following minimum design requirements:
  - a) Off-street loading spaces shall be located and arranged so that a semi-trailer truck shall be able to gain access to and use such spaces by means of one (1) continuous parking maneuver beginning at a public right-of-way.
  - b) A loading space shall observe the minimum setbacks established for structures in Article 10 of this Ordinance.
  - c) All loading spaces and vehicle accommodation areas shall be surfaced with asphalt or concrete which shall be maintained in a safe, sanitary, and neat condition.
  - d) No loading space shall be located so that a vehicle using such space intrudes on travel lanes, walkways, public or private streets, sidewalks, or adjacent properties.
  - e) Each required off-street loading space shall have a minimum width of twelve (12) feet, a minimum length of fifty-five (55) feet, and a vertical clearance of fourteen (14) feet above finished grade of the space.

**(I) Off-Street Loading Space Requirements**

The number of off-street loading spaces required by this Section shall be considered as the minimum, and the number of spaces specified in the table below shall be provided.

**Table 5. Required Loading Spaces**

Land Use Description	Floor Area in Square Feet	Number of Loading Spaces Required
<b>Manufacturing, distribution, wholesaling, storage, and similar uses</b>	5,000 - 25,000	1
	25,001 - 60,000	2
	60,001 – 100,000	3
	Each 50,000 above 100,000	1
<b>Office Buildings, hotels and motels, retail sales, hospitals, institutions, and similar uses</b>	5,000 – 60,000	1
	60,001 – 100,000	2
	Each 20,000 above 100,000	1

## **12.12 REFUSE CONTAINMENT AND MECHANICAL EQUIPMENT**

- (A) Residential Districts:** Trash containers, mechanical equipment shall be located in the side or rear yard and shall be screened from view. See Section 12.10(E) for screening requirements.
- (B) Non-residential Districts:** Trash containers and mechanical equipment, loading docks, loading facilities, and outdoor storage as a conditional use shall be located in the side or rear yard and shall be screened from view. Mechanical equipment for non-residential uses shall be setback a minimum of three (3) feet from the property line. See Section 12.10(E) for screening requirements.

## **12.13 SIGN REGULATIONS**

- (A) Intent**
  - (1) The purpose of this Section is to regulate the size, color, illumination, movement, materials, location, height, and condition of all signs placed on private property for exterior observation to ensure that:
    - a) Public safety and traffic safety hazards are prevented and mitigated;
    - b) Standards exist by which conforming signs will enhance the aesthetic appearance of the City of Weirton, creating an attractive environment that fosters local pride, protects property values, and entices economic development; and
    - c) Signs may adequately and effectively communicate information while fitting appropriately into the visual landscape of the area in which they are located, avoiding conflicts, clutter, and confusion.
  - (2) This Section must be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this article is found by a court of competent jurisdiction to be invalid, such a finding must not affect the validity of other provisions of this article which can be given effect without the invalid provision.
  - (3) These regulations are not intended to and do not apply to signs erected, maintained, or otherwise posted, owned, or leased by the State of West Virginia, Brooke County, Hancock County, the

federal government, or the City of Weirton. The inclusion of “government” in describing some signs does not intend to subject the government to regulation, but instead helps illuminate the type of sign that falls within the immunities of the government from regulation.

## **(B) General Sign Regulations**

### **(1) Sign permit requirement and application**

- a) It is unlawful for any person to erect, construct, enlarge, alter, move, or convert any sign in the City of Weirton or cause the same to be done, without first obtaining a sign permit for each sign.
- b) Applications for a sign permit shall be made in writing to the Planning Director and shall be accompanied by such information as may be required to assure compliance with these regulations and all other appropriate ordinances and regulations of the City of Weirton.
- c) Sign permits shall be issued for the life of the sign, or any shorter period as stated on the approved permit application. However, any permit may be revoked at any time by the Planning Director upon finding that the sign violates any provision of this Article or that the permittee made false representations in securing the permit.
- d) No person shall erect, construct, or maintain any sign upon any property, structure or building without the prior written consent of the owner or person entitled to possession of the property, structure or building, or his authorized representative. The written consent must accompany the sign permit application.
- e) Every sign permit issued shall become null and void if installation is not commenced within one hundred eighty (180) days from the date of such permit.

### **(2) Permit Exemptions**

The following signs shall be exempt from the permit requirements of this Article, except as they may interfere with traffic safety or in any other way become a public safety hazard.

- a) Signs or decorations displayed for recognized holidays.
- b) Memorial plaques or historic markers or other similar signs, which are engraved or a permanent component of a building, monument, tombstone, or other similar structure, and not exceeding two (2) square feet in area.
- c) Public information signs.
- d) House number or nameplate identifying the occupant or address of a structure and not exceeding two (2) square feet in area.
- e) Political Signs
- f) Real estate sign which is six (6) square feet or less in surface area and is five (5) feet or less in height, provided that there shall be no more than one such sign for any street frontage and such sign shall not project beyond the property line. The sign shall advertise the building or property on which the sign is located and must be located so as not to obstruct or interfere with the view of drivers on public roads or those accessing the property.
- g) Signs for any business or facility which has been designated:
  - i) as an “attraction “by the United States Department of Transportation (USDOT) and/or the West Virginia Department of Highways (WVDOH); or
  - ii) as an historic landmark by the federal or state landmark commission.

Provided, however, the business or facility is located in Hancock or Brooke Counties and such signage is part of a city endorsed program or project.

- h) Temporary signs, provided that a temporary sign shall be displayed for a period not to exceed thirty (30) days per calendar year. Real Estate Signs are exempt from the 30 days per calendar year time restriction.

**(3) Sign Height**

- a) The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. The height of a sign may not be artificially raised by raising the ground level under the sign.
- b) Normal grade shall be construed to be the lower of (1) existing grade prior to the construction or (2) the newly established grade after construction, exclusive of any filling, berthing, mounding, or excavating solely for the purpose of locating the sign.
- c) In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of land at the principal entrance to the principal structure on the lot, whichever is lower.

**(4) Computation of Area of Individual Signs**

- a) **Wall Signs**
  - i) For a wall sign which is framed, outlined, painted, or otherwise prepared and intended to provide a background for a sign display, the area and dimensions shall include the entire portion within such background or frame.
  - ii) For a wall sign comprised of individual letters, figures, or elements on a wall or similar surface of the building or structure, the area and dimensions of the sign shall encompass a regular geometric shape (rectangle, circle, trapezoid, triangle, etc.), or a combination of regular geometric shapes, which form, or approximate, the perimeter of all elements in the display, the frame, and any applied background that is not part of the architecture of the building.
- b) **Freestanding Signs**
  - i) For a freestanding sign, the sign area shall include the frame, if any, but shall not include the pole or other structural support unless such pole is internally illuminated or otherwise so designed to constitute a display device, or a part of a display device.
  - ii) The area shall not include any architectural features that are either part of the building or part of a freestanding structure, and not an integral part of the sign, and which may consist of landscaping, building, or structural forms of complementing the site in general.
- c) **Window Signs**
  - i) Neither temporary nor permanent signs shall fully obscure the visibility of the store interior or its merchandise displays.
  - ii) All window signs shall be included in the total allowable sign area.
  - iii) Window signs shall not exceed ten (10) percent of each individual window up to a maximum of eight (8) square feet per window and a total of twenty-five (25) square feet per building façade.
  - iv) Messages shall be placed only within the top twenty-five (25) percent or bottom twenty-five (25) percent of a window.
  - v) All window lettering/window signs shall require issuance of an appropriate sign permit.

**(5) Computation of Maximum Total Permitted Sign Area for a Lot**

The permitted sum of the area of all individual signs shall be permitted in accordance with Tables 7, 8, and 9 of this Article. Lots fronting on two or more streets are allowed the permitted sign area for each street frontage. However, the total sign area that is oriented toward a particular street may not exceed the portion of the lot's total sign area allocation that is derived from the lot, building, or wall area frontage on that street. In no case shall the maximum aggregate sign area exceed 200 square feet per parcel with the exception of 12.13(E).

**(6) Sign Placement**

Signs shall be subject to the placement requirements in Tables 7, 8, and 9 of this Article, but in no event shall any sign be placed in a position that will obstruct the view of motorists or cause any other danger to motorists or pedestrians within a public right-of-way or on adjoining lots. Nor shall any sign be placed within the clear vision triangle required to be maintained at all street intersections, driveway, and access way entrances onto public streets. All signs shall be set back within the buildable area of the site, except as noted in Tables 7, 8, and 9.

**(7) Design, Construction, and Maintenance**

All signs shall be designed, constructed, and maintained in accordance with the City Building Code. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this Ordinance, at all times.

**(8) Prohibited Signs**

Unless specifically noted otherwise in this Article, the following signs shall be prohibited in all zoning districts:

- a) Signs affixed to trees, utility poles, fences, or equipment.
- b) Signs which by reason of their size, location, movement, content, coloring, or manner of illumination may be confused with or construed to be a traffic-control sign.
- c) Any sign determined to be unsafe or insecure or that is erected in violation of the provisions of this Ordinance.
- d) Portable roadside/marquee signs.
- e) All off-premise signs.

**(C) Signs Permitted in Individual Zoning Districts**

- (1) Signs in residential districts shall be subject to the time, place and manner regulations found in Table 7.
- (2) Signs in commercial districts shall be subject to the time, place and manner regulations found in Table 8.
- (3) Signs in industrial districts shall be subject to the time, place and manner regulations found in Table 9.
- (4) In addition to the regulations in Tables 7, 8, and 9, all freestanding signs, except for temporary signs, shall comply with the following limitations and requirements:
  - a) A freestanding sign shall have no more than two (2) sign faces;
  - b) The area immediately surrounding the base and support structure of the sign shall be landscaped; and

- c) Freestanding ground signs shall be required in residential districts and shall be used instead of pole signs to the maximum extent practical or feasible in other districts.

**(D) Additional Standards for Dynamic Signs, Electronic Changing Message Signs, and Illuminated Signs.**

In addition to the regulations in Tables 7, 8, and 9, all illuminated signs shall meet the following requirements:

- (1) Limits on Degree of Internal Illumination. Any sign located adjacent to a dwelling unit or lot zoned for residential use shall be located, shielded, and screened to prevent direct light or glare onto a dwelling unit or residential lot.
- (2) External Illumination. Whenever external illumination is used for a sign, the source of light shall be located, shielded, screened, and directed in such a manner that the light source is not visible.
- (3) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited if such signs interfere with traffic safety. Reflective surfaces or devices on sign faces with illumination are permitted, provided such signs do not interfere with traffic safety.
- (4) Signs must be effectively shielded to prevent beams or rays from being directed toward any portion of the traveled ways and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle.
- (5) No sign shall be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device, or signal.

**(E) Special Standards for Shopping Centers and Other Multi-Occupant Land Uses**

- (1) For all new developments, no sign permit shall be issued for a shopping center or other multi-occupant land use, or for any individual establishment or occupant therein, unless a uniform sign plan has been submitted and approved for the entire development.
- (2) Wall signs may be increased by twenty-five percent (25%) of what is permitted in Table 8 within the C-2 General Commercial or Industrial Districts when the building is setback at least two hundred (200) feet from the public right-of-way and may be further increased an additional twenty five percent (25%) for each additional two-hundred (200) feet of setback, or fraction thereof, up to a maximum increase of one-hundred percent (100%).
- (3) However, the wall sign, or signs, shall not be greater than eighty percent (80%) of the length of the tenant space.

**(F) Outdoor Advertising Signs (Billboards)**

**(1) General Regulations**

Where permitted, outdoor advertising signs shall comply with the following:

- a) No outdoor billboard advertising sign, display or device shall be erected or maintained within fifty (50) feet of the nearest edge of the right-of-way of any road, street, or highway within the City; provided, that no outdoor advertising sign, display or device shall be erected along Pennsylvania Avenue extending from North Tenth Street to the Pennsylvania State Line.
- b) No outdoor advertising sign designed to be visible from a highway shall be permitted to be erected within a distance of five hundred (500) feet of any existing outdoor advertising sign located on the same side of the highway.
- c) No outdoor advertising sign shall be located within five hundred (500) feet of any school, church, hospital, or similar institution.

- d) The display area of an outdoor advertising sign shall not exceed six hundred seventy-two (672) square feet in size. Signs of any type over six hundred seventy-two (672) square feet will not be permitted. Two (2) outdoor advertising signs erected one (1) above the other shall be treated as two (2) signs.
- e) Back-to-back V-type signs will be permitted and shall be treated as one sign, provided that the interior angle between the two signs does not exceed sixty (60) degrees.
- f) The maximum height for outdoor advertising signs shall be thirty-five (35) feet measured from the pavement edge or center edge of highway or roadway and/or ground level, whichever is higher. In no case shall a sign be higher than the surrounding buildings. In the case of a single building, the height of the building shall control up to the maximum height permitted by code.
- g) No structure supporting an outdoor advertising sign shall be located on a lot where there exists a structure, housing, or another principal Permitted Use.
- h) No outdoor advertising sign shall be erected or maintained which involves rapid motion or rotation of the structure, or any part thereof.
- i) No outdoor advertising sign, display, or device shall copy or imitate a traffic sign or other official sign.
- j) No outdoor advertising sign shall contain lighting which is not shielded, and any lighting shall be of such low intensity as not to cause glare or impair the vision of the operator of any motor vehicle.
- k) No outdoor advertising display or device shall be illuminated by any rapid flashing, intermittent light, or lights.
- l) No outdoor advertising display or device shall be painted, affixed, or attached to any natural feature.
- m) No outdoor advertising sign, display or device shall hinder the clear, unobstructed view of approaching or merging traffic, or obscure from view any traffic sign or other official sign.
- n) No outdoor advertising sign, including its structure, shall be located on any building, regardless of use.

(2) Permitted Locations. Outdoor advertising signs shall only be permitted as a Conditional Use in the following zoning districts:

MU Mixed Use – Residential/Commercial

C-2 Regional Commercial

M-2 Heavy Industrial

(3) Maintenance

All billboards shall be kept in a complete state of repair and maintenance. Any nonconforming billboard that is left to deteriorate or fall into disrepair will be deemed abandoned, and therefore, loses its privilege for continuation as a nonconforming use.

## **(G) Nonconforming Signs**

Any nonconforming sign may be continued only as provided in this Section.

(1) Normal maintenance of a nonconforming sign may occur, including any necessary repairs and alterations that do not enlarge, extend, or intensify the nonconformity.

- (2) No structural alteration, enlargement, or extension shall be made of a nonconforming sign except when the alteration will eliminate the nonconforming condition.
- (3) No conforming sign shall be erected on the same premises as an existing nonconforming sign until the nonconforming sign has been removed or changed to a conforming sign. However, for multi- occupant land uses, the fact that one particular establishment therein has a nonconforming sign will not prohibit a different establishment therein from erecting a conforming sign on the same premises.
- (4) A nonconforming sign shall be made to conform to the requirements of this Article whenever there is a change in the use of the building, which the sign serves, or whenever the building or structure, which the sign serves is externally expanded or remodeled.
- (5) Whenever the use of a nonconforming sign, or the use which the sign serves, has been discontinued for a period of ninety (90) calendar days, or whenever it is evident that there is a clear intent on the part of the owner to abandon the use of a nonconforming sign, or the use which the sign serves, then the sign thereafter shall be made to conform with the provisions of this Article.
- (6) If a nonconforming sign is damaged or destroyed by any means to the extent of fifty (50) percent or more of its replacement value at the time of the damage or destruction (based on prevailing costs), then the sign thereafter shall be restored to conform to the provisions of this Article. However, if the damage or destruction is less than fifty (50) percent of the replacement value, then the sign may thereafter be restored to its original condition, so long as restoration or repair of the sign is completed within three (3) months after the date of damage or destruction. The repaired or reconstructed sign shall be made to conform to the City of Weirton Building Code and Electrical Code in force at the time of the repair or reconstruction.

**(H) Sign Removal**

- (1) When a business closes or moves, they must remove the sign within 90 days.

**Table 7. Signs Permitted in Residential Districts**

<b>Signs Permitted in Residential Districts (R-1, R-2, R-3 and MU)</b>				
Type	Max. Number Permitted	Max. Area Per Sign	Max. Height	Minimum Setback
<b>Signs for each Single-Family Dwelling, Two-Family Dwelling, Triplex, Quadplex:</b>				
1. Permanent Signs				
a. Building Sign Plate	1 per dwelling unit	2 sq. ft.	6 ft	NA
b. Subdivision Signs	2 per subdivision entrance	30 sq. ft.	8 ft.	5 ft. from ROW
Temporary Signs	2 per dwelling unit	6 sq. ft.	4 ft	5 ft. from ROW
<b>Signs for Multi-Family Buildings:</b>				
1. Permanent Signs				
a. Building Sign Plate	1 per public entrance to building mounted on door or wall	2 sq. ft.	6 ft	NA
a. Monument Sign	1 per development entrance or per 500 ft. of public street frontage, whichever is greater	30 sq. ft.	8 ft.	5 ft. from ROW
2. Temporary Signs	2 per building	6 sq. ft.	4 ft	5 ft from ROW (except real estate signs which are exempt from this distancing requirement)
<b>Signs for Non-Residential Uses in R-1, R-2, R-3 Districts:</b>				
1. Permanent Signs				
a. Building Sign Plate	1 per public entrance to building mounted on door or wall	2 sq. ft.	NA	NA
b. Monument Sign	1 per development entrance or per 500 ft. of public street frontage, whichever is greater	30 sq. ft.	8 ft.	5 ft. from ROW
c. Wall Sign	1 per building	1 sq. ft. per 1 lineal ft., max of 20 sq. ft.	NA	NA
2. Temporary Signs	2 per building	6 sq. ft.	4 ft	5 ft from ROW (except real estate signs which are exempt from this distancing requirement)
<b>Signs for Non-Residential Uses in the MU District:</b>				
1. Permanent Signs				
a. Building Sign Plate	1 per address, mounted on door or wall	2 sq. ft.	NA	NA
b. Monument Sign	1 per building	1 sq ft per 1 lineal foot of street frontage	ft.	5 ft. from ROW
c. Wall Sign	1 per building	1 sq. ft. per 1 lineal ft.	NA	NA
2. Temporary Signs	2 per building	6 sq. ft.	4 ft	5 ft from ROW (except real estate signs which are exempt from this distancing requirement)

**Table 8. Signs Permitted in Commercial Districts**

<b>Signs Permitted in Commercial Districts (C-1, C-2, and M-1)</b>				
Type	Max. Number Permitted	Max. Area Per Sign	Max. Height	Minimum Setback
<b>Signs Permitted in the C-1 Downtown Business District:</b>				
1. Permanent Signs				
a. Building Sign Plate	1 per public entrance to building mounted on door or wall	2 sq. ft.	NA	NA
b. Wall Sign	1 per street frontage	1 sq ft per 1 lineal ft street frontage	NA	NA
c. Awning Sign	1 per street frontage	1 sq ft per 1 lineal ft street frontage	NA	NA
d. Monument Sign	1 per street frontage	1 sq ft per 1 lineal ft street frontage, max 50 sq. ft.	10 ft	5 ft. from ROW
e. Pole Sign	1 per site ONLY if in place of a monument sign AND the existing building is at least 10' back from the public ROW	1 sq ft per 1 lineal ft street frontage, max 50 sq. ft.	15 ft	5 ft. from ROW
f. Projecting or Suspended Sign	1 per street frontage	24 sq ft.	10 ft. min off ground	
g. Roof Sign	1 per building	1 sq ft per 1 lineal ft street frontage, max 50 sq. ft.	24 ft	NA
2. Temporary Signs	1 per business	20 sq ft.	4 ft	5 ft from ROW (except real estate signs which are exempt from this distancing requirement)
<b>Signs Permitted in the in C-2 (General Commercial) and M-1 Light Industrial Districts:</b>				
1. Permanent Signs				
a. Building Sign Plate	1 per public entrance to building mounted on door or wall	2 sq. ft.	NA	NA
b. Single Occupant Bldgs.				
(1) Wall Sign	1 per street Frontage	For buildings with less than 100 lineal feet of street frontage: 2 sq. ft. per 1 lineal ft.  For buildings with 100 lineal feet or more of street frontage: 2.5 sq. ft. per 1 lineal ft.	NA	NA
(2) Awning Sign	1 per street Frontage	1 sq ft per 1 lineal ft street frontage	NA	NA
(3) Monument Sign	1 per street Frontage	.75 sq ft per 1 lineal ft street frontage; max of 100 sq. ft.	15 ft	5 ft. from ROW

<b>Signs Permitted in the in C-2 (General Commercial) and M-1 Light Industrial Districts:</b>				
(4) Pole Sign	1 per site	.75 sq ft per 1 lineal ft street frontage; max of 100 sq. ft.	20 ft	5 ft. from ROW
(5) Roof Sign	1 per building	1 sq ft per 1 lineal ft street frontage, max 50 sq. ft.	24 ft	NA
c. Multi-Occupant Bldgs.				
(1) Wall Sign	1 per business; 2 per business if end unit	2 sq ft per 1 lineal ft store frontage; 1 sq ft per 1 lineal ft store frontage	NA	NA
(2) Awning Sign	1 per business	1 sq ft per 1 lineal ft store frontage	NA	NA
(3) Monument Sign	1 per building	1 sq ft per 1 lineal ft street frontage	10 ft	5 ft from ROW
(4) Pole Sign	1 per site ONLY if in place of a monument sign	.75 sq ft per 1 lineal ft street frontage	20 ft	5 ft. from ROW
(5) Roof Sign	1 per building	1 sq ft per 1 lineal ft street frontage, max 50 sq. ft.	24 ft	NA
2. Temporary Signs	1 per business	20 sq ft.	4 ft	5 ft from ROW (except real estate signs which are exempt from this distancing requirement)
3. Buildings with Direct Visibility from US 22* in the C-2 General Commercial District:				
(1) Wall Sign	1 per business; 2 per business if end unit	2 sq ft per 1 lineal ft store frontage; 0.5 sq ft per 1 lineal ft store frontage	NA	NA
(2) Awning Sign	1 per business	1 sq ft per 1 lineal ft store frontage	NA	NA
(3) Monument Sign	1 per building	200 sq ft	10 ft	5 ft from ROW
(4) Pole Sign	1 per site ONLY if in place of a monument sign	200 sq ft	40 ft	5 ft. from ROW
(5) Roof Sign	1 per building	1 sq ft per 1 lineal ft street frontage, max 50 sq. ft.	24 ft	NA
2. Temporary Signs	1 per business	20 sq ft.	4 ft	5 ft from ROW (except real estate signs which are exempt from this distancing requirement)

\* May apply for a CU permit for additional and/or larger signs than what is permitted in District.

**Table 9. Signs Permitted in Industrial Districts**

<b>Signs Permitted in the Industrial District (M-2 District)</b>				
Type	Max. Number Permitted	Max. Area Per Sign	Max. Height	Minimum Setback
<b>Signs Permitted in the C-1 Downtown Business District:</b>				
1. Permanent Signs				
a. Building Sign Plate	1 per public entrance to building mounting on door or wall	2 sq. ft.	NA	NA
b. Single Occupant Bldgs.				
(1) Wall Sign	1 per street frontage	2 sq ft per 1 lineal ft street frontage	NA	NA
(2) Awning Sign	1 per street frontage	2 sq ft per 1 lineal ft street frontage	NA	NA
(3) Monument Sign	1 per street frontage	2 sq ft per 1 lineal ft street frontage	10 ft	5 ft. from ROW
(4) Pole Sign	1 per street frontage	2 sq ft per 1 lineal ft street frontage	10 ft	5 ft. from ROW
(5) Roof Sign	1 per building	1 sq ft per 1 lineal ft street frontage, max 50 sq. ft.	24 ft	NA
c. Multi-Occupant Bldgs.				
(1) Wall Sign	1 per business; 2 per business if end unit	2 sq ft/1 lineal ft store frontage; 1 sq ft per 1 lineal ft store frontage	NA	NA
(2) Awning Sign	1 per business	1 sq ft per 1 lineal ft store frontage	NA	NA
(3) Monument Sign	1 per building	100 sq. ft.	10 ft	5 ft from ROW
(4) Pole Sign	1 per site ONLY if in place of a monument sign AND the existing building is at least 10' back from the public ROW	100 sq. ft.	15 ft	2 ft. from ROW
(5) Roof Sign	1 per building	1 sq ft per 1 lineal ft street frontage, max 50 sq. ft.	24 ft	NA
2. Temporary Signs	1 per business	20 sq ft.	4 ft	5 ft from ROW (except real estate signs which are exempt from this distancing requirement)

## 12.14 STREETS, SIDEWALKS, AND DRIVEWAYS

### (A) Streets

#### (1) Public Streets

When the subdivision of land results in the creation of roads, such roads shall be designed and constructed to comply with Section 12.14(A)(6) of this Ordinance and dedicated to the City.

#### (2) Topography and Street Layout

Roads shall be related appropriately to the topography. Collector and local streets shall be curved wherever possible to avoid conformity of lot appearance.

#### (3) Coordination with Existing Street System

All streets shall be properly integrated with the existing and proposed system of thoroughfares and arterials as established within the City's Comprehensive Plan and in accordance with the West Virginia Division of Highways. The proposed street layout shall be coordinated with the existing street system of the surrounding area and where possible, existing streets shall be extended.

#### (4) Access to Adjacent Properties

Every new subdivision or development shall provide access to adjacent properties where the access is necessary or desirable to provide an adequate system of streets in the general area of which the subdivision or development is a part. Where it is necessary to provide for street access to an adjoining property, the proposed street right-of-way shall be extended by dedication to the boundary line of such property, and a street stub-out or temporary cul-de-sac shall be provided.

#### (5) Access to or From Arterials and Collectors

a) Direct access from individual lots to collector or arterial streets is discouraged. Instead, through lots, frontage roads, marginal access streets, joint and shared driveways, and any other methods to prevent direct access, shall be utilized at the boundary line.

b) Turn Lanes and/or Deceleration Lanes at Intersections

Turn lanes or deceleration lanes may be required to be constructed at or near any point of ingress or egress under the following conditions:

i) Left Turn Lane - Signalized Intersections

- a. Where fully protected left-turn phasing is provided; or
- b. Where peak-hour left-turn volumes exceed one hundred (100) vehicles per hours; or
- c. Where delay caused by the left-turning vehicles blocking through vehicles would reduce the operating capacity of the intersection below a "C" level of service as defined by the West Virginia Division of Highways.

ii) Right Turn Lane - Signalized Intersections

An exclusive right-turn lane should be provided where the right-turning volume exceeds three hundred (300) vehicles per hour and the adjacent through lanes also exceed three hundred (300) vehicles per hour per lane. When calculating the adjacent through lane volume, it should be assumed that all through lanes have equal volumes.

c) Street Names

Street names shall be assigned by the developer subject to the approval of the City. Proposed streets which are continuations of existing streets shall be given the same name. In assigning

new street names, names shall not duplicate or be phonetically similar to existing street names in the City.

#### (6) Street Standards

The street design standards included in Table 6 shall apply.

**Table 6. Street Design Standards**

Design Criteria	Major Thorough - Fare	Principal Arterial	Major Collector	Minor Collector or Note 1	Major or Local	Minor Commercial Collector	Local	Cul-de-sac
Right-of-Way Width	120 Feet	100 Feet	70 Feet	60 Feet	60 Feet	40 Feet	42 Feet	90 Feet
Pavement Width Note 4,5	65 Feet	53 Feet	41 Feet	35 Feet	31 Feet	27 Feet	28 Feet	75 Feet
Sidewalk	Both Sides	Both Sides	One Side Note 8	One Side Note 8	One Side Note 8	One Side Note 6, 8	One Side Note 8	One Side Note 7, 8

1. If there is no direct access from individual lots to a Minor Collector, the Minor Collector may be constructed using the design standards of a Major Local.
2. A sidewalk is required along one side of the cul-de-sac if the length of the cul-de-sac exceeds two hundred (200) feet. No sidewalk is required if the cul-de-sac is two hundred (200) feet or less.
3. A cul-de-sac turn-around shall have diameter of ninety (90) feet and a paved diameter of seventy-five (75) feet, or a ninety (90) foot diameter for commercial truck traffic. A sidewalk is not required on the turn-around.
4. Curb and gutter are required along all streets.
5. Pavement width for streets is measured from back of one curb to back of opposite curb.
6. When the Minor Commercial Collector serves as a Parallel Collector, sidewalks are required on two (2) sides; otherwise, a sidewalk is required only on one (1) side.
7. A sidewalk is required along one (1) side of the cul-de-sac if the length of the cul-de-sac exceeds two hundred (200) feet. No sidewalk is required if the cul-de-sac is two hundred (200) feet or less.
8. A sidewalk shall be required on both sides of a public street in PDA districts and in any new subdivisions.

#### (7) **Special Street Provisions**

##### a) Roadway Improvements

- i) The developer shall be responsible for the cost and the installation of thoroughfare improvements in accordance with the City's standards for roadways, and shall be made along the entire length of a development for any development which is located within four hundred linear feet of any of the following:
  - a. An existing or proposed intersection of roads either of which is classified as a Major Thoroughfare, Principal Arterial, or Major Collector.
  - b. A roadway classified as a Major Thoroughfare, Principal Arterial, or Major Collector.

- ii) Developments that are not located within four hundred linear feet of any of the intersections described above, shall improve the thoroughfare system roadway to the applicable street standards of a major local, local, or a cul-de-sac when the roadway improvements would provide the only access to the development or adjoining properties.
- iii) Developments that are not located within four hundred linear feet of any of the intersections described above, shall improve the thoroughfare system roadway along the entire length of the development to the applicable street standards of a major local, local, or a cul-de-sac where any of the following conditions occur:
  - a. The vehicle trips generated by the development during peak travel periods along the thoroughfare system roadway would reduce the roadway's operating capacity below level of service C.
  - b. The traffic from the development is predominantly from non-residential activities and the development would otherwise gain access through a residential area.

**b) Medians and Divided Streets**

The developer may be required to continue a median and/or divided street in a subdivision. In the event that a median or divided street is provided, the minimum standards shall remain the same. Pavement requirements shall apply to the divided sections when aggregated together.

**c) Dual Access**

Subdivisions proposed to serve more than forty residential dwelling units shall be required to provide dual access. The second point of access may be a street stubbed out to an adjacent property where future extension of the street would provide the second point of access from the subdivision. The second point of access may, if it is found to be in the public interest, be for emergency access only and closed to normal vehicular traffic.

**d) Cul-de-sac**

- i) Cul-de-sac shall be either permanent or temporary. A temporary cul-de-sac exists where the street is stubbed out for extension into an adjacent tract or for a future phase of the same development. In this instance the cul-de-sac should comply with the street standards required in this Section, and temporary measures for vehicle turnaround shall be provided. Permanent cul-de-sacs shall be allowed on a cul-de-sac or local street provided a circular turning radius is provided at the closed end of the street with a pavement radius as required in this Section.
- ii) Cul-de-sac in commercial subdivisions which are anticipated to carry substantial amounts of commercial truck traffic shall have a minimum turning radius of forty-five feet.
- iii) Cul-de-sac shall not exceed one thousand (1,000) feet in length unless no other practical solution exists due to topographical or other site conditions. The one thousand (1,000) feet are measured from the center of the cul-de-sac to the centerline of the intersecting street.

**e) Alleys**

An alley may be provided to the rear of all lots.

**f) Marginal Access Streets**

Where a tract of land to be subdivided adjoins a major thoroughfare or principal arterial street, the subdivider may be required to provide a marginal access street parallel to the thoroughfare or arterial street or provide reverse frontage for the lots to be subdivided adjacent to the thoroughfare or arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the thoroughfare or arterial.

g) Street Intersections

- i) All streets shall intersect as nearly as possible at right angles and no street shall intersect at an angle of less than seventy-five (75) degrees.
- ii) Intersections for major thoroughfares with principal arterials shall be at least one thousand (1,000) feet apart measured from centerline to centerline, or more if required by the West Virginia Division of Highways.
- iii) Centerline offsets shall be prohibited wherever practical; however, where a centerline offset occurs at an intersection, the distance between centerlines of the intersecting streets shall not be less than one hundred twenty-five (125) feet.

**(B) Sidewalks**

- (1) Sidewalks shall be constructed on both sides of the street in all new developments, except for the development of a single-family dwelling on a lot in which there is no sidewalk on the lots immediately adjacent.
- (2) Sidewalks shall be constructed to a minimum width of five (5) feet, and a minimum thickness of four (4) inches of concrete, with six (6) inches of concrete at driveway crossings.
- (3) All street curbs being constructed or reconstructed for maintenance procedures, traffic operations, correction of utilities or altered for any reason, shall provide wheelchair ramps for the physically handicapped at all intersections where both curb and gutter and sidewalks are provided and at any other major point of pedestrian flow.
- (4) Where development occurs in an existing neighborhood with sidewalks in place, the property owner shall be responsible for constructing a sidewalk or sidewalk(s) prior to the issuance of an occupancy permit.

**(C) Driveways**

(1) Number of Driveways per Lot

- a) Single-family and two-family (duplexes) dwellings are permitted one (1) driveway per dwelling unit. A governor's drive or secondary driveway may be permitted on lots that have more than 100 feet of linear frontage on a main road.
- b) Multi-family residential developments with more than forty (40) dwelling units shall be required to have two (2) driveways for dual access.

(2) For all non-residential uses, all access driveways shall be a minimum of twelve (12) feet in width for one-way drives and twenty-four (24) feet in width for two-way drives.

(3) Driveway Widths

- a) All driveways serving a single-family or two-family dwelling shall be a minimum of twelve (12) feet and a maximum of twenty-four (24) feet in width.
- b) Driveways serving a single commercial lot with a single commercial use shall be constructed in such a manner that no portion of said driveway is within fifteen (15) feet of any side lot line.

(4) Design Requirements

- a) No more than forty percent (40%) of the front yard may be used for parking, including driveways. Vehicles may not be parked or stored upon any lawn or landscaped area. Front yard parking areas shall be designed to residential driveway standards and resemble a residential driveway extending from the curb cut to the front building line. All driveways and

parking areas must be paved and if the proposal is to extend an existing driveway or parking area, then like material must be used.

- b) In all cases, driveways shall be located to minimize traffic conflicts with traffic entering the street from either the same or the opposite side of the street.
- c) All parking areas and driveways for all uses shall be paved with a permanent surface material or contain a similar type material approved by the Planning Director. Gravel and other stabilization material without a permanent wearing surface is not permitted unless the driveway serves a single- family residential driveway off of an existing gravel alleyway. Except for parking areas and associated driveways serving one- and two-family dwellings, a raised or rolled concrete curb at least six (6) inches in height shall be installed with the construction of all driveways, parking lots, access lanes and other vehicle maneuvering areas to prevent motor vehicle conflicts.
- d) Driveways shall be constructed in such a manner that no portion of said driveway is less than five (5) feet from any side lot line at the right-of-way, including that area between the edge of right-of- way and the curb.
- e) A minimum of ten (10) feet is required between driveways if multiple driveways are provided. 15.9.4.6 Driveways shall be a minimum of 25 feet from any street intersection.
- f) The maximum total curb cut of thirty-six (36) feet per street.

## **ARTICLE 13. STORMWATER MANAGEMENT**

### **13.01 Drainage and Stormwater Management**

- (A)** Each development shall provide all necessary storm drainage facilities, including but not limited to underground pipe inlets, catch basins, open drainage ditches and/or channels to provide for the adequate disposal of surface and subsurface water.
- (B)** No stormwater shall be channeled or directed into a sanitary sewer.
- (C)** No non-stormwater shall be channeled or directed onto a City street. This includes spring water, ground water from a purge well, swimming pool discharge, or any other water source.
- (D)** Design Requirements for New Development
  - (1)** Natural drainage systems and storm water management installations for new developments shall be designed, constructed, and maintained so as to:
    - a)** Provide for natural infiltration of storm water wherever practical.
    - b)** Control velocity of runoff flows.
    - c)** Collect and transmit storm water flows into either the City storm sewer system or a natural drainage system.
    - d)** The developer shall provide a storm water drainage system capable of disposing storm water generated upon or passing through the development. The system shall be designed to comply with the requirements in the City of Weirton's Article 956, Stormwater Management and Surface Water Discharge Control (Ordinance No. 1774).
    - e)** Developers shall provide for current and future stormwater and non-stormwater removal demands by providing an appropriate infrastructure connection for both sides of a newly constructed street.
- (E)** Existing Storm Drainage System

Where feasible, the developer shall connect and continue existing storm drainage systems. Systems utilizing piping shall be constructed so that the diameter of downstream pipes are equal to or greater than upstream pipes and so that connections shall be as smooth and flush as practical. When an existing storm drainage system cannot feasibly be extended to the subdivision, measures will be taken to protect the upstream development from water damage.
- (F)** The City of Weirton is an MS-4 (Municipal Separate Storm Sewer Systems) community. **Refer to Ordinance No. 1774 for specific regulations.**

**ARTICLE 14. LEGAL PROVISIONS****14.01 SEPARABILITY**

It is the legislative intent of City Council in adopting this Ordinance that all provisions thereof shall be liberally construed to protect and preserve the peace, health, safety, and general welfare of the inhabitants of the City. It is the further intent of the Council that this Ordinance shall stand, notwithstanding the invalidity of any part thereof, and that should any provisions of this Ordinance be held to be unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions.

**14.02 REPEAL OF EXISTING SUBDIVISION REGULATIONS AND ZONING REGULATIONS**

The existing subdivision regulations entitled "Subdivision Regulations for the City of Weirton, West Virginia" are hereby repealed. The existing zoning regulations entitled "Zoning Ordinance for the City of Weirton, West Virginia" are hereby repealed. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future prosecution of, or action to abate an existing violation of said regulations.

**14.03 CONFLICT WITH OTHER LAWS**

When provisions of this Ordinance impose higher standards than are required in any other statute or local ordinance or regulation, provisions of this Ordinance shall govern. When the provisions of any other statute or local ordinance or regulation impose higher standards than are required by the provisions of this Ordinance, the provisions of that statute or local ordinance or regulation shall govern.