

THE CITY OF MOUNT HOPE ZONING CODE

CHAPTER 1 PURPOSE, INTRODUCTION, DEFINITIONS

ARTICLE 101 PURPOSE AND INTRODUCTION

Section 101.01 Title.

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

Section 101.03 Authority.

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

Section 101.05 Purpose.

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

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

Section 101.07 Scope and Jurisdiction.

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

Section 101.09 Interpretation, Conflict, and Severability.

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

Section 101.11 Non-exclusionary Intent.

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

Section 101.13 Official Zoning Map.

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

the City Council of Mount Hope and then filed with both the office of the Clerk of Fayette County and the Clerk for the City of Mount Hope.

Section 101.15 Enactment.

Therefore, the Council of the City of Mount Hope hereby ordains for the purpose of accomplishing the objectives set out in the West Virginia Code, and Section 101.05 of this code, that the following be enacted as the Zoning Ordinance of the City of Mount Hope, West Virginia.

Section 101.17 Effective Date.

This ordinance shall take effect [effective date].

ARTICLE 103 DEFINITIONS

Section 103.01 Interpretation of Words.

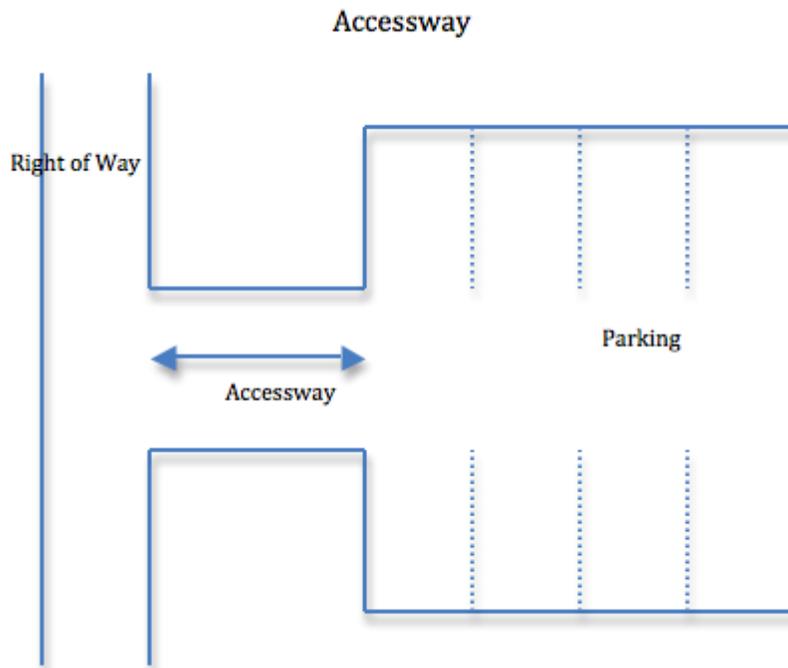
For the purpose of this Zoning Ordinance, certain terms and words used herein shall be interpreted as follows:

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

Section 103.03 Definitions.

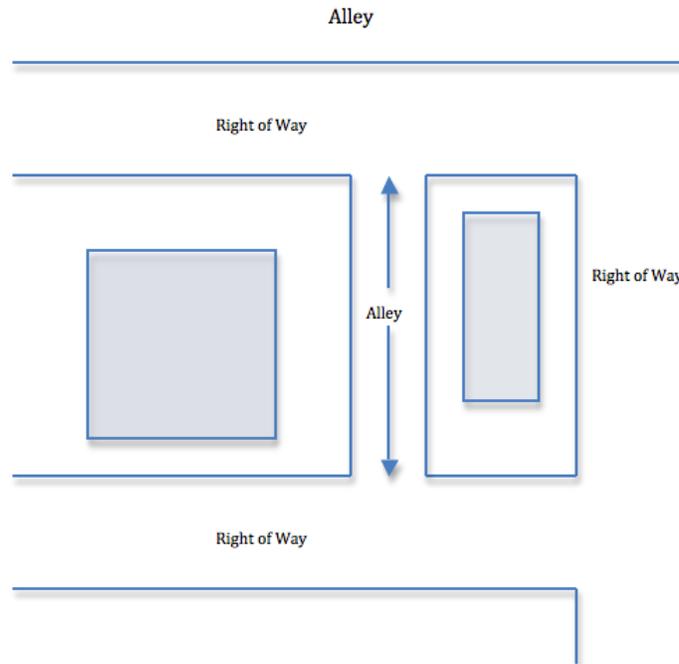
- a. Unless otherwise expressly stated, the following words shall, for the purpose of this Zoning Ordinance, be defined as follows:
 1. “Abandoned vehicle” means any motor vehicle, or major part thereof, which is inoperative and which has been abandoned on public or private property for any period of time over ten (10) days other than in an enclosed building or in a licensed salvage yard or at the business establishment of a demolisher, or any motor vehicle, or major part thereof, which has remained illegally on public or private property for any period of time over ten (10) days or any motor vehicle, or major part thereof, which has remained on private property without consent of the owner or person in control of the property for any period of time over ten (10) days or any motor vehicle, or major part thereof, which is unattended, discarded, deserted and unlicensed and is not in an enclosed building, a licensed salvage yard, or the actual possession of a demolisher.
 2. “Abandonment” means the relinquishment of property or a cessation of the use of the property by the owner or lessee without any intention of transferring rights to the property to another owner or without any intention to resume a nonconforming use of the property for a period of one (1) year.
 3. “Accessory Use” means a use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use, including but not limited to home-based businesses.
 4. “Accessory Structure” means a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure, including but not limited to swimming pools, piers and other water-related structures, parking, fences, gazebos, noncommercial greenhouses, private garages, satellite dishes, doghouses, and dog-related structures.

5. "Accessway" means a private vehicular facility for townhomes, multi-family dwellings, and condominiums, serving more than four (4) dwelling units, and commercial developments that extends from the curb-line of a public or private road to the parking lot.



6. "Adult Business" means an adult bookstore, movie theater, or movie house or other adult entertainment, as defined herein.
 - i. "Adult Bookstore" means any commercial establishment in which is offered for sale as a substantial or significant portion of its stock-in-trade videocassettes, movies, books, magazines or other periodicals, or other media which are distinguished or characterized by their emphasis on nudity or sexual conduct or on activities which, if presented in live presentation, would constitute adult entertainment.
 - ii. "Adult Entertainment" means an establishment providing, either as a sole use or in conjunction with or in addition to other uses, entertainment consisting of the use of nudity or of live dancing, posing, displaying, acting, or other live presentation or use of persons whose actions are distinguished or characterized by emphasis on use of the human body in a manner intended to or resulting in arousal of sexual excitation or sexual titillation or a prurient interest or intended to or resulting in producing lustful emotions.
 - iii. "Adult Movie Theater" or "Movie House" (including Adult Mini-Theaters) means any movie theater which on a regular, continuing basis shows films rated X by the Motion Picture Coding Association of America or any movie theater which presents for public viewing on a regular, continuing basis so-called adult films constituting adult entertainment, as defined by this code.
7. "Advertising" means any words, symbol, color, or design used to call attention to a commercial product, service, or activity.
8. "Aggrieved or Aggrieved Person" means a person who (1) is denied by the planning commission, board of subdivision and land development appeals, or the board of zoning appeals, in whole or in part, the relief sought in any application or appeal; or (2) has demonstrated that he or she will suffer a peculiar injury, prejudice, or inconvenience beyond that which other residents of the municipality may suffer.
9. "Agriculture" means the keeping of livestock, poultry, or bees and cultivation of the soil, including the planting and harvesting of crops.

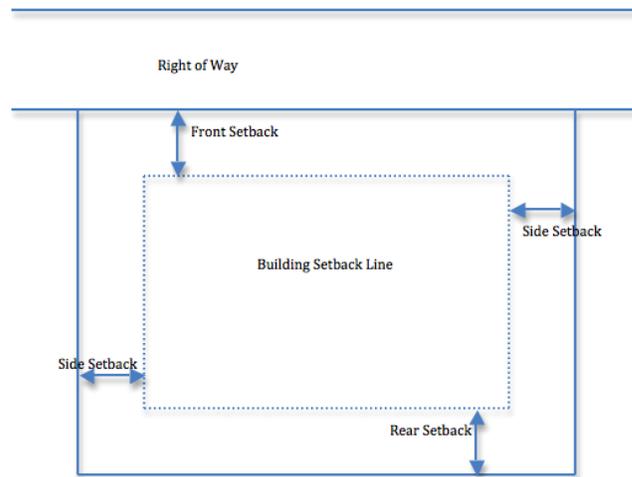
10. “Alley” means a service roadway less than twenty (20) feet providing a secondary means of access to abutting property and not intended for general traffic circulation.



11. “Alteration” means any change or expansion in the size, configuration, exterior features, or location of a structure; or any change or expansion in the use of a structure or lot from a previously approved or legally existing size, configuration, location, or use.
12. “Amphitheater” means an outdoor gathering space, typically for entertainment, that is often constructed with tiers of seats or sloping surfaces that gradually rise outward from a central open space or stage. An amphitheater may include a bandshell-type structure to provide weather protection to a stage.
13. “Amusement and Recreation Center” means a business establishment, generally intended for use by all ages, that provides recreation or entertainment, including but not limited to swimming pools, dance halls, bowling alleys, skating rinks, billiard and pool halls, video and other coin-operated electronic games, miniature golf courses, indoor archery range, table games, trampolines, ball pits, and similar recreational diversions.
14. “Animal Hospital” or “Veterinary Office” means an establishment for temporary occupation by sick or injured animals for the purpose of medical diagnosis and treatment, but excluding the treatment or other care of humans.
15. “Antenna Support Structure” means any building or structure other than a tower which can be used for location of telecommunications facilities.
16. “Automobile” means a road vehicle, typically with four (4) wheels, able to carry a small number of people.
17. “Automobile Car Wash” means the use of a site for washing and cleaning of automobiles, recreational vehicles, or other light duty equipment.
18. “Bakery” means an establishment primarily engaged in the retail sale of baked goods for consumption off-site.
19. “Bank/Financial Institution” means a bank, savings and loan, credit union, or other institution that provides retail banking services to individuals and businesses.
20. “Basement” means a story having one half (0.5) or more of its clear height below grade.
21. “Bed and Breakfast Inn” means a private residence in which overnight accommodations are provided for not more than ten (10) transient paying guests, along with ancillary services such as providing breakfast, private parties, and evening and lunch meals to guests; holding outdoor events such as weddings, fundraising or civic events for local clubs, and special dinners or meals; and operating gift shops.
22. “Board” or “Board of Zoning Appeals” means the officially constituted body appointed to carry out duties and responsibilities in accordance with the West Virginia Code, Chapter 8A, Article 8, *et seq.*, as amended.

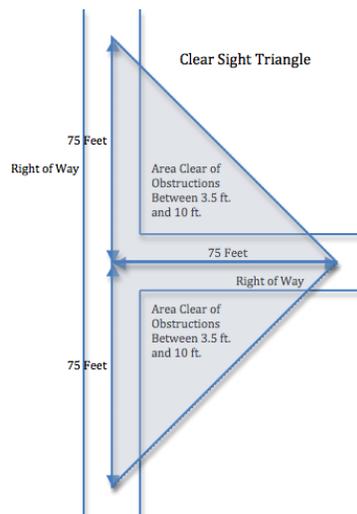
23. "Boat and Marine Sales/Service" means the sales, service, and repair of new and used boats, boat trailers, marine hardware, and related products.
24. "Boat Storage" means an enclosed, partially enclosed, or open facility utilized for the wet or dry storage of boats.
25. "Brewery Pub" means a place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

Building Setback Line



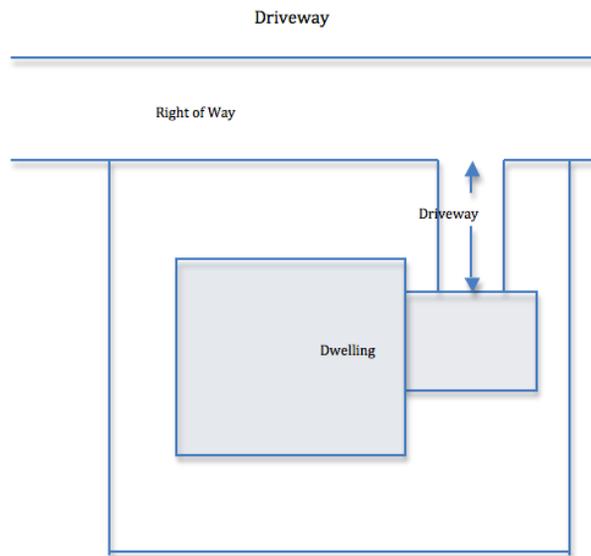
30. "Bus & Transit Facilities" means a facility operated as a bus or rail passenger station or transfer center that may have a covered structure. Typical facilities may include station platforms, bus bays, off-street parking, private access roads, and other passenger amenities.

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



37. "Clinic" means an establishment providing medical, dental, chiropractic, psychiatric, opioid treatment, or surgical services exclusively on an outpatient basis, including emergency treatment and diagnostic services.
38. "Community Facility" means a nonprofit facility or lodge whose primary goal is to provide a community service and may be publicly or privately owned.
39. "Compact Car Parking Stall" an off-street space available for parking of one (1) automobile and having an area not less than eight (8) feet in width by eighteen (18) feet in depth and an area exclusive of passageways, accessways, and driveways appurtenant thereto, and having a means to direct access to a street or road.
40. "Comprehensive Plan" means the comprehensive plan for the City of Mount Hope.
41. "Conditional Use" means a use, which because of special requirements or characteristics, may be permitted in a particular zoning district only after review by the board of zoning appeals and upon issuance of a conditional use permit, and subject to the limitations and conditions specified in this code.
42. "Contiguous" means lots, parcels, municipal boundaries, or county boundaries that are next to, abutting, and having a boundary, or portion thereof, that is coterminous. Streets, highways, roads or other traffic or utility easements, streams, rivers, and other natural topography are not to be used to determine lots, parcels, municipal boundaries, or county boundaries as contiguous.
43. "Continuing Care Facility" means one or more of the following types of facilities:
 - i. "Adult Assisted Living" means any facility, residence, or place of accommodation available for four (4) or more residents for the purpose of having personal assistance or supervision, or both, provided to any residents therein who are dependent upon the services of others by reason of physical or mental impairment and who may also require nursing care at a level that is not greater than limited and intermittent nursing care.
 - ii. "Nursing Home" means any institution, residence, or place, or any part or unit thereof, however named, which is advertised, offered, maintained, or operated by the ownership or management, whether for consideration or not, for the express or implied purpose of providing accommodations and care, for a period of more than twenty-four (24) hours, for four (4) or more persons who are ill or otherwise incapacitated and in need of extensive, ongoing nursing care due to physical or mental impairment or which provides services for the rehabilitation of persons who are convalescing from illness or incapacitation.
 - iii. "Skilled Nursing Facility" means an institution, or a distinct part of an institution, that primarily provides inpatient skilled nursing care and related services, or rehabilitation services, to injured, disabled, or sick persons.
44. "Convenience Store" means a business establishment that offers convenience goods for sale, such as pre-packaged or limited prepared food items, tobacco, and periodicals, but not having gasoline sales on premises and not displaying merchandise or products outdoors, except where such display is required to sell the merchandise.
45. "Conversion of Old Schools/Churches" means the adaptive reuse of a former school or church for residential or commercial purposes not affiliated with the prior use.
46. "Correctional Facility" means a publicly or privately operated facility housing persons awaiting trial, serving a sentence after being found guilty of a criminal offense, being within the jurisdiction of a federal, state, or local probation, parole, or corrections agency or receiving treatment other than at a hospital while under the jurisdiction of such authority or agency, including but not limited to jails, prisons, juvenile detention centers, work release centers, pre-release centers, and treatment centers.
47. "Council" means the Council of the City of Mount Hope.
48. "County" means Fayette County, West Virginia.
49. "Cultural Service" means a site used for the collection, display, or preservation of objects of community or cultural interests, such as a library, museum, or similar facility.
50. "Distillery" means, as defined by West Virginia statutes, an establishment where alcoholic liquor, other than wine or beer, is manufactured or in any way prepared.
51. "Distribution Facility" means any premises or part thereof, which provides logistical support for business, such as freight management, inventory control, storage, packaging, and consolidation of goods for distribution.
52. "Dog Day Care" means an organized, controlled, and monitored environment for a group of dogs to interact and play throughout the day. The purpose is to provide stimulation, exercise, and socialization for dogs, and ancillary services. Overnight stays are not permitted in dog day care facilities.

53. “Drive-through Business” means a drive-in business, including outdoor theaters, refreshment stands, banks, and similar businesses where patrons enter the premises and are served or entertained in automobiles, but not including deposit and pick-up services.
54. “Drive-through Facility” means the use of land, buildings, or structures, or parts thereof, to provide or dispense products or services, either wholly or in part, through an attendant or a window or automated machine, to persons remaining in motorized vehicles that are in a designated lane. A drive-through facility may be in combination with other uses such as a laundry shop, dry cleaning shop, dry cleaner's distributing station, branch of a bank or financial institution, restaurant, retail store, automotive service station, or restaurant. Despite the above, a drive-through facility does not include a car washing establishment, automobile service station, or a gas station.
55. “Driveway” means a privately owned vehicular accessway from a street to properties abutting the street and serving no more than four dwelling units.

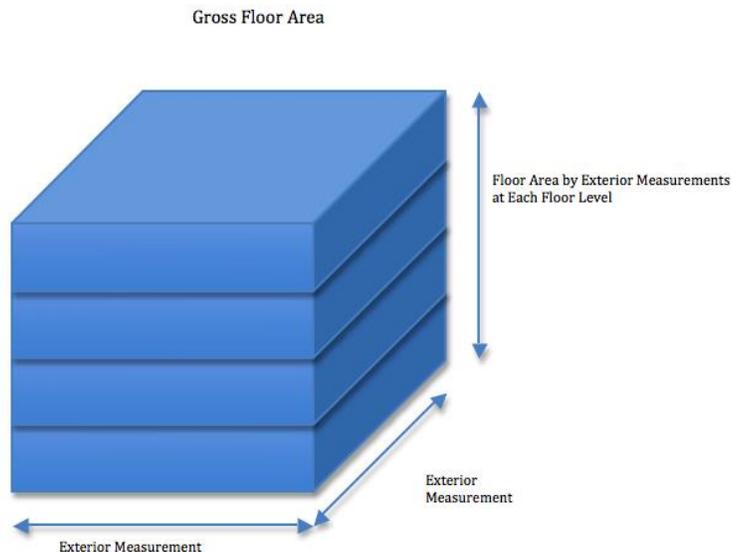


56. “Dry Cleaner” means an establishment providing dry cleaning and laundering services where dry cleaning and laundering are done on the premises. Includes the mechanical cleaning of garments, clothing articles, or goods of fabric, including a linen, diaper, or uniform laundering service. May perform work on the premises for other dry cleaning and laundry services, serve retail customers, and provide ancillary services such as tailoring.
57. “Dry Cleaning and Laundry Pick-up Station” means an establishment where customers drop-off and pick up garments or articles that are sent to another location for cleaning or laundering. A dry cleaning and laundry pick-up station does not include on-site dry cleaning or laundry facilities.
58. “Dwelling” means a house, apartment building, or other building designed or used primarily for human habitation, but not including boarding houses, rooming houses, tourist homes, motels, hotels, or other structures designed for transient residence.
59. “Dwelling, Apartment” means a building containing several and separate dwelling units, having common corridors and stairways and having shared exit and entrance facilities.
60. “Dwelling, Condominium” means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Yard requirements apply to structures only and not individual ownership units.
61. “Dwelling, Conversion Apartment” means the remodeling of a single-family dwelling unit into two (2) or more separate living units, each having a minimum of five hundred (500) square feet of gross living space and having separate and private sanitary, cooking, and dining facilities and a minimum of two off-street parking spaces per living unit.
62. “Dwelling, Garage Conversion” means conversion of an existing garage to habitable space for domestic use no smaller than five hundred (500) square feet of gross living space.

63. "Dwelling, Garden Home Developments" means a freestanding building containing two (2) or three (3) dwelling units, each of which has direct access to the outside.
64. "Dwelling, Mixed Use" means a building containing a residence with commercial or office uses on the ground floor in the front of the building facing the primary street frontage. Residential units may be on the ground floor, provided they are not accessed from any portion of the building that faces the primary street. Residential units may be located on the ground floor behind the commercial uses.
65. "Dwelling, Multi-Family" means a freestanding building containing three (3) or more dwelling units, whether they have direct access to the outside, or access to a common building entrance. Multi-Family dwellings can consist of rental or owner-occupied dwelling units, provided that all such freestanding buildings contain three (3) or more dwelling units.
66. "Dwelling, Single Family" means a detached, permanent structure designed for or occupied exclusively as a residence for only one (1) family.
67. "Dwelling, Townhouse" or "Rowhouse" means a one-family dwelling unit, with private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation.
68. "Dwelling, Two-Family" means a freestanding building containing two (2) dwelling units, each of which has direct access to the outside and contains only one family.
69. "Dwelling Unit" means any dwelling or portion thereof used or intended to be used by one (1) family and providing complete housekeeping facilities.
70. "Educational Institution" means a college or university giving general academic instruction. Included within this term are areas or structures used for administration, housing of students and faculty, dining halls, and social or athletic activities when located on the institution's land that is not detached from where classroom facilities are maintained.
71. "Emergency Services" means an area utilized for the maintenance, fueling, storage, receiving and dispatching calls or transmissions, or parking of vehicles or equipment providing rescue or ambulatory services.
72. "Emergency Shelter" means a residential facility that provides room and board for a temporary period, protection, counseling, and pre-placement screening for abused, displaced, or transient adults or children.
73. "Equipment Rental/Repair" means an establishment involved in renting or repairing small tools and equipment, including janitorial equipment.
74. "Existing Use" means use of land, buildings or activity permitted or in existence prior to the adoption of a zoning map or ordinances by the county or municipality. If the use is nonconforming to a local ordinance and lawfully existed prior to the adoption of the ordinance, the use may continue to exist as a nonconforming use until abandoned for a period of one (1) year, provided that in the case of natural resources, the absence of natural resources extraction or harvesting is not abandonment of the use.
75. "Extractive Industry" means a heavy industry use that involves the extraction of minerals for sale or other commercial purpose, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity.
76. "Factory-built Home" means manufactured homes and mobile homes.
 - i. "Manufactured Home" means a home that meets the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U. S. C. §5401, et seq.), effective on the fifteenth day of June, one thousand nine hundred seventy-six (1976), and the federal manufactured home construction and safety standards and regulations promulgated by the secretary of the United States Department of Housing and Urban Development.
 - ii. "Mobile Home" means a transportable structure that is wholly, or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site and designed for long-term residential use and built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U. S. C. §5401, et seq.), effective on the fifteenth day of June, one thousand nine hundred seventy-six (1976), and usually built to the voluntary industry standard of the American national standards institute (ANSI)--A119.1 standards for mobile homes.
77. "Factory-Built Home Rental Community" means a parcel of land under single or common ownership upon which two (2) or more factory-built homes are located on a continual, nonrecreational basis together with any structure, equipment, road, or facility intended for use incidental to the occupancy of the factory-built

homes, but does not include premises used solely for storage or display of uninhabited factory-built homes or premises occupied solely by a landowner and members of their family.

78. "Fairground" means an area of land used for fairs in accordance with local and state requirements, exhibitions, and shows, including but not limited to animal shows and judging, carnivals, circuses, concerts, food booths and stands, games, rides, rodeos, sales and auctions, storage, racetracks, agricultural related office buildings, and community meeting or recreational buildings and uses.
79. "Family" means an individual or two (2) or more persons related by blood, marriage, adoption, or foster relationship, or no more than three (3) unrelated individuals and individuals related by blood, marriage, adoption, or foster relationship to any of those three (3) unrelated individuals, living together as a single housekeeping unit and sharing common living, dining, and kitchen areas.
80. "Farm" means the raising of crops or livestock, including orchards, vineyards, or nurseries, along with any buildings or structures necessary to conduct such activities.
81. "Farm/Construction Equipment and Supply Sales" means an establishment engaged in the on-premises lease, rental, or retail sale of new or used construction or farm equipment, with or without incidental service for minor repairs and maintenance.
82. "Farmers Market" means the offering for sale of agricultural products directly to the consumer at an open-air market designated as a community activity.
83. "Fence" means an artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate an area.
84. "Flea Market" means an outdoor or enclosed commercial activity, open to the general public that offers goods for sale, trade, or barter, regardless of whether they are new, used, antique, or homemade.
85. "Floor Area, Gross" means the total area of a building measured by taking the outside dimensions of the building at each floor level.

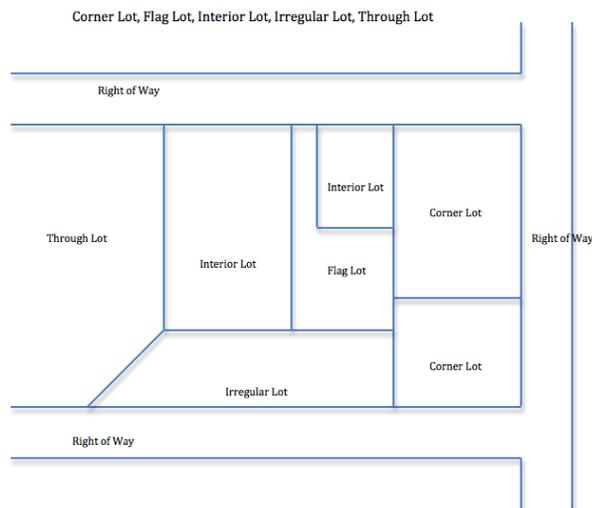


86. "Freight Terminal" means any premises and buildings where cargo is stored and where railroad cars or trucks load and unload cargo for shipment or distribution and which may include facilities for temporary storage of loads prior to shipment and facilities for the maintenance of transport vehicles.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

89. "Garage, Community" means an accessory use, a group of private garages, detached or under one (1) roof, arranged in a row or around a common means of access and erected for use of residents in the immediate vicinity.
90. "Garage, Private" means an accessory structure either attached to or detached from a residential dwelling which is situated on the same property or adjoining property and used for storing personal property by the resident of the dwelling and not to be used as a business.
91. "Garage, Public" means a garage conducted as a business, which includes but is not limited to, the rental of storage space for more than two (2) automobiles or for one (1) commercial vehicle not owned by a person residing on the premises.
92. "Garage Sale" means the sale of personal property owned or maintained by occupants of the premises in, at, or upon any residentially zoned or residentially occupied property. Garage sales include, but are not limited to, any yard sale, multi-family sale, home sale, patio sale, or any other sale similarly conducted on any residentially zoned or residentially occupied property. "Yard sale" or "tag sale" are other common names used for these.
93. "Garden Center" means an establishment primarily engaged in selling containerized trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools, and other garden supplies to the general public and where no trees, shrubs or plants are grown on the premises.
94. "Gas Station" means a building, place of business, land area, or other premises, or portion thereof, used or intended to be used for the retail dispensing of gasoline, oil and grease, and other vehicle fuels, and including, as an accessory use, the sale and installation of batteries, tires, lubricants, and other automobile accessories and retail items. Minor repair service may also be rendered. May also offer convenience goods for sale, such as pre-packaged or limited prepared food items, tobacco, and periodicals, except that the term does not include display of merchandise or products outdoors except where such display is required to sell the merchandise.
95. "Governmental Operations" include government buildings and post offices.
96. "Greenhouse, Noncommercial" means a building or structure under one hundred and fifty (150) square feet constructed chiefly of glass, glasslike or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers or other weather-sensitive plants.
97. "Greenhouse, Commercial" means a building used for the growing of plants, all or part of which are sold at retail or wholesale.
98. "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.
99. "Group Residential Home" means a building owned or leased by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence, and complying with all applicable requirements of the state of West Virginia.
100. "Health Club" means a building or portion of a building designed and equipped for sports, exercise, or other customary and usual recreational activities, operated for profit. The sale of sports nutrition products, non-alcoholic beverages, packaged health foods, exercise clothing, and sports videos and magazines is permitted as an accessory use to such facilities.
101. "Historic Commercial" means a commercial use located within a structure designated as historic on a local, state, or national register.
102. "Historic District" means a geographically definable area, designated as historic on a national, state, or local register, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.
103. "Historic Landmark" means a site, building, structure, or object designated as historic on a national, state, or local register.
104. "Historic Residential" means a residential use located within a structure designated as historic on a local, state, or national register.
105. "Historic Site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure whether standing, ruined, or vanished, where the location itself possesses historic,

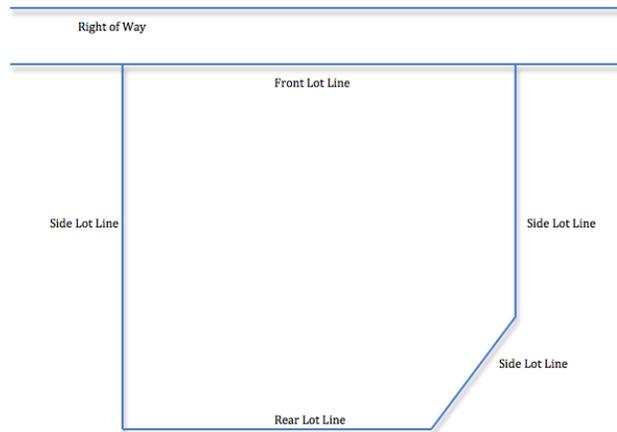
cultural, or archaeological value regardless of the value of any existing structure and designation as historic on a national, state, or local register.

106. "Holiday Displays" means exhibits erected on a seasonal basis in observance of religious, national, or state holidays, which are not intended to be permanent in nature and which contain no advertising material.
107. "Home-based Business" means an accessory use intended to allow commercial enterprises that generate limited numbers of customer visits or merchandise deliveries to a residential dwelling. Use involves limited customer, client, or patient traffic, whether vehicular or pedestrian, pickup, delivery, or removal functions to or from the premises, in excess of those normally associated with the use of a dwelling.
108. "Hospital" means an institution designed for the diagnosis, treatment, and care of human illness or infirmity and providing health services, primarily for inpatients, and including related facilities, laboratories, outpatient departments, training facilities, and staff offices.
109. "Hotel/Motel" means a building or group of buildings in which lodging is provided and offered for compensation. The building may also include dining rooms, kitchens, serving rooms, ballrooms, and other facilities and services intended primarily for the accommodation of its patrons.
110. "Incinerator" means an enclosed device using controlled flame combustion to thermally break down solid waste, including refuse-derived fuel, to an ash residue that contains little or no combustible materials as defined by the West Virginia Code.
111. "Industrial Park" means an area of land arranged or constructed in accordance with a plan for a group of business purposes, having separate building sites designed and arranged on streets and having utility services, setbacks, side yards, and covenants or other such regulations controlling or restricting uses.
112. "Kennel" means any establishment wherein cats and dogs are kept or boarded overnight. Business may be conducted in conjunction with a dog day care.
113. "Laboratory" means a facility equipped for experimental study in a science or for testing and analysis; a facility providing opportunity for research, experimentation, observation, or practice in a field of study.
114. "Landscaping" means the bringing of the soil surface to a smooth finished grade, installing trees, shrubs, ground cover, grass, and similar vegetation to soften building lines, provide shade, and generally produce a pleasing visual effect of the premises.
115. "Laundromat" means a business that provides washing, drying, or ironing machines for hire to be used by customers on the premises.
116. "Liquor Store" means an establishment operated under the authority of the West Virginia Code, Chapter 60, Article 3A, and primarily engaged in the retail sale of packaged alcoholic beverages such as ale, beer, wine, or whiskey, for off-premises consumption.
117. "Loading Space" means an area or berth available for the loading or unloading of goods from commercial vehicles.
118. "Lot" means a parcel of land with boundaries established by some legal instrument, such as a recorded deed or a recorded map, and which is recognized as a separate legal entity for purposes of transfer of title, together with the customary accessories and open spaces belonging to the same.



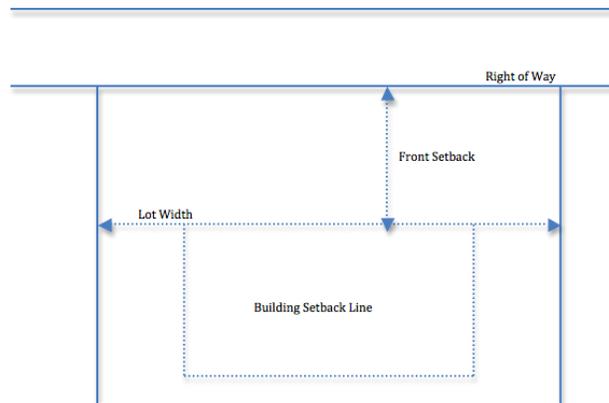
119. “Lot, Corner” means a lot at the junction of and abutting two (2) or more intersecting streets.
120. “Lot, Interior” means a lot other than a corner lot with only one (1) frontage on a street.
121. “Lot, Flag” means a lot not meeting minimum frontage requirements and where access to the public road is by a narrow, private right-of-way or driveway, or “handle.”
122. “Lot, Irregular” means a lot of such shape or configuration that technically meets the area, frontage, and width-to-depth requirements of the ordinance but has unusual elongations, angles, and curvilinear lines.
123. “Lot Line” means the property boundary line of any lot held in single or joint ownership that divides one (1) lot from another or from a street or any other public or private space.
- i. “Front Lot Line” means, in the case of an interior lot, a line separating the lot from the street or public right-of-way; and in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street.
 - ii. “Rear Lot Line” means a lot line which is opposite and more distant from the front lot line, except corner lots have no rear lot line. In the case of an irregular lot, a line ten (10) feet in length within the lot and parallel to and at the maximum distance from the front lot line.
 - iii. “Side Lot Line” means any lot line other than a front or rear lot line.

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



124. “Lot, Through” or “Double Frontage” or “Reverse Frontage” means a lot other than a corner lot facing more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.
125. “Lot Width” means the distance measured between side lot lines, at the required building setback line. In a case where there is only one (1) side lot line, lot width is measured between such side lot line and the opposite rear lot lines or street line.

Lot Width



126. “Lumberyard” means an establishment where processed wood timbers and products are stored for bulk and retail sale.
127. “Manufacturing (Heavy)” means the manufacturing or compounding process of raw materials. These activities or processes would necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. These activities may involve outdoor operations as part of the manufacturing process.
128. “Manufacturing (Light)” means the manufacturing, compounding, processing, assembling, packaging, printing, or testing of goods or equipment, including but not limited to newspaper printing and distribution and research activities conducted entirely within an enclosed structure, with no outside storage, serviced by a modest volume of trucks or vans, and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust, or pollutants.
129. “Medical Adult Day Care Center” means an ambulatory health care facility which provides an organized day program of therapeutic, social, and health maintenance and restorative services and whose general goal is to provide an alternative to twenty-four (24) hour long term institutional care to elderly or disabled adults who are in need of such services by virtue of physical and mental impairment.
130. “Medical Cannabis Dispensary” means a place where processed medical cannabis products are permitted to be sold to qualifying consumers, as provided for in the Code of the State of West Virginia, Chapter 16A, as amended. This term does not include a health care medical cannabis organization as defined in the Code of the State of West Virginia, Chapter 16A, as amended.
131. “Medical Cannabis Growing Facility” means a place where medical cannabis is permitted to be grown, as provided for in the Code of the State of West Virginia, Chapter 16A, as amended. This term does not include a health care medical cannabis organization as defined in the Code of the State of West Virginia, Chapter 16A, as amended.
132. “Medical Cannabis Processing Facility” means a place where medical cannabis is permitted to be processed, refined, or otherwise converted into a legally permitted state, as provided for in the Code of the State of West Virginia, Chapter 16A, as amended. This term does not include a health care medical cannabis organization as defined in the Code of the State of West Virginia, Chapter 16A, as amended.
133. “Medical Cannabis Organization” means a dispensary, grower or processor. The term does not include a health care medical cannabis organization as defined in the Code of the State of West Virginia, Chapter 16A, as amended.
134. “Medical Cannabis Organization, Health Care” means a vertically integrated health system approved by the West Virginia Bureau for Public Health to dispense medical cannabis or grow and process medical cannabis, or both, in accordance with a research study under the Code of the State of West Virginia, Chapter 16A, as amended. A “vertically integrated health system” is a health delivery system in which the complete spectrum of care, including primary and specialty care, hospitalization and pharmaceutical care, is provided within a single organization.
135. “Nightclub” means an establishment for evening entertainment, generally open until the early morning that serves liquor and usually food and offers patrons music, comedy acts, a floor show, or dancing but is not characterized as a forum for sexually oriented material.
136. “Non-conforming Building or Structure” means a building or structure lawfully constructed and not otherwise abandoned, existing on the effective date of this code, on the effective date of any amendment thereto, or prior to annexation, which renders such building or structure illegal within a district, or not complying in any fashion with any of the rules, requirements, and regulations of this code or any amendments thereto.
137. “Non-conforming Lot” means a lot or parcel of land that was of record and lawfully established and maintained but which, because of the enactment of this code, or subsequent amendment, no longer conforms to the land use standards or use regulations of the district in which it is located.
138. “Non-conforming Sign” means any sign which was lawfully erected, maintained, and existing on the effective date of this code, on the effective date of any amendment thereto, or prior to annexation, which renders such existing sign illegal within a district, or not complying in any fashion with any of the rules, requirements, and regulations of this code or any amendments thereto, or any sign which is accessory to a nonconforming use.
139. “Non-conforming Use” means any actual and active use lawfully being made of any land, building, or structure not otherwise abandoned, existing on the effective date of this code, on the effective date of any amendment thereto, or prior to annexation, which renders such existing use illegal within a district, or not

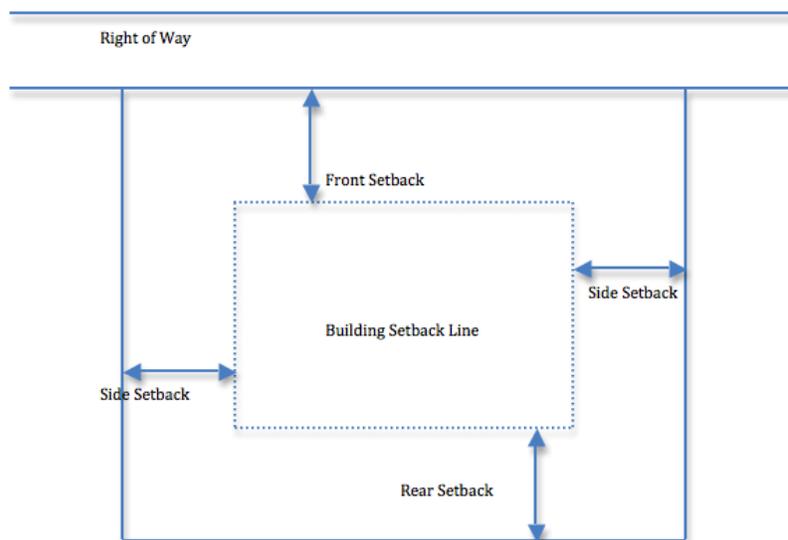
complying in any fashion with any of the rules, requirements, and regulations of this code or any amendments thereto.

140. "Nonintoxicating Beer" means all natural cereal malt beverages or products of the brewing industry commonly referred to as beer, lager beer, ale, and all other mixtures and preparations produced by the brewing industry, including malt coolers and nonintoxicating craft beers with no caffeine infusion or any additives masking or altering the alcohol effect, containing at least one half of one (0.5%) percent alcohol by volume, but not more than nine and six-tenths (9.6) percent of alcohol by weight, or twelve (12%) percent by volume, whichever is greater.
141. "Office Supply Establishment" means a place of business where stationery, furniture, and other supplies typically used in offices are the main items offered for sale.
142. "Open Space" means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.
143. "Owner" means any individual, firm, association, syndicate, estate, corporation, trust, or any other legal entity having proprietary interest in the land.
144. "Parallel Parking Stall" means an off-street space available for parking of one (1) automobile and having an area not less than eight (8) feet by twenty-two (22) feet and an area exclusive of passageways, accessways, and driveways appurtenant thereto, and having a means to direct access to a street or road.
145. "Parcel Delivery Facility" means an establishment engaged in the delivery, receipt, and transmittal of documents, packages, and parcels.
146. "Park" means land set aside for open space and recreation purposes.
147. "Parking Lot" means an off-street surfaced area used for parking two or more vehicles which is served by an entrance and possibly an accessway connecting the parking lot and a public or private road, but does not include parking for a single-family or two-family dwelling.
148. "Parking Stall" means an off-street space available for parking one (1) automobile and having an area not less than nine (9) feet by twenty (20) feet and an area exclusive of passageways, accessways, and driveways appurtenant thereto, and having a means to direct access to a street or road.
149. "Patio" means an area consisting of natural or man-made material constructed at or near grade level, intended for use as an outdoor living area, and not enclosed by a permanent roof or awning.
150. "Personal Service" means a business providing services to a person, their apparel or personal effects commonly carried on or about their person, including, but not limited to, shoe repair, tailoring, watch repair, beauty shops, barber shops, tanning and nail salons, and dry cleaning and laundry pick-up stations as defined herein.
151. "Pet Shop" means an establishment where animals are bought, sold, exchanged, or offered for sale or exchange to the general public.
152. "Pharmacy" means an establishment in which prescription or nonprescription drugs or devices are compounded, dispensed, or distributed. Ancillary retail items may be sold here.
153. "Photographic Studio" means a retail establishment for the purpose of photographing subjects and processing photographs for commercial purposes, but not including photography requiring professional models.
154. "Places of Worship/Religious Institution" means a building wherein persons regularly assemble for acts of religious devotion and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes a church, synagogue, temple, mosque, or other places for worship and religious activities. Customary accessory uses include a wide range of religious activities, including a caretaker's residence; fellowship halls, parish halls and similar buildings; rooms used for meetings, religious education, and similar functions; a gymnasium; a playground; the sale of items associated with the practice of religion; and faith-based social services such as homeless shelters, group homes, and soup kitchens.
155. "Porch" means a covered but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes.
156. "Permitted Use (Use Permitted by Right)" means any use requiring no special action by any governmental body, agency, or staff member before the zoning permit is granted by the Zoning Officer, subject to all other applicable provisions of this code.
157. "Private Club" means any corporation or unincorporated association meeting the definition of private club in West Virginia Code Section 60-7-2(a), and licensed and in compliance with West Virginia Code, Chapter 60, Article 7, to sell liquor, beer, and wine.

158. "Professional Services" means any office of recognized professions, other than medical, such as lawyers, architects, engineers, real estate brokers, insurance agents, and others who are qualified to perform services of a professional nature and other offices used primarily for accounting, corresponding, research, editing, or other administrative functions, but not including banks or other financial institutions and personal services.
159. "Public Area" means any public place, public right-of-way, any parking area or right-of-way open to use by the general public, or any navigable body of water.
160. "Recreation, Private" means an enterprise operated by an individual or non-profit association or corporation, other than a public entity, for the pursuit of sports and recreational activities, including but not limited to such establishments as country clubs, golf courses, sports clubs, golf practice facilities, playing fields, tennis or racquet clubs, swimming pools, sports arenas, and similar facilities.
161. "Recreation, Public" means an enterprise owned and operated by a public entity, available to the general public, whether or not an admission fee is charged, including either indoor or outdoor facilities for the pursuit of sports, recreation, or leisure activities, including but not limited to parks, playgrounds, playing fields, fishing access, golf courses, golf or batting practice facilities, tennis courts, swimming pools, and similar facilities.
162. "Research and Development" means investigative activities a business conducts to improve existing products or services or to lead to the creation of new products and procedures that do not involve the mass manufacture, fabrication, processing, sale of products; or a structure or complex of structures designed or used primarily for research development functions related to industry and similar fields of endeavor.
163. "Resident Brewer" means any brewer or manufacturer of nonintoxicating beer or nonintoxicating craft beer whose principal place of business and manufacture is located in the state of West Virginia and which does not brew or manufacture more than twenty-five thousand (25,000) barrels of nonintoxicating beer or nonintoxicating craft beer annually, and does not self-distribute more than ten thousand (10,000) barrels thereof in the state of West Virginia annually.
164. "Restaurant" means a commercial establishment with an equipped kitchen where food and beverages are prepared, served, and consumed primarily on the premises and where food sales constitute more than sixty (60%) percent of the gross sales receipts.
165. "Restaurant, Fast Food" means an establishment whose principal business is the sale of foods, frozen desserts, or beverages in ready to consume individual servings, for consumption either within the restaurant building or for carry out, and where either:
- i. Foods, frozen desserts, or beverages are usually served in paper, plastic, or other disposable containers, and where customers are not served food, frozen desserts, or beverages by a restaurant employee at the same table or counter where the items are consumed; or
 - ii. The establishment includes a drive up or drive through service facility or offers curbside service.
166. "Retail Store" means a business having as its primary function the supply of merchandise or wares to the end consumer. Such sales constitute the "primary function" of the business when at least eighty (80) percent of the gross sales of the business.
167. "Right-of-way (R-O-W)" means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another similar use.
168. "Roadside Vendor Stand" means location, trailers, truck beds, or similar facilities offering products for sale which are not produced on the immediate premises.
169. "Salvage Yard" or "Junkyard" means any place that is maintained, operated, or used for the storing, keeping, buying, selling, or processing of junk, scrap material, or similar waste, including the dismantling, demolition, or abandonment of automobiles, other vehicles, machinery, or parts. Junkyard shall be synonymous with salvage yard. Two (2) or more vehicles not in operating condition constitute a salvage yard.
170. "Satellite Signal Receiving Station" means devices commonly parabolic in shape, mounted at a fixed point on a structure, or on rooftops, for the purpose of capturing electronic television or internet signals transmitted via satellite communication facilities and serving the same or similar function as the common television antenna. Such devices are accessory structures.
171. "School, Commercial" means an educational establishment to provide for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to educational establishments that are owned and operated privately for profit.

172. “School, Preschool to 12” means an educational establishment offering education between preschool through twelfth (12th) grade. Schools can be public or private, licensed in accordance with the West Virginia Code.
173. “Screening” means the use of plant materials, fencing, or earthen berms to aid in the concealment of such features as parking areas and vehicles within them, and to provide privacy between two (2) or more different adjoining land uses.
174. “Self-storage Facility” means a building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time.
175. “Senior Independent Housing” means a single-family or multi-family development intended for, operated for, and designed to accommodate residents fifty-five (55) years of age or older. Senior independent housing communities are designed for seniors who are able to live independently or need assistance with daily care.
176. “Setback” means the minimum distance by which any building or structure must be separated from a street right-of-way or lot line.
- i. “Front Setback” means the shortest distance between the building setback line and the front lot line.
 - ii. “Rear Setback” means the shortest distance between the building setback line and the rear lot line.
 - iii. “Side Setback” means the shortest distance between the building setback line and the side lot line.

Front Setback, Rear Setback, and Side Setback



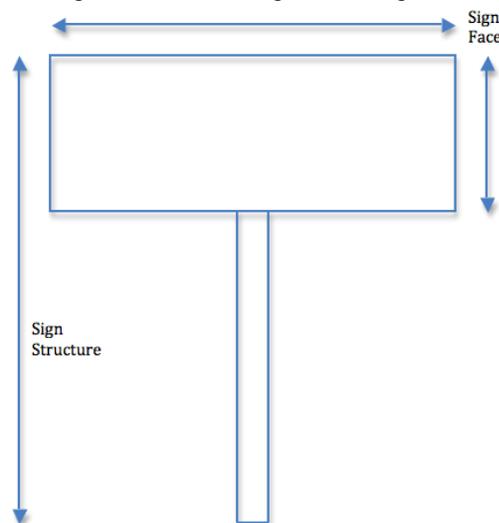
177. “Sewage Treatment Facility” means a facility designed to receive the wastewater from both residential and nonresidential sources and to remove materials that damage water quality and threaten public health and safety when discharged into receiving streams or bodies of water.
178. “Shopping Center” means a group of retail and other commercial establishments that is planned, owned, and managed as a single property.
179. “Sign” means any device (writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag, banner or pennant, or any other device, figure or character, or delineation) with the essential purpose to communicate, designed to communicate, or where context results in communication, and such communication is aimed at persons in a public right-of-way.
- i. “A-Frame Sign” means a two-faced sign with supports that are connected at the top and separated at the base with an internal angle between the two faces of no more than a forty-five (45) degree angle, forming an “A” shape not more than four (4) feet high. These are also referred to as “sandwich board.”
 - ii. “Animated Sign” or “Moving Sign” means a sign or part of a sign that is designed to rotate, move, or appear to rotate or move. Such a sign is sometimes referred to as a “moving sign.”

Animated signs include signs with moving graphic features such as scrolling text or images that appear to move; moving sign change features such as fly-in, wipe-off, fading, dissolving, traveling, or expanding displays, or any other full message sign change taking longer than three tenths (0.3) of a second; and static electronic message displays displayed less than seven (7) seconds. Animated signs also include signs propelled by vehicle, watercraft, or aircraft where the primary purpose of the vehicle, watercraft, or aircraft at the time of sign display is to propel the sign.

- iii. “Awning Sign” or “Canopy Sign” means a sign placed directly on the surface of an awning or to a canopy, which is a roof-like structure either projecting from a building façade and open on three sides, or standing alone and open on four sides, and used for the purpose of protecting pedestrians and motorists from weather related elements.
- iv. “Banner” means a sign of flexible material affixed to a framework or flat surface. Banners are not flags for purposes of this ordinance.
- v. “Beacon” means any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.
- vi. “Chalkboard Sign” means a single-faced, framed slate, or chalkboard that can be written on with chalk or similar markers.
- vii. “Changeable Copy Sign” means a sign or part of a sign that is designed so that characters, letters, or illustrations can be manually or physically changed or rearranged without altering the face or surface of the sign.
- viii. “Electronic message display” means a sign that is either light emitting or light reflective and that is capable of changing the displayed message through electronic programming. Electronic message displays are divided into four (4) categories:
 - A. “Static electronic message display” means an electronic message display that is not an animated sign.
 - B. “Static electronic message display with transition features” means an electronic message display that remains static except for no more than a two (2) second transition feature such as fading, dissolving, or a single instance of fly-in, wipe-off, expansion, or traveling that occurs no more often than every seven (7) seconds.
 - C. “Electronic message display, partially animated” means an electronic message display with animated or moving text or graphics.
 - D. “Electronic message display, fully animated” means an electronic message display with full animation features.
- ix. “Feather Sign/Feather Flag/Teardrop Flag/Wind Flag” means a lightweight, portable flag made of cloth, plastic, or similar material mounted along one edge on a single, vertical, flexible pole, the physical structure of which may resemble a sail, bow, or teardrop.
- x. “Flag” means a single piece of cloth or similar material, typically oblong or rectangular, attachable by one edge to a pole or rope.
- xi. “Flashing Sign” means a sign that includes lights that flash, blink, turn on and off intermittently, or otherwise vary light intensity during the display of a message.
- xii. “Freestanding Sign” means a sign not attached to a building or other structure other than its own support, supported by one or more columns, uprights, or braces in or upon the ground, with at least eight (8) feet between the lowest component of the sign face and the ground beneath the sign.
- xiii. “Geological signs” are signs made of or that appear to be made of geological formations, including but not limited to standalone rocks or mountainsides, and convey a message that is etched, carved, painted, or similarly incorporated into the sign’s material.
- xiv. “Illegal sign” means any sign erected without obtaining a required permit or which otherwise does not comply with any provision of this code.
- xv. “Inflatable/Tethered Sign” means a sign that is filled with air to convey a message or to draw attention to a message or location.
- xvi. “Marquee Sign” means a sign attached to and made a part of a marquee or any similar projections from a building, with changeable, fixed, or both types of lettering in use.
- xvii. “Minor Sign” means a sign not exceeding two (2) square feet in area, not exceeding four (4) feet in height, and not illuminated.

- xviii. “Monument Sign” means a sign affixed to a structure built on grade in which the sign and the structure are an integral part of one another, with less than five (5) feet between the lowest component of the sign face and the ground beneath the sign; not a pole sign. Monument signs may contain changeable copy components. Monument signs are subject to the landscaping requirements set forth in Section 319.17(g).
- xix. “Neon Sign” means a sign containing exposed tubes filled with light-emitting gas.
- xx. “Off-premises sign” means a sign not accessory to or associated with the principal use on a lot, or a sign that is the principal use of a lot.
- xxi. “Pennant” means a geometric shaped flag made of flexible materials, suspended from one (1) or two (2) corners fastened to a string, which is secured or tethered so as to allow movement and used as an attention-getting form of media.
- xxii. “Person-assisted Sign” means a sign that includes an individual paid to hold, move, wear, or otherwise direct attention to a sign.
- xxiii. “Projecting Sign” means a sign attached to and projecting more than twelve (12) inches from the face of a wall or building, but does not project above the parapet or eave line of the building and is a minimum of eight (8) feet above any walking surface.
- xxiv. “Roof Sign” means a sign erected or constructed, in whole or in part, upon or above the highest point of a building with a flat roof, or the lowest portion of a roof for any building with a pitched roof.
- xxv. “Temporary Sign” means any sign intended to be displayed for a limited period of time not to exceed thirty (30) days.
- xxvi. “Vehicle or Trailer Sign” means any sign attached to or displayed on a vehicle, if the vehicle or trailer is used primarily to display a commercial sign and it fails to display current license plates or inspection sticker; 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.
- xxvii. “Wall Sign” means any sign, inscription, artwork, figure, marking, or design that is attached, painted, drawn, marked, etched, or scratched onto a wall or against a flat vertical exterior surface of a structure, including portions of doors that do not contain windows.
- xxviii. “Wicket Sign” means a sign with an H- or U-shaped frame that is put into the ground or placed above the ground.
- xxix. “Window Sign” means any sign visible outside the window, including windows on doors, and attached to or within eighteen (18) inches in front of or behind the surface of a window or door.

180. “Sign Face” means the portion of a sign structure bearing the message.



181. “Sign Structure” means any structure bearing a sign face.

182. “Solar Energy System” means an energy conversion system, including appurtenances, which converts solar energy to a usable form of energy to meet all or part of the energy or heating requirements of the on-site

user, or which is to be sold to a utility company to be used by others, or sold directly to other users. A Solar Energy System may be ground mounted (i.e., placed on top of the ground surface) or roof mounted (i.e., placed on or as an integral part of a building).

- i. "Small solar energy system" means solar energy systems installed for personal use in residences, commercial properties, and institutions.
 - ii. "Large solar energy system" means solar energy systems installed on large parcels of land for the purpose of generating revenue or utility-scale systems installed to benefit the community or an entire institution.
183. "Solid Waste Disposal Areas/Facility" means any system, facility, land, contiguous land, improvements on the land, structures, or other appurtenances or methods used for processing, recycling, or disposing of solid waste, including landfills, transfer stations, materials recovery facilities, mixed waste processing facilities, sewage sludge processing facilities, commercial composting facilities, and other such facilities not herein specified, but not including land upon which sewage sludge is applied in accordance with the West Virginia Code. Such facility is situated in the county where the majority of the spatial area of such facility is located.
184. "Special Flood Hazard Area" means the area that will be inundated by the flood event having a 1-percent chance of being equaled or exceeded in any given year. The one-percent (1%) annual chance flood is also referred to as the base flood or hundred-year (100) flood.
185. "Specified Anatomical Areas" or "nudity" means less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state, even if completely and opaquely covered.
186. "Stealth, Technology" means telecommunications facilities which are designed to be compatible with the surroundings and which camouflage or partially conceal the presence of telecommunications towers and facilities, including telecommunication facilities erected on alternative structures such as ball field light poles, electric utility poles, water towers and similar existing structures.
187. "Street" means a dedicated and accepted public right-of-way for vehicular and pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land place, or however otherwise designated.
188. "Studio, Dancing, Music, or Art" means a facility used for the rehearsal or performance of performing arts, such as music, dance, or theater; teaching classes in creative arts, such as painting, drawing, sculpting, potting, or beading or otherwise creating art; or for the display or sale of art in general or during special events. Food and alcoholic beverages may be served and fees charged as accessory uses during special events.
189. "Tattoo Parlor/Body Piercing Studio" means an establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or both of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin, or (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.
190. "Tavern/Drinking Establishment/Bar" means an establishment engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises and which may offer food for consumption on premises as an ancillary use.
191. "Telecommunications, Class I" means facilities that include but are not limited to such facilities as television antennas, ham radio antennas, am/fm reception. No Class I facility may be utilized for cellular phone reception.
192. "Telecommunications, Class II" means facilities that include but are not limited to such facilities as antennas and associated electronic equipment designed expressly for use by cellular phone companies, as regulated under the Federal Telecommunication Act of 1996, that are not intended to be supported by or attached to a new telecommunications tower, as defined. They may be attached to existing, permitted tower structures, or to existing structures not originally intended to support telecommunications facilities, as provided for in this code.
193. "Telecommunications, Class III" means facilities that include but are not limited to such facilities as antennas and associated electronic equipment that is supported by or attached to a new telecommunications tower, as defined herein, and is designed expressly for use by cell phone companies, as regulated under the Federal Telecommunications Act of 1996.
194. "Telecommunications Tower" means any structure that is designated and constructed primarily for the purpose of supporting one or more telecommunication antennas. This includes guyed towers, lattice towers,

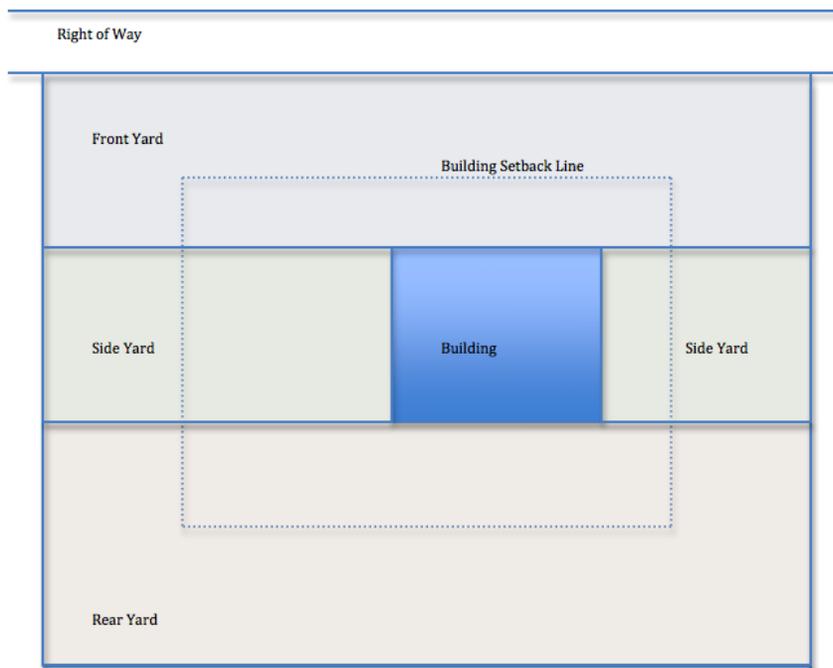
- monopoles, and towers taller than fifteen (15) feet constructed on the top of another building, along with any separate building on the lot used to house any supporting electronic equipment.
195. "Theater" means a building or part of a building devoted to presenting motion pictures or live performances.
196. "Tourist Home" or "Boarding House" or "Rooming House," also known as short-term rentals, means a dwelling, other than hotel, motel, or restaurant, advertised as supplying overnight lodging wherein one or more persons are sheltered or fed for profit for no more than ninety (90) days in one (1) calendar year. No cooking or dining facilities are provided in individual rooms.
197. "Tourist or Trailer Camp" means an area containing travel trailers, pick-up coaches, and motorized homes designed or intended to be used as temporary living facilities for one or more families.
198. "Trailer, Camping and Recreational Equipment" means travel trailers, pickup coaches, motorized homes and recreational vehicles and equipment as follows:
- i. "Travel Trailer" means a portable structure built on a chassis, designed to be towed and used as a temporary dwelling for travel, recreational, and vacation purposes, and permanently identified as a travel trailer by the manufacturer of the trailer.
 - ii. "Pickup Coach" means a structure designed primarily to be mounted on a pickup or other truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational, and vacation purposes.
 - iii. "Motorized Home" means a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
 - iv. "Boat" means a vessel designed to travel on water.
 - v. "Boat Trailer" means a trailer designed to haul a boat as defined above.
199. "Travel Plaza" means a public facility, located next to a large thoroughfare such as a highway, expressway, or freeway at which drivers and passengers can rest, eat, or refuel without exiting onto secondary roads.
200. "Truck Terminal" means a facility where freight is unloaded from interstate trucks or intermodal trailers and containers carried on the railroad and loaded onto local delivery trucks.
201. "Urban Agriculture" means land used for beekeeping, community gardens, keeping of fowl, and other small-scale agricultural activities.
202. "Use" means any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied, or any activity, occupation, business, or operation performed in a building or other structure, or on a tract of land.
203. "Variance" means a deviation from the minimum standards of this code, but not permitting land uses that are otherwise prohibited in the zoning district or changing the zoning classifications of a parcel of land.
204. "Vehicle" means any device in, upon, or by which any person or property is or may be transported or drawn upon a street, including automobiles, and excepting tractors, agricultural machinery, devices moved by human power or used upon stationary rails or tracks.
205. "Vehicle Repair/Service/Sales/Rental" means any building, structure, improvements, or land used for the repair or maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler or upholstery work, oil change and lubrication, painting, tire service and sales, or installation of CB radios, car alarms, stereo equipment, or cellular telephones.
206. "Video Gaming or Lottery Establishment" means an establishment at which any form of gambling of chance is permitted or played, including "video lottery" machines licensed by the West Virginia Lottery Commission pursuant to the West Virginia Code, but excluding establishments that only sell lottery tickets.
207. "Warehouse" means a facility characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and odors, but not involved in manufacturing or production.
208. "Water Treatment Plant" means facilities that treat water and produce potable water for public consumption.
209. "Wholesale Establishment" means the sale of commodities to retailers or jobbers, including the sale of commodities for the purpose of carrying on any trade or business even if the said trade or business is the consumer or end user of the commodity.
210. "Wind Energy System" means any electric generation facility whose main purpose is to convert and store wind energy into usable forms of energy, includes the wind turbines, structural supports, electrical infrastructure, and other appurtenant structures and facilities. Consisting of a maximum of one (1) wind turbine per parcel of land.

211. “Winery” means an establishment where wine is manufactured or in any way prepared in accordance with the West Virginia Code.

212. “Yard” means open space that lays between the principal building or buildings and the nearest lot line. The minimum required yard is unoccupied and unobstructed from the ground upward except as may be specifically provided in this code. Yards are further classified as front, rear, and side:

- i. “Yard, Front” means a space extending the full width of the lot between the architectural front of the principle building or structure and the front lot line.
- ii. “Yard, Rear” means a space extending the full width of the lot between the architectural rear of the principal building or structure and the rear lot line.
- iii. “Yard, Side” means a space extending from the front yard to the rear yard between the principal building façade and the side lot line.

Front, Rear, and Side Yard



213. “Zoning” means the division of a municipality or county into districts or zones which specify permitted and conditional uses and development standards for real property within the districts or zones.

214. “Zoning Officer” means the person designated by the City of Mount Hope through the Board of Zoning Appeals to administer and enforce the provisions of this code.

CHAPTER 3 ZONING DISTRICTS AND REQUIREMENTS

ARTICLE 301 DISTRICTS ESTABLISHED; CLASSIFICATION OF DISTRICTS

Section 301.01 Districts Established.

- a. For the purpose of this Zoning Ordinance, the City of Mount Hope is hereby divided into the following zoning districts:
 1. RHC: Residential Historic Core
 2. HDC: Historic Downtown Commercial
 3. RE: Residential Expansion
 4. C: Civic
 5. NRS: Natural Resources Stewardship
 6. RT-16: Route 16 Corridor
 7. RT-19: Route 19 Corridor

Section 301.03 Zoning Map.

Section 301.05 Use Table.

Section 301.07 Classification of Districts and District Boundaries.

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

Section 301.09 Procedures Relating to Annexed or Vacated Areas.

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

Section 301.11 Uses Not Expressly Permitted or Conditional.

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

ARTICLE 303 RHC: RESIDENTIAL HISTORIC CORE DISTRICT

Section 303.01 Purpose.

The purpose of the Historic Downtown Residential District is to maintain the historic character of neighborhoods and encourage smart and attractive development. The Residential Historic Core District provides for a variety of housing types and accessory uses at a density higher than the Residential Expansion District. The district is designed to provide for high-density residential land uses in a manner that preserves the necessary open space while providing for adequate off-street parking, outdoor living space, and setbacks. This district will preserve the desirable characteristics of a high-density residential neighborhood while in close proximity to community amenities.

Section 303.03 Uses permitted by right.

a. The following shall be uses permitted by right in the Residential Historic Core District:

1. Bed and Breakfast Inn
2. Dwelling, Apartment
3. Dwelling, Condominium
4. Dwelling, Conversion Apartment
5. Dwelling, Garage Conversion
6. Dwelling, Garden Home Development
7. Dwelling, Single Family
8. Dwelling, Townhouse
9. Dwelling, Two-Family
10. Educational Institution
11. Greenhouse, Noncommercial
12. Group Residential Facility
13. Group Residential Home
14. Home-based Business
15. Park
16. Places of Worship/Religious Institution
17. Solar Energy System, Small
18. Telecommunications, Class I
19. Urban Agriculture

Section 303.05 Conditional Uses.

a. The following shall be conditional uses in the Residential Historic Core District:

1. Catering Business
2. Child Day Care, Class 3 or 4
3. Conversion of Old School/Church
4. Dwelling, Mixed Use
5. Dwelling, Multi-family
6. Historic Commercial
7. Historic Residential
8. Recreation, Public
9. Senior Independent Housing
10. Studio, Dancing, Music, or Art
11. Tourist Home, Boarding House

Section 303.07 Lot, Yard, and Height Requirements.

Residential Historic Core District Requirements	
Max. Building Height	50 feet
Min. Front Setback	50 feet, or the average of the two (2) adjoining properties that have pre-existing structures, whichever is less
Min. Side Setback	4 feet
Min. Rear Setback	10 feet
Min. Lot Size (Sq. Ft.)	5,000 square feet
Min. Lot Width	38 feet
Max. Lot Coverage (as a %)	60%

ARTICLE 305 HDC: HISTORIC DOWNTOWN COMMERCIAL DISTRICT

Section 305.01 Purpose.

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

Section 305.03 Uses Permitted by Right.

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

1. Bakery
2. Bank/Financial Institution
3. Catering Business
4. Child Day Care Facility, Class 1 or 2
5. Clinic
6. Community Facility
7. Convenience Store
8. Conversion of Old School/Church
9. Cultural Service
10. Dry Cleaner and Laundry Pick-up Station
11. Dwelling, Apartment
12. Dwelling, Condominium
13. Dwelling, Conversion Apartment
14. Dwelling, Garage Conversion
15. Dwelling, Mixed Use
16. Dwelling, Townhouse
17. Dwelling, Two-Family
18. Educational Institution
19. Emergency Shelter
20. Equipment Repair and Rental
21. Farmers Market
22. Garage, Public
23. Garden Center
24. Gas Station
25. Government Operations
26. Greenhouse, Noncommercial
27. Group Residential Facility

28. Group Residential Home
29. Health Club
30. Home-based Business
31. Laundromat
32. Liquor Store
33. Medical Adult Day Care Center
34. Medical Cannabis Dispensary
35. Medical Cannabis Growing Facility
36. Medical Cannabis Organization, Health Care
37. Medical Cannabis Processing Facility
38. Office Supply Establishment
39. Parcel Delivery Facility
40. Park
41. Parking lot
42. Personal Service
43. Pet Shop
44. Pharmacy
45. Photographic Studio
46. Place of Worship/Religious Institution
47. Private Club
48. Professional Service
49. Recreation, Private
50. Recreation, Public
51. Research and Development
52. Restaurant
53. Retail Store
54. School, Commercial
55. School, Preschool to 12
56. Solar Energy System, Small
57. Studio, Dancing, Music, or Art
58. Tavern/Drinking Establishment
59. Telecommunications, Class I
60. Theater
61. Tourist Home, Boarding House
62. Urban Agriculture

Section 305.05 Conditional Uses.

- a. The following shall be conditional uses in the Historic Downtown Commercial District:
 1. Amusement and Recreation Center
 2. Automobile Car Wash
 3. Bed and Breakfast Inn
 4. Brewery Pub
 5. Broadcasting Studio
 6. Distillery
 7. Drive-through Business
 8. Dry Cleaner
 9. Flea Market
 10. Greenhouse, Commercial
 11. Historic Commercial
 12. Historic Residential
 13. Hospital
 14. Hotel/Motel
 15. Laboratory
 16. Lumberyard
 17. Manufacturing, Light
 18. Night Club

19. Restaurant, Fast Food
20. Shopping Center
21. Tattoo/Body Piercing Studio
22. Vehicle Repair/Service/Sales/Rental
23. Video Gaming/Lottery Establishments
24. Warehouse
25. Wholesale Establishment

Section 305.07 Lot, Yard, and Height Requirements.

Historic Downtown Commercial District Requirements	
Max. Building Height	50 feet
Min. Front Setback	0 feet
Min. Side Setback	0 feet, unless adjoining residential property, then 8 feet
Min. Rear Setback	10 feet
Min. Lot Size (Sq. Ft.)	2,000 square feet
Min. Lot Width	45 feet
Max. Lot Coverage (as a %)	70%

ARTICLE 307 RE: RESIDENTIAL EXPANSION DISTRICT

Section 307.01 Purpose.

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

Section 307.03 Uses Permitted by Right.

- a. The following shall be uses permitted by right in the Residential Expansion District:
 1. Bed and Breakfast Inn
 2. Dwelling, Apartment
 3. Dwelling, Condominium
 4. Dwelling, Conversion Apartment
 5. Dwelling, Garage Conversion
 6. Dwelling, Garden Home Development
 7. Dwelling, Mixed Use
 8. Dwelling, Multi-family
 9. Dwelling, Single Family
 10. Dwelling, Townhouse
 11. Dwelling, Two-Family
 12. Educational Institution
 13. Emergency Shelter
 14. Greenhouse, Noncommercial
 15. Group Residential Facility
 16. Group Residential Home
 17. Home-based Business
 18. Park
 19. School, Preschool to 12
 20. Solar Energy System, Small
 21. Telecommunications, Class I
 22. Urban Agriculture

Section 307.05 Conditional Uses.

- a. The following shall be conditional uses in the Residential Expansion District:
 - 1. Cemetery/Mausoleum
 - 2. Child Day Care, Class 3 or 4
 - 3. Community Facility
 - 4. Continuing Care Facility
 - 5. Conversion of Old School/Church
 - 6. Dog Day Care
 - 7. Factory-built Home
 - 8. Factory-built Home Rental Community
 - 9. Fairground
 - 10. Recreation, Public
 - 11. Senior Independent Housing
 - 12. Studio, Dancing, Art, or Music

Section 307.07 Lot, Yard, and Height Requirements.

Residential Expansion District Requirements	
Max. Building Height	50 feet
Min. Front Setback	10 feet, or the average of the two (2) adjoining properties that have pre-existing structures, whichever is less
Min. Side Setback	6 feet
Min. Rear Setback	15 feet
Min. Lot Size (Sq. Ft.)	10,000 square feet
Min. Lot Width	40 feet
Max. Lot Coverage (as a %)	40%

ARTICLE 309 C: CIVIC DISTRICT

Section 309.01 Purpose.

The purpose of the Civic District is the development of public community uses, including both indoor and outdoor recreational, cultural, educational, and official government uses.

Section 309.03 Uses Permitted by Right.

- a. The following shall be uses permitted by right in the Civic District:
 - 1. Community Facility
 - 2. Conversion of Old School/Church
 - 3. Cultural Service
 - 4. Dwelling, Apartment
 - 5. Dwelling, Condominium
 - 6. Dwelling, Townhouse
 - 7. Dwelling, Two-Family
 - 8. Educational Institution
 - 9. Emergency Services
 - 10. Emergency Shelter
 - 11. Farmers Market
 - 12. Governmental Operations
 - 13. Greenhouse, Noncommercial
 - 14. Group Residential Home
 - 15. Group Residential Facility
 - 16. Park
 - 17. Parking lot
 - 18. Places of Worship/Religious Institution
 - 19. Recreation, Public
 - 20. School, Commercial

21. School, Preschool to 12
22. Sewage Treatment Facility
23. Solar Energy System, Small
24. Telecommunications, Class I
25. Telecommunications, Class II
26. Water Treatment Plant

Section 309.05 Conditional Uses.

- a. The following shall be conditional uses in the Civic District:
 1. Amusement and Recreation Center
 2. Bus & Transit Facility
 3. Garage, Public

Section 309.07 Lot, Yard, and Height Requirements.

Civic District Requirements	
Max. Building Height	50 feet
Min. Front Setback	10 feet
Min. Side Setback	0 feet, unless adjoining residential property, then 8 feet
Min. Rear Setback	10 feet
Min. Lot Size (Sq. Ft.)	4,000 square feet
Min. Lot Width	40 feet
Max. Lot Coverage (as a %)	60%

ARTICLE 311 NRS: NATURAL RESOURCE STEWARDSHIP DISTRICT

Section 311.01 Purpose.

The purpose of the Natural Resource Stewardship District is to encourage open space to protect the natural beauty and scenic value of the City, and to provide for a recreational area within the City for the enjoyment of the creek and other related activities. The district is also intended to preserve natural resources; prevent erosion, pollution, flood damage and siltation; and safeguard the health, safety, and welfare of persons and property.

Section 311.03 Uses Permitted by Right.

- a. The following shall be uses permitted by right in the Natural Resource Stewardship District:
 1. Agriculture
 2. Campground
 3. Farmers Market
 4. Group Residential Home
 5. Park
 6. Urban Agriculture

Section 311.05 Conditional Uses.

- a. The following shall be conditional uses in the Natural Resource Stewardship District:
 1. Garden Center
 2. Greenhouse, Commercial
 3. Recreation, Private
 4. Recreation, Public
 5. Roadside Vendor Stand
 6. Winery

Section 311.07 Lot, Yard, and Height Requirements.

Natural Resource Stewardship District Requirements	
Max. Building Height	25 feet
Min. Front Setback	20 feet
Min. Side Setback	15 feet
Min. Rear Setback	20 feet
Min. Lot Size (Sq. Ft.)	4,000 square feet
Min. Lot Width	50 feet
Max. Lot Coverage (as a %)	20%

ARTICLE 313 RT-16: ROUTE 16 CORRIDOR DISTRICT

Section 313.01 Purpose.

The purpose of the Route 16 Corridor District is to provide areas that encourages a commercial corridor within the City that is appropriate for most businesses and services, particularly highly visible space users, such as chain retail stores. The district allows for a commercial area within a high-traffic corridor to encourage traffic flow within the district. The district encourages a higher intensity commercial area within the City, which is accessible and compact, yet distinctive and attractive. The Route 16 Commercial Corridor District also serves as a gateway into the City.

Section 313.03 Uses Permitted by Right.

- a. The following shall be uses permitted by right in the Route 16 Corridor District:
1. Animal Hospital/Veterinary Office
 2. Automobile Car Wash
 3. Bakery
 4. Bank/Financial Institution
 5. Bed and Breakfast Inn
 6. Brewery Pub
 7. Broadcasting Studio
 8. Building Material Facility
 9. Campground
 10. Catering Business
 11. Clinic
 12. Community Facility
 13. Continuing Care Facility
 14. Convenience Store
 15. Conversion of Old School/Church
 16. Distillery
 17. Distribution Facility
 18. Dog Day Care
 19. Drive-through Business
 20. Dry Cleaner
 21. Dry Cleaner and Laundry Pick-up Station
 22. Dwelling, Apartment
 23. Dwelling, Condominium
 24. Dwelling, Conversion Apartment
 25. Dwelling, Garage Conversion
 26. Dwelling, Multi-Family
 27. Dwelling, Single Family
 28. Dwelling, Townhouse
 29. Dwelling, Two-Family
 30. Educational Institution
 31. Emergency Services
 32. Emergency Shelter
 33. Equipment Rental/Repair
 34. Fairground

35. Farm/Construction Equipment and Supply Sales
36. Farmers Market
37. Flea Market
38. Freight Terminal
39. Funeral Home/Mortuary
40. Garage, Public
41. Garden Center
42. Government Operations
43. Greenhouse, Commercial
44. Greenhouse, Noncommercial
45. Group Residential Facility
46. Group Residential Home
47. Health Club
48. Home-based Business
49. Hospital
50. Hotel/Motel
51. Industrial Park
52. Laboratory
53. Landromat
54. Liquor Store
55. Lumberyard
56. Manufacturing, Light
57. Medical Adult Day Care Center
58. Medical Cannabis Dispensary
59. Medical Cannabis Growing Facility
60. Medical Cannabis Organization, Health Care
61. Medical Cannabis Processing Facility
62. Office Supply Establishment
63. Parcel Delivery Service
64. Park
65. Parking Lot
66. Personal Service
67. Pet Shop
68. Pharmacy
69. Photographic Studio
70. Places of Worship/Religious Institution
71. Private Club
72. Professional Service
73. Recreation, Private
74. Recreation, Public
75. Research and Development
76. Restaurant
77. Restaurant, Fast Food
78. Retail Store
79. School, Commercial
80. School, Preschool to 12
81. Self-storage Facility
82. Senior Independent Housing
83. Shopping Center
84. Solar Energy System, Small
85. Studio, Dancing, Music, or Art
86. Tattoo Parlor/Body Piercing Studio
87. Tavern/Drinking Establishment
88. Telecommunications, Class I
89. Telecommunications, Class II
90. Theater

91. Tourist Home, Boarding House
92. Travel Plaza
93. Truck Terminal
94. Urban Agriculture
95. Vehicle Repair/Service/Sales/Rental
96. Wholesale Establishment

Section 313.05 Conditional Uses.

The following shall be conditional uses in the Route 16 Corridor District:

1. Amusement and Recreation Center
2. Boat and Marine Sales/Service
3. Boat Storage
4. Correctional Facility
5. Dwelling, Mixed Use
6. Extractive Industry
7. Factory-built Home
8. Factory-builty Rental Community
9. Kennel
10. Manufacturing, Heavy
11. Night Club
12. Salvage Yard
13. Solar Energy System, Large
14. Telecommunications, Class III
15. Video Gaming/Lottery Establishment
16. Warehouse
17. Wind Energy System
18. Winery

Section 313.07 Lot, Yard, and Height Requirement.

Route 16 Corridor District Requirements	
Max. Building Height	75 feet
Min. Front Setback	15 feet, or the average of the two (2) adjoining properties which have pre-existing structures, whichever is less
Min. Side Setback	10 feet
Min. Rear Setback	10 feet
Min. Lot Size (Sq. Ft.)	7,000 square feet
Min. Lot Width	50 feet
Max. Lot Coverage (as a %)	80%

ARTICLE 315 RT-19: ROUTE 19 CORRIDOR DISTRICT

Section 315.01 Purpose.

The purpose of the Route 19 Commercial Corridor District is to provide areas that encourage a commercial corridor within the City and that are appropriate for most kinds of businesses and services, particularly highly visible large space users such as chain retail stores. The district allows for a commercial area within a high traffic corridor that encourages traffic flow within the district. The district encourages a higher intensity commercial area within the City, which is accessible and compact, yet distinctive and attractive. The Route 19 Corridor Commercial District also serves as a primary gateway into the City.

Section 315.03 Uses Permitted by Right.

- a. The following shall be uses permitted by right in the Industrial District:
 1. Animal Hospital/Veterinary Office
 2. Automobile Car Wash
 3. Bakery

4. Bank/Financial Institution
5. Bed and Breakfast Inn
6. Brewery Pub
7. Broadcasting Studio
8. Building Material Facility
9. Campground
10. Catering Business
11. Child Day Care Facility, Class 1 or 2
12. Community Facility
13. Continuing Care Facility
14. Convenience Store
15. Conversion of Old School/Church
16. Cultural Service
17. Distillery
18. Distribution Facility
19. Dog Day Care
20. Drive-through Business
21. Dry Cleaner
22. Dwelling, Apartment
23. Dwelling, Condominium
24. Dwelling, Conversion Apartment
25. Dwelling, Garage Conversion
26. Dwelling, Multi-Family
27. Dwelling, Single Family
28. Dwelling, Townhouse
29. Dwelling, Two-Family
30. Educational Institution
31. Emergency Services
32. Emergency Shelter
33. Equipment Rental/Repair
34. Fairground
35. Farm/Construction Equipment and Supply Sales
36. Farmers Market
37. Flea Market
38. Freight Terminal
39. Funeral Home/Mortuary
40. Garage, Public
41. Garden Center
42. Gas Station
43. Governmental Operations
44. Greenhouse, Commercial
45. Greenhouse, Noncommercial
46. Group Residential Facility
47. Group Residential Home
48. Health Club
49. Home-based Business
50. Hospital
51. Hotel/Motel
52. Industrial Park
53. Laboratory
54. Liquor Store
55. Lumberyard
56. Manufacturing, Heavy
57. Manufacturing, Light
58. Medical Adult Day Care Center
59. Medical Cannabis Dispensary

60. Medical Cannabis Growing Facility
61. Medical Cannabis Organization, Health Care
62. Medical Cannabis Processing Facility
63. Office Supply Establishment
64. Parcel Delivery Service
65. Park
66. Parking Lot
67. Personal Service
68. Pet Shop
69. Pharmacy
70. Photographic Studio
71. Places of Worship/Religious Institution
72. Private Club
73. Professional Service
74. Recreation, Private
75. Recreation, Public
76. Research and Development
77. Restaurant
78. Restaurant, Fast Food
79. Retail Store
80. School, Commercial
81. School, Preschool to 12
82. Self-storage Facility
83. Senior Independent Housing
84. Shopping Center
85. Solar Energy System, Small
86. Studio, Dancing, Music, or Art
87. Tattoo Parlor/Body Piercing Studio
88. Tavern/Drinking Establishment
89. Telecommunications, Class I
90. Telecommunications, Class II
91. Theater
92. Tourist Home, Boarding House
93. Travel Plaza
94. Truck Terminal
95. Urban Agriculture
96. Vehicle Repair/Service/Sales/Rental
97. Warehouse
98. Wholesale Establishment

Section 315.05 Conditional Uses.

- a. The following shall be conditional uses in the Industrial District:
 1. Adult Business
 2. Amusement and Recreation Center
 3. Boat and Marine Sales/Service
 4. Boat Storage
 5. Cemetery/Mausoleum
 6. Correctional Facility
 7. Dwelling, Mixed Use
 8. Extractive Industry
 9. Factory-built Home
 10. Factory-built Rental Community
 11. Kennel
 12. Laundromat
 13. Night Club
 14. Salvage Yard

15. Solar Energy System, Large
16. Solid Waste Disposal Areas/Facility
17. Telecommunications, Class III
18. Tourist or Trailer Camp
19. Video Gaming/Lottery Establishment
20. Wind Energy System
21. Winery

Section 315.07 Lot, Yard, and Height Requirements.

Route 19 District Requirements	
Max. Building Height	75 feet
Min. Front Setback	15 feet, or the average of the two (2) adjoining properties which have pre-existing structures, whichever is less
Min. Side Setback	10 feet
Min. Rear Setback	10 feet
Min. Lot Size (Sq. Ft.)	8,000 square feet
Min. Lot Width	50 feet
Max. Lot Coverage (as a %)	80%

ARTICLE 317 CONDITIONAL USE STANDARDS

Section 317.01 Purpose.

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

Section 317.03 General Standards.

- a. All applications for a conditional use permit shall demonstrate that:
 1. The use is consistent with the policies and intent of the corresponding purpose for the zoning district in which it lies and the City's comprehensive plan.
 2. The use is physically and operationally compatible with the surrounding neighborhood and surrounding existing uses.
 3. The use will be designed, constructed, operated, and maintained so that it does not cause substantial injury to adjoining property.
 4. The use will be adequately served by public facilities and services, which include, but are not limited to, water, sewer, electric, schools, streets, fire and police protection, storm drainage, public transit, and public parks and trails.
 5. Adequate off-street parking will be provided on the same property as the permitted conditional use as well as adequate ingress and egress to the property in compliance with the standards set forth in this code.
 6. Any storage of hazardous material will comply with all state, federal, and local regulations, and all such material will be listed and made known to the Chief of the City of Mount Hope Fire Department.
 7. The use will not endanger the public health or safety or constitute a public nuisance if located where proposed and developed according to the plans and information submitted and approved.
 8. The use will not conduct operations in connection with the use that are offensive, dangerous, or destructive of the environment.
- b. Conditions may be imposed on a proposed conditional use to ensure that potential significant adverse impacts on surrounding uses will be reduced to the maximum extent feasible, including, but not limited to, conditions or measures addressing:
 1. Location on a site of activities that generate potential adverse impacts such as noise and glare;
 2. Hours of operation and deliveries;
 3. Location of loading space and delivery zones;
 4. Light intensity and hours of full illumination;
 5. Placement of outdoor vending machines;

6. Loitering;
 7. Litter control;
 8. Placement of trash receptacles;
 9. On-site parking configuration and facilities;
 10. On-site circulation; and
 11. Privacy concerns of adjacent uses.
- c. Conditional use permit decisions are made by the Board of Zoning Appeals (BZA). In considering the proposed conditional use, the BZA must determine whether the applicable General Standards under this section have been met. The BZA may impose additional conditions and safeguards deemed necessary.
 - d. The breach of any condition, safeguard, or requirement shall be considered a violation of the conditional use permit approval. If the applicant fails to comply with any of the applicable requirements of this Zoning Ordinance, the BZA shall have the authority to revoke any conditional use permit after providing notice to the property owner and after a public hearing is held in the same manner as the original approval.
 - e. *Validity of approval.* Any conditional use approved by the Board of Zoning Appeals under which the premises are not used, work is not started within six (6) months, or the use or work has been abandoned for a period of one (1) year, shall lapse and cease to be in effect. The BZA may permit one (1) six (6) month extension if the extension is applied for in writing by the applicant prior to the expiration of the approval, provided that the BZA finds that the extension is warranted due to circumstances beyond the control of the applicant.
 - f. No application that has been denied wholly or in part by the Board of Zoning Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, unless permitted by the BZA after demonstration by the applicant of a change of circumstances from the previous application.

ARTICLE 319 GENERAL REGULATIONS

Section 319.01 Purpose.

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

Section 319.03 Accessory Uses and Structures.

- a. All accessory uses and accessory structures shall require a Zoning Permit. Accessory uses and accessory structures shall be permitted in all districts, except those otherwise expressly districted, provided each is customarily incidental and subordinate to a principal use. There must be a principal use or structure on the lot prior to the issuance of a Zoning Permit for an accessory use or structure.
- b. No use that is to be carried on in an accessory structure shall be in violation of the permitted uses in that zoning district, and in no case shall the maximum lot coverage permitted in a zoning district be exceeded by accessory uses and structures.
- c. Except as provided elsewhere in this code, no accessory structure shall be constructed and used as a dwelling.
- d. Accessory structures shall be no more than seventy-five (75%) percent the height of the principal structure height and in no circumstance be higher than the applicable zoning district's maximum height requirement.
- e. Accessory structures, such as sheds and detached garages, shall not be placed in the front yard and shall be situated no closer than five (5) feet from any lot line or the principle structure.
- f. Accessory structures shall not be larger than the principal structure or greater than six hundred (600) square feet, whichever is less, excluding fences and other permitted screening devices.
- g. Accessory uses within the principal structure shall not occupy more than twenty-five (25%) percent of the gross floor area.

Section 319.05 Additional Principal Buildings.

- a. *Dwellings.* Individual lots or subdivided parcels ten (10) acres or less in size shall have no building or buildings used for living purposes in addition to the principal building on the same lot, except garage apartments where permitted in a zoning district. Undivided land parcels of ten (10) acres or greater in size shall be limited to one (1) residential structure per ten-acre unit of undivided land area. This provision does not apply to factory-built home rental communities.
- b. *Non-dwellings.* Where a lot is not used as a dwelling, more than one (1) principal building may be located upon the lot or tract, but only when such buildings conform to all open space and yard requirements around the lot for

the district in which the lot or tract is located. A lot is not used as a dwelling for purposes of this subsection when the lot contains a caretaker's residence used in conjunction with an active industrial establishment or a place of worship or religious institution as provided in this code.

Section 319.07 Orientation of Principal Structures.

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

Section 319.09 Height Exceptions.

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

Section 319.11 Lot Lines and Irregular Lots.

- a. *Corner Lots.* Corner lots shall have no rear lot line.
- b. *Flag Lots.* When the handle of a flag lot is less than the minimum width for a lot in the zoning district in which it is located, the handle is not to be used in delineating the minimum required lot width. The minimum lot width shall be taken from the front building setback line. However the handle shall be used in computing the required minimum lot size, except that in no case shall the area of the handle constitute more than fifty (50%) percent of the entire lot. No structures whether primary or accessory shall be placed in the handle.
- c. *Lot Width.* In a case where there is only one (1) side lot line, lot width shall be measured between such side lot line and the opposite rear lot lines or street line.
- d. *Irregular Lots.* Front setbacks for irregular lots shall be measured from the front lot line adjacent to the street right of way with the greatest frontage in linear feet.
- e. *Pie-shaped Lots.* Setbacks on pie-shaped lots shall be measured at the closest point between the building and the angled lot line.
- f. *Rear Lot Line (Irregular).* In the case of a lot having no street frontage or a lot of an odd shape, only the one (1) lot line farthest from any street shall be considered a rear lot line. Where there is only one (1) lot line other than street lot lines, it shall be considered the rear lot line.

Section 319.13 Swimming Pools.

Private swimming pools are permitted accessory uses only when located in rear yards, and when completely enclosed with a protective barrier. Swimming pools and protective barriers must adhere to setback requirements within the zoning district where the pool is to be located.

Section 319.15 Yard Requirements.

- a. All yards required under this code shall be open to the sky and unobstructed by any building or structure except for accessory buildings or structures in the rear yard, fences, and the following that may project into the required yards:
 1. Decks, patios, covered porches, steps, and landings not exceeding twenty-four (24) square feet;
 2. Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projection of chimneys and flues into the rear or side yard not exceeding four (4) feet in width and placed so as not to obstruct light or ventilation; and
 3. Eaves, overhangs, bay windows, sills, belt courses, cornices, and ornamental features not exceeding two (2) feet in width.
- b. Where any main wall of a structure located on an irregularly shaped lot does not parallel the lot line that the wall faces, the yard or minimum distance to the lot line at every point shall be at least equal to the minimum dimension required for the yard or distance to the lot line.

- c. For purposes of determining the required yard for townhouse developments, setbacks shall only apply from the perimeter of the main building to the perimeter of the parent parcel upon which the building is situated.

Section 319.17 Fences, Landscaping, and Screening.

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

- a. *Clear sight triangle.* Fences, hedges, other plantings, or walls at street corners shall not interfere with any clear sight triangle. The height of such objects is restricted to three and one-half (3.5) feet within the clear sight triangle. No fence, hedge, other planting, or wall shall otherwise impose a threat to the public safety, including by obstructing the view of motorists to oncoming traffic or pedestrians.
- b. *Height restrictions.* Fences, walls, hedges, and other plantings used for the purpose of screening shall not exceed four (4) feet in height from the front building line extending to the front lot line, and shall not exceed eight (8) feet in height extending behind the front building line of the main structure, excluding porches and stairs.
- c. *Fences and walls.*
 - 1. Fences and walls shall be durably constructed and well maintained.
 - 2. Fences and walls that have deteriorated shall be replaced or removed immediately.
 - 3. Fence and walls shall not be constructed out of fabric, junk, junk vehicles, appliances, tanks, barrels, or razor, barbed, or electric fencing, not including invisible fencing with use of a collar. Razor wire or barbed wire are permitted in commercial or industrial uses.
 - 4. The finished side of the fence shall be oriented towards the front of the lot or the direction of the adjacent property owner, unless the fence is not visible from adjoining property.
- d. *Landscaped buffer areas.*
 - 1. Five (5) foot landscaped buffer areas are the preferred method of buffering. However, where a buffer strip is considered to be impracticable or inappropriate, an opaque fence at least eight (8) feet in height, in the rear or side yard, or four (4) feet in height in the front yard so as to restrict a clear view beyond said buffer may be substituted in whole or in part for a natural buffer, subject to approval by the Zoning Officer.
 - 2. Landscaped buffer areas shall be continually maintained by the landowner. Any plant material that does not survive shall be replaced within six (6) months. All landscaping shall be kept free of refuse and debris.
 - 3. Landscaped buffer areas may be required by the Board of Zoning Appeals as a condition of a conditional use permit.
 - 4. Landscaped buffer areas shall not be required where the lot abuts an area of existing natural vegetation that effectively screens the lot from casual observation to a height of at least eight (8) feet.
 - 5. All species within the screen planting shall be indigenous or otherwise well-suited to the City, except that trees with large leaves that could clog storm drains and trees that are brittle, disease-prone, have low, spreading branches or shallow root systems; drop large fruit or much sap; or are otherwise messy shall also be avoided.
 - 6. Hedges shall be kept trimmed so that branches do not extend into the public road, or upon the lands of an adjoining owner, more than eighteen (18) inches over the dividing line.
- e. *Property adjacent to dwellings and zoned or existing single-family residential property.* Landscaped buffer areas shall be provided between any new development adjacent to single-family residential property (existing or zoned) or adjacent to any dwelling; such landscaping shall be at least five (5) feet wide and at least three and one half (3.5) feet high, subject to height limitations contained within this section.
- f. *Parking lot screening.* A three (3) foot high buffer area shall be provided between parking areas and public rights of way for all parking areas of five (5) or more parking spaces. A landscaped buffer area shall be required between parking areas and abutting property lines which are not a right of-way, except where accessways or other openings may be required.
 - 1. At least one (1) tree for each fifty (50) linear feet shall be planted in a landscaping strip in addition to other planting materials.
 - 2. Landscaped areas shall be protected from the encroachment of vehicles by use of curbing, wheel stops, fencing, or other approved barriers.
 - 3. The landscaped areas shall not obstruct sight distances for motorists or pedestrians, nor shall such landscaping create any potential hazard to public safety
- g. *Monument signs.* All monument signs shall be installed with a minimum surround of three (3) feet of regularly maintained floral and shrubbery landscaping in every direction.

Section 319.19 Lighting.

- a. All lighting shall be low intensity and shielded. All lighting shall be erected and maintained so that direct light from bare, unshaded bulbs is confined to the property and does not cast a direct glare from the bare, unshaded bulb onto adjacent properties or public rights-of-way.
- b. Building, parking, and all other exterior lighting shall be shielded and directed in a manner that lighting does not reflect or cause glare onto adjacent properties or adversely interfere with street traffic.
- c. Lighting is required for all off-street parking areas, off-street loading areas, and for driveways providing ingress and egress for nonresidential and multi-family developments.
- d. Feature lighting, such as up lighting of trees or other plant material or seasonal lighting, shall be so arranged to reflect away from any residential structure. Such lighting shall not create a glare on adjacent streets or properties.
- e. For all uses, except dwellings, exterior wall-mounted floodlights shall be prohibited, except for security lighting.

Section 319.21 Clear Sight Triangle.

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

Section 319.23 Parking.

- a. *Off-street parking.*
 - 1. General. Off-street parking shall be provided in compliance with this section whenever any building is erected, enlarged, converted, or increased in size or capacity.
 - 2. Required number. The off-street parking spaces required for each use permitted by this code shall not be less than that found in Table 319.23(b), provided that any fractional parking space be computed as a whole space. Any commercial building not listed Table 319.23(b) built, converted, modified, or structurally altered shall provide one (1) parking space per two hundred (200) square feet of gross floor area and one (1) parking space for each regular, full-time employee or full-time equivalent in the building or on the premises whose primary duties are in the building or on the premises, during the largest shift.
 - 3. Combination of uses. Where there is a combination of uses on a lot, the required number of parking spaces shall be the sum of that found for each use, dividing the gross floor area proportionately between the different uses. The required parking space for any number of separate uses may be combined in one (1) lot, but the required space assigned to one (1) use may not be assigned to another use at the same time, except that one half (1/2) of the parking spaces required for churches, theaters, or assembly halls with peak attendance at night or on Sunday may be assigned to a use which will be closed at night or on Sunday.
 - 4. Location of lot. The parking spaces required by this code shall be provided on the same lot as the use or on another lot not more than five hundred (500) feet radially from the lot where the use is located only if the Zoning Officer deems it impractical to provide space on the same lot with the building.

b. *Table: Off-street Parking.*

USE	NUMBER OF PARKING SPACES REQUIRED (all indoor square footage in gross floor area)
<u>Retail/Goods</u> Adult Business, Boat and Marine Sales/Service, Convenience Store, Farm/Construction Equipment and Supply, Garden Center, Liquor Store, Office Supply Establishment, Pawn Shop, Pet Shop, Pharmacy, Retail	4 spaces for the first 1,000 square feet of indoor place, plus 1 space for each additional 150 square feet of indoor space; 1 space per 5,000 square feet of outdoor space
<u>Cultural/Community</u> Amphitheater, Amusement and Recreation Center, Community Facility, Cultural Service, Health Club, Place of Worship/Religious Institution, Sports Arena, Theater	1 space per 5 seats or per persons allowed indoors at maximum capacity, whichever is greater, plus 1 space for every 2 persons employed
<u>Clinic/Office/Service</u> Animal Hospital, Broadcasting Studio, Clinic, Governmental Operations, Automobile Car Wash, Bakery, Bank/Financial Institution, Boat Storage, Brewery Pub, Catering Business, Dog Day Care, Dry Cleaner, Equipment Rental Repair, Funeral Home/Mortuary, Gas Station, Kennel, Night Club, Personal Service, Photographic Studio, Private Club, Professional Services, Restaurant, Fast Food Restaurant, Studio, Tavern, Vehicle Repair/Service/Sales/Rental, Video Gaming or Lottery Establishment	3 spaces per 1,000 square feet of indoor space, 1 space per 1,000 square feet of outdoor space, 1 space for every 2 persons employed
<u>Accommodation</u> Bed and Breakfast Inn, Hotel/Motel, Tourist Home	1 space per bed offered for accommodation
<u>Industry/Facility</u> Building Material Facility, Bus & Transit Facility, Commercial Greenhouse, Correctional Facility, Distillery, Distribution Facility, Extractive Industry, Freight Terminal, Incinerator, Lumberyard, Manufacturing (Light), Manufacturing (Heavy), Parcel Delivery Facility, Research and Development, Salvage Yard, Self-storage Facility, Sewage Treatment Facility, Solid Waste Disposal Facility, Warehouse, Water Treatment Plant, Wholesale Establishment, Winery	1 space per 2 employed, 1 space per vehicle used for the business, 3 spaces per 7,000 square feet of indoor space
<u>Outdoor</u> Campground, Cemetery/Mausoleum, Fairground, Farmers Market, Flea Market, Marina, Park, Private Recreation, Public Recreation, Stockyards, Tourist or Trailer Camp	1 per 500 square feet of indoor space, 1 space per 2 employees, 3 per acre of outdoor space for first 20 acres
<u>Education/Care</u> Child Day Care Facilities, Educational Institution, Commercial School, Preschool to 12, Medical Adult Day Care Center	1 space per 5 enrolled, 1 space per employed
<u>Medical/Care</u> Continuing Care Facilities, Group Residential Facility, Group Residential Home, Hospital	1 space per 2 beds
Dwelling Unit, Home-based Business	2 spaces, plus 1 space for home-based business if business requires nonresidential traffic

c. *Parking stall dimension.*

1. Width. A minimum width of nine (9) feet shall be provided for each parking stall, except:
 - i. Compact parking stalls shall be a minimum width of eight (8) feet wide.
 - ii. Parallel parking stalls shall be a minimum width of eight (8) feet wide.

- iii. The width of a parking stall shall be increased ten (10) inches for obstructions located on either side of the stall within fourteen (14) feet of the access aisle.
 - 2. **Length.** A minimum length of twenty (20) feet shall be provided for each parking stall, except:
 - i. Compact parking stalls shall be a minimum length of eighteen (18) feet.
 - ii. Parallel parking stalls shall be a minimum length of twenty-two (22) feet in length.
 - 3. **Aisle access.** The minimum width of aisles providing access to stalls shall be measured exclusive of interior drives or maneuvering areas and shall be provided as follows in Table 319.23(d).
- d. *Parking standards table.*

Table 319.23(d): Parking Standards		
<i>Angle of Parking</i>	<i>Minimum Aisle Width Double-sided Parking</i>	<i>Minimum Aisle Width Single-sided Parking</i>
Parallel	12'	12'
45	12' 8"	12' 8"
60	16'	16'
75	20'	18'
90	24'	18'

- e. *Design of parking facilities.*
- 1. **General driveway and accessway provisions.**
 - i. Driveways and accessways should be located to minimize traffic conflicts with traffic entering the street from either the same or the opposite side of the street.
 - ii. All accessways and driveways shall be designed to conform to West Virginia DOT specifications with regard to roads.
 - iii. For dwellings, only one (1) driveway access per unit is permitted. A lot with at least one hundred (100) feet of frontage along a street may be permitted one (1) additional driveway access point. Regardless of frontage, a development may be restricted to a single accessway depending on usage and interior and exterior traffic patterns.
 - iv. On any lot, no wall, fence, hedge, tree, shrub, or other obstruction shall be allowed that dangerously obscures the view of approaching traffic along the street, or at any intersection, including driveways and accessways.
 - 2. **Driveway and accessway width.**
 - i. Commercial parking shall provide one or more accessway, the width of which shall be twelve (12) feet for one-way enter/exit or twenty-four (24) feet for two-way enter/exit.
 - ii. Residential driveways and accessways shall be at least nine (9) feet in width.
 - 3. **Driveway and ramp slopes.** The maximum slope of any driveway, accessway, or ramp shall not exceed twenty (20%) percent.
 - 4. **Stall access.** Each required parking stall shall be individually and easily accessed. No automobile shall be required to back onto any public street or sidewalk to leave any parking stall when such stall serves more than two (2) dwelling units. All portions of a public lot or garage shall be accessible to other portions thereof without requiring the use of any public street.
 - 5. **Striping.** All parking stalls shall be striped. Parking spaces shall be clearly delineated by suitable markings. Short-term visitor parking spaces shall be differentiated from long-term employee spaces by suitable markings or signage.
 - 6. **Surfacing.**
 - i. Permanent surface material, including asphalt, concrete, brick, concrete pavers, or similar material approved by the Zoning Officer shall be the preferred method of surfacing parking areas and driveways. Gravel may be used for parking areas and driveways, provided the gravel used is no less than three (3) inches of No. 57 clean crushed gravel, rolled and compacted to less than one and one half (1.5) inches after compaction.
 - ii. Permanent surface material, including asphalt, concrete, brick, concrete pavers, or similar material approved by the Zoning Officer shall be the preferred method of surfacing for private roads, provided the roads shall be constructed on a compacted sub grade free of organic matter. The gravel shall be a well-graded, crushed stone aggregate six (6) inches thick after rolling. The surface shall be smooth, uniform, and tightly packed.

- iii. In residential districts, no more than forty (40%) percent of the front yard may be used for parking, including driveways. Vehicles may not be parked or stored upon any lawn or vegetated or otherwise landscaped area.
- 7. **Compact car parking spaces.** If twenty (20) or more parking stalls are required for a parking lot, ten (10%) percent of those spaces may be designated for compact car parking stalls. Each compact car parking stall shall be marked as "Compact Car Parking."
- f. **Ingress and egress.** Adequate ingress and egress to a parking facility shall be provided by clearly defined accessways in accordance with any access management requirements of the City of Mount Hope.
- g. **Accessible parking.** Accessible parking spaces and passenger loading zones shall be provided in accordance with all applicable federal, state, and local laws, including but not limited to the Americans with Disabilities Act (ADA), ICC A117.1, and West Virginia Code Section 17c-13-6, and any amendments thereto.
- h. **Bicycle parking.** One (1) bicycle parking space shall be provided for every fifteen (15) required vehicular parking spaces. Bicycle spaces shall not be located within the required sidewalk or in a manner that impedes pedestrian access to the building and may be located within the landscape buffer area provided that it occupies less than ten (10%) percent of the length of the required buffer, or may be located at the side or rear of the building.

Section 319.25 Off Street Loading Space and Facilities Requirements.

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

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

USE	OFF-STREET LOADING SPACE REQUIREMENTS
Freight Terminal, Truck Terminal	1 space (12 feet wide by 50 feet long by 14 feet high) per 5,000 square feet gross floor area
Hotels, Hospitals, Retail, Service Establishments,	1 space (12 feet wide by 35 feet long by 14 feet high) per 3,000 square feet gross floor area
Markets, Warehouse, Wholesale	1 space (12 feet wide by 50 feet long by 14 feet high) per 7,500 square feet gross floor area
Industry	1 space (12 feet wide by 50 feet long by 14 feet high) per 10,000 square feet gross floor area

Section 319.27 Drive-through Business.

Drive-through businesses shall be oriented with respect to yards, driveways, driveway entrances and exits, and buildings and enclosures to insure safety, minimize traffic hazards or difficulties, and to safeguard adjacent properties. At a minimum, drive-through facilities must be five (5) feet from any lot line. Entrances to drive-through facilities must be fifty (50) feet from any intersection.

Section 319.29 Storage, General.

- a. No lot or premises shall be used as a storage area for inoperable automobiles, appliances, or the storage or collection of any other miscellaneous items unless permitted in this code or by state statute. No lot or premises shall be used as a garbage dump or a dead animal rendering plant nor may manure, rubbish, or unauthorized miscellaneous refuse be stored in the open.

- b. *Hazardous materials.* Any storage of hazardous material that is ancillary to a permitted use or a conditional use shall meet the following conditions:
 - 1. All storage shall comply with all state, federal, and local regulations.
 - 2. Such material shall be listed and made known to the Chief of the City of Mount Hope Fire Department.

Section 319.31 Storage of Trailers, Camping and Recreational Equipment.

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

- a. Permanent parking and storage of trailers or camping and recreational equipment shall be limited to the interior of automobile garages, other available on-lot accessory buildings, or that portion of the lot behind the rear building line of the principal building and in compliance with Section 319.23 of this code.
- b. Trailers or camping and recreational equipment, including recreational vehicles, may be temporarily parked on off-street parking on a residential property provided a temporary trailer-parking permit is obtained from City Hall. Temporary parking permits may be issued for up to a two (2) week period no more than four (4) times in any calendar year per registered trailer or piece of camping and recreational equipment, including recreational vehicles.
- c. At no time shall trailers or camping and recreational equipment, including recreational vehicles, be occupied or used for living, sleeping, or housekeeping purposes while being temporarily or permanently parked or stored on a residential property. Recreational vehicles may not be hooked up to utilities while parked or stored within the City of Mount Hope, except for within designated campgrounds.

Section 319.33 Satellite Signal Receiving Stations.

- a. *General requirements.*
 - 1. Satellite signal receiving stations shall be for the personal use of residents, occupants, and their guests only.
 - 2. Satellite signal receiving stations shall contain no commercial signs other than to identify the name of the company that provided the satellite.
 - 3. Only one (1) satellite signal receiving station is permitted per lot, unless there is documentation provided to the Zoning Officer from the installer or satellite company that suggests that more than one (1) satellite is necessary in order to receive the signals for the use and enjoyment of the property owner.
 - 4. Satellite signal receiving stations shall comply with all other provisions of this code not otherwise in conflict with this section pertaining to accessory structures for the particular zoning district in which such stations are to be installed.
 - 5. Satellite signal receiving stations shall be designed to withstand a wind force of up to seventy (70) miles per hour without the use of supporting guy wires.
- b. *Ground-mounted stations.* Within all zoning districts, the following provisions shall apply to satellite signal receiving stations:
 - 1. Ground-mounted stations shall only be mounted in the rear yard behind the principal building or structure, shall not exceed an above grade height of fifteen (15) feet, and shall not be located closer than five (5) feet to any lot line.
 - 2. If a lot or parcel cannot receive a signal for a ground station mounted in the rear yard, the Zoning Officer may permit a ground-mounted station in the side yard or front yard, subject to the following:
 - i. Ground-mounted stations shall not exceed an above grade height of five feet.
 - ii. Ground-mounted stations shall not be located closer than five (5) feet to a side lot line or front lot line.
 - iii. Ground-mounted stations shall be shielded or screened from view from the front lot line with natural vegetation or fencing to provide maximum screening or shielding without interfering with the signal.
 - iv. Ground-mounted stations shall be mounted in a concrete base in line with grade, utilizing only metal supports of galvanized construction.
 - 3. Wiring between ground-mounted stations and any other structure shall be placed underground.
- c. *Roof-mounted and side-mounted stations.* Within all zoning districts, the following shall apply to roof-mounted signal receiving stations or signal receiving stations affixed to the side of a primary or accessory structure (“side-mounted station”):
 - 1. Roof-mounted stations shall be mounted directly on the roof of a primary or accessory structure located in the rear yard and shall not be mounted on appurtenances such as chimneys, towers, or spires.
 - 2. Side-mounted stations shall be mounted directly on the side of a primary or accessory structure located in the rear yard and shall not be mounted on appurtenances such as chimneys, towers, or spires.

3. Roof-mounted stations mounted on the roof of a primary or accessory structure shall not exceed a height of greater than five (5) feet above the roof on which it is mounted. The height shall be measured vertically from the point at which such station is mounted on the roof.
4. No portion of a side-mounted station mounted on the side of a primary or accessory structure shall be lower than seven (7) feet from the ground on which the primary or accessory structure stands and shall not exceed a height greater than five (5) feet above the location at which the station is mounted onto the side of the primary or accessory structure.

Section 319.35 Temporary Uses.

- a. Except as provided in subsection (b), only the following uses are permitted temporarily, for up to four (4) consecutive weeks in one (1) calendar year:
 1. Seasonal sales of such items as pumpkins, Christmas trees, fireworks stands, etc., in commercial districts;
 2. Carnival, circus, and street fairs in commercial or industrial districts; and
 3. Mobile amusements and lighting equipment for promotion, advertisement, and grand openings in commercial and industrial districts.
- b. Temporary permits may be issued for up to one (1) year for nonconforming uses incident to housing and constructing projects including such structures and uses as storage of building materials and machinery, the processing of building materials, and a real estate office located on the tract being offered for sale, provided such permits are conditioned upon agreement by the owner or operator to remove the structure or structures or use upon expiration of the permit. Such permits may be renewed for no more than one (1) additional year.
- c. A permit is required to be completed, returned to the Zoning Officer, and approved before any temporary use may commence, in addition to any other requirements of the Code of the City of Mount Hope, including but not limited to obtaining a business license.

ARTICLE 321 SUPPLEMENTAL REGULATIONS

Section 321.01 Purpose.

Provide for special situations with specific uses that must be regulated in such a manner as to promote orderly development and to protect the public health, safety, and general welfare of the community. The following supplemental regulations have been deemed necessary to clarify and carry out the overall intent of this ordinance. These supplemental regulations are requirements in addition to those that may be required for a zoning permit for a permitted use or required by a conditional use permit.

Section 321.03 Adult Business.

- a. No such adult establishment shall be located less than one thousand (1,000) feet from a school zone, place of worship, library, child day care center, civic building, park, historic district, dwelling, lot with residential districting, or other adult establishment as measured from front door to front door along the curb line of public streets providing access.
- b. All doors, windows, and other apertures shall be located and covered or screened with opaque glazing to discourage and prevent visibility or viewing of the interior.
- c. No exterior signage, building element, advertisement, display, or other promotional material shall be pornographic in nature or convey any such idea or element to specified anatomical areas, as defined in this code.
- d. In the event that an activity or business that might fall under a use category other than adult business is combined with or includes activities that constitute an adult bookstore, adult movie theater or movie house, or adult entertainment, as defined herein, then such activity or business shall constitute an adult business and shall be governed by those provisions in this code applicable to adult business uses, in addition to those provisions that govern the combined use.

Section 321.05 Bed and Breakfast Inn.

- a. Homes used as bed and breakfast inns shall have a minimum heated gross floor area of two thousand and five hundred (2,500) square feet.
- b. Bed and breakfast inns shall be owner occupied.
- c. Homes used as bed and breakfast inns shall be virtually indistinguishable from surrounding residential units.
- d. Cooking facilities within bedrooms are prohibited.

- e. All bed and breakfast inns shall comply with the provisions of West Virginia Code Section 29-3-16c, Safety Standards for Bed and Breakfast Establishments.

Section 321.07 Cemetery/Mausoleum.

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

Section 321.09 Child Day Care Facility.

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

Section 321.11 Dog Day Care.

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

- a. The hours of operation shall be limited daily any time between 7 a.m. and 9 p.m.
- b. Dogs may be groomed, trained, exercised, and socialized, but not kept or boarded overnight, bred, sold, or let for hire.
- c. There shall be no more than thirty (30) dogs on the premise at one time.
- d. *Provide indoor and outdoor recreational areas for dogs.* Indoor recreational area shall be at least one hundred (100) square feet per dog, and outdoor recreational area shall be at least one hundred and fifty (150) square feet per dog.
- e. *Provide sight-obscuring fencing for all on-site outdoor recreation areas.* The fence shall provide full containment for the dogs and be secured at all times. The fence structure shall be deep enough and secured to the ground to prevent escape and high enough to prevent dogs from jumping or climbing over. The fence shall comply with all fence provisions in this ordinance.
- f. If there is a grooming facility on site, it must be physically separated from primary enclosure areas and food storage.
- g. Feces, hair, dirt, debris, and food waste must be removed at least once daily or more often if necessary to prevent accumulation and to reduce disease hazards, insects, pests, and odors.

Section 321.13 Garage Sales.

- a. No more than four (4) garage sales are permitted within any twelve (12) month period for each residence.
- b. Sales must be contained within the individual's property and may not encroach into a public right-of-way.
- c. Each garage sale shall not be permitted to last more than four (4) days.
- d. A garage sale shall not include the sale of new merchandise.
- e. Tents may be used during the event subject to subsection (c) above and must be removed immediately following the conclusion of each event.
- f. All items must be removed from the exterior of the premise at the end of the sales event.
- g. All persons desiring to conduct a garage sale, yard sale, or rummage sale must first obtain a permit from the City Clerk's Office, except for 501(c)(3) nonprofit organizations.

Section 321.15 Medical Cannabis Organizations.

The following supplemental provisions apply to all medical cannabis organizations or as otherwise specified herein.

- a. A medical cannabis dispensary may not be located within one thousand (1000) feet of the property line of a church; public, private, or parochial school; or a child day care center.
- b. No more than five (5) medical cannabis dispensaries are permitted within the City of Mount Hope. No more than five (5) medical cannabis processing facilities and no more than five (5) medical cannabis growing facilities are permitted within City of Mount Hope.
- c. The only medical cannabis uses permitted under this ordinance are those expressly defined and permitted herein. Medical cannabis organizations may not be combined with other uses.
- d. Medical cannabis organizations shall possess all applicable state licenses.

Section 321.16 Historic Residential and Historic Commercial.

- a. *Design Guidelines for Architectural Restoration.* Restoration of buildings should comply with accepted historic preservation guidelines such as the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and Preservation Briefs published by the National Park Service.
 1. *Windows and Doors.* Existing windows and doors, including the window sash, glass, lintels, frames, molding, shutters, and steps, should be retained and repaired whenever possible. If a new window or door is used, it should be of a material compatible with the front facade. Changing the size or arrangement of windowpanes, muntins, and rails where they contribute to the historic and architectural character of the building is discouraged. Inappropriate window or door features on significant facades are discouraged. Replacement windows in restored and rehabilitated structures should retain the dimensions and pane divisions of the window being replaced. Paired casement windows, although not historically common, are generally acceptable because of their vertical orientation. The use of single-pane windows should not be permitted unless equipped with snap-in muntins.
 2. *Storm Windows.* Exterior storm windows and doors may be installed if they are visually unobtrusive, do not cause damage to existing frames, and can be removed in the future. Storm windows should match the trim color. Mill-finished aluminum can be painted to match.
 3. *Porches and Steps.* Porches and steps that are appropriate to the building and the site should be retained. The original material and architectural features of porches and steps should be retained whenever possible.
 4. *Roofs.* The original roof shape should be preserved. All architectural features that give the roof its essential character should be preserved or replaced in a compatible manner.
 5. *Architectural Metals.* Architectural metals should be cleaned when necessary with an appropriate method that does not erode the surface.
 6. *Masonry Surface and Re-pointing.* Original masonry should be retained whenever possible, without applying any surface treatment, including paint. When re-pointing of mortar joints is absolutely necessary, old mortar should be duplicated in composition, color, texture, method of application, and joint profile. The surface cleaning of structures should be undertaken with the gentlest means possible.
 7. *Wood Frame Buildings.* Architectural features, such as cornices, brackets, window and door molding and details, clapboard, weatherboard, shingles, and other wood siding, are essential and parts of the character and appearance of frame buildings. They should be retained and preserved whenever possible. Frame buildings should not be resurfaced with new materials that are inappropriate for the building or that will cause deterioration of the original structure.
 8. *Structural Systems.* Existing foundations should not be disturbed with new excavations that could undermine the structural integrity of the building.
 9. *Mechanical Systems.* Exterior cables (e.g., electrical, telephone, and cable TV) should be installed in places where they will be visually unobtrusive. Audio or video antennas and mechanical equipment (e.g., air conditioning and solar panels) should be placed in as inconspicuous a location as possible.
 10. *Garages.* If an alley is adjacent to a dwelling, a new garage should be located off the alley. Where alleys do not exist, garages facing the street or driveway curb cuts may be acceptable. Garage doors should not face the street. If this is found necessary, single garage doors should be used to avoid the horizontal orientation of two-car garage doors. Parking spaces should be screened from the street and sidewalk by landscaping.
 11. *Walls, Fences, and Railings.* Removal or replacement with inappropriate material or design is discouraged where these are historically or architecturally important elements of the design and character of the structure and district.
 12. Proposed changes should be supported by historic photos, blueprints, etc., of the structure.

b. *Design Guidelines for Storefronts.*

1. *Storefront opening.* The storefront opening, where possible, should be recessed six to twelve inches into the facade storefront opening rather than applied to the face of the facade.
2. *Storefront frame.* The storefront design should generally be composed of a hierarchical frame made up of vertical and horizontal elements.
3. *Recessed entry.* The storefront should have a recessed entry off the sidewalk to create a more intimate sense of entry at the door. The recessed entry should be three feet to six feet deep.
4. *Windows.* The storefront should be as transparent as possible. Large window areas emphasize display, maximize natural light, and allow for visibility into and out of the store.
5. *Storefront cornice.* The storefront should have a strong horizontal form at its top to separate it from the upper facade and to help certain signage.
6. *Materials, color, and texture.* These characteristics of the storefront design should flatter that of the upper facade and adjacent facades.
7. Proposed changes should be supported by historic photos, blueprints, etc., of the structure.

Section 321.17 Home-based Business.

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

- a. Customer, client, patient, or other traffic shall be restricted to 8 a.m. to 6 p.m.
- b. No more than twelve (12) visits to the home-based business shall be allowed per day, except as necessary to operate childcare facilities in accordance with the West Virginia Code; such visits may be addressed in a conditional use permit. A “visit” is defined as a stop at the premises by one automobile transporting one or more customers, clients, patients, packages/parcels, or other business associates or items. A visit does not include the operator of the business, members of his/her family, or a business employee.
- c. The home-based business shall be compatible with the use of the property as a residence and surrounding residences.
- d. The home-based business may employ one (1) individual not residing in the dwelling.
- e. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- f. The business or commercial activity may not use any equipment or processes that create noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with radio or television reception detectable in the surrounding neighborhood.
- g. The business or commercial activity may not generate any solid waste or sewage discharge, in volume or type, not normally associated with the use of a dwelling in the neighborhood.
- h. The business activity may not occupy more than twenty five (25%) percent of the gross floor area of the residence.
- i. The business may not involve any illegal activity or mortuary services.

Section 321.19 Night Clubs, Taverns, Brewery Pubs.

- a. The total number of such establishments in concurrent operation within any zoning district where permitted shall not exceed ten (10).
- b. The gross floor area to customer ratio shall be one (1) customer for every fifty (50) square feet of gross floor area.

Section 321.21 Public Garages and Gas Stations.

No public garage or gas station shall have a vehicular entrance less than two hundred (200) feet to an entrance to a church, school, theatre, hospital, public park, playground, or fire station, measured as the shortest distance between the nearest points of entrance. Gasoline pumps must be at least fifty (50) feet from any side property line.

Section 321.23 Salvage Yards.

Salvage yards shall be subject to the following regulations:

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

Section 321.24 Tourist Home, also known as Short-term Rentals.

- a. *Purpose.* The purpose of these regulations is to protect the integrity of the residential area and to provide for the peace and tranquility of those areas for the local residents. For the purposes of this section, “Owner” shall mean

the legal title holder of the property as disclosed upon the records contained in the Office of the Clerk of the Fayette County Commission, Fayetteville, West Virginia.

- b. Upon submission of the application for the permit to operate a vacation home rental, the Zoning Officer shall inspect the structure to see that it complies with the regulations hereinafter set forth and to determine the number of occupants that may occupy the structure.
- c. The application fee for the permit shall be One Hundred Dollars (\$100.00) and any other cost applicable thereto.
- d. Upon issuance of a permit, the owner shall immediately file for the appropriate business license with the City and with the State of West Virginia and shall not operate as a vacation home rental until obtaining the appropriate licenses.
- e. All permits shall be subject to the following regulations:
 1. The number of occupants permitted in the rental structure shall not exceed two (2) adults and one (1) child under the age of four (4) per bedroom in the house and shall not exceed four (4) adults and four (4) children under the age of four (4) per bathroom. These numbers shall include those owners or renters normally occupying the structure on a full time basis.
 2. An adult shall be considered any person over the age of four (4).
 3. There must be off-street parking and no vehicles may be parked on the street by the persons renting the structure.
 4. The structure must have working smoke and heat detectors/alarms in general area of the kitchen, location of furnaces or other heating devices, and by the entrance into each bedroom.
 5. The structure must have working carbon monoxide detectors/alarms in the bedrooms, living room/family room and kitchen if the structure uses natural gas or propane gas for any purpose, other than propane tanks for gas grills located outside of the structure.
 6. The structure must have a working, two-pound minimum, ABC rated fire extinguisher located in a visible and readily accessible area (i.e. kitchen or hallway).
 7. The owner of the structure or authorized agent of the owner shall be within thirty (30) miles of the structure for which the permit was issued during the entire time that the structure is rented. The owner or authorized agent shall be the contact person in the event of violations of these regulations or of any other ordinance or statute. The telephone number where the owner or authorized agent may be reached must be provided to City Hall and to the City Police Department and immediate notification of any change therein shall be given by the owner or authorized agent.
 8. Signs for residences used as vacation rentals are subject to the sign regulations for signs accessory to dwellings.
 9. The owner or the owner's designated agent shall be responsible for the collection and payment of all licensing fees, sales taxes, and Business and Occupation taxes, and the failure to timely pay any of these shall result in the immediate revocation of the permit if the same is not paid within ten (10) days of written notification. Notification shall be effective by placing the notice in the United States mail, postage prepaid, to the address of the owner as disclosed on the permit or any modification thereto; said notice to be effective even if the owner does not receive the same.
 10. The owner or authorized agent shall notify the renters of the parking regulations and that violation of municipal ordinances could result in the cancellation of the rental of the premises and that failure to obey orders of the Police Department Officers or Fire Department Officers could result in their being required to immediately vacate the structure. Return of any fees for the rental of the structure under these circumstances is a matter strictly between the owner and the renter and the City shall not be responsible to either party for loss of use of the structure.
- f. *Termination of permit for violation.* Termination shall be by written notice to the owner at the address disclosed on the permit or address thereafter supplied to the Zoning Officer. The termination shall include the reasons for termination and shall be effective upon placing the notice in the United States Mail, postage prepaid, to the aforesaid address of the owner.

Section 321.25 Telecommunication Facilities.

- a. *General.* All wireless telecommunications facilities and freestanding telecommunications towers shall comply with any and all Federal Aviation Administration, Federal Communication Commission, and any other applicable federal and state regulations.
- b. *Illumination.* Telecommunication Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA).

- c. *Exterior finish.* Telecommunication Towers not requiring FAA painting or marking shall have an exterior finish that enhances compatibility with adjacent land uses.
- d. *Landscaping.* The Zoning Officer may require landscaping on properties with telecommunication facilities/towers in excess of other requirements in this code in order to enhance compatibility with adjacent land uses. Landscaping shall be installed on the outside of any fencing required in this code, yet still within the property boundary where the telecommunication facility or tower is located.
- e. Nothing in this section is construed to regulate satellite signal receiving stations, known as home satellite dishes, whether such dish is used for television reception or other purposes.
- f. Any owner of property used as the location for telecommunication facilities shall maintain such site and all structures in good condition and free from trash, outdoor storage, weeds, and other debris.
- g. If applicable, a copy of the applicant's Federal Communications Commission (FCC) license, or, if the applicant is not an FCC license holder, a copy of at least one (1) letter of commitment from an FCC license holder to locate at least one (1) antenna on the applicant's tower shall be submitted with the permit application, including a pictorial representation, such as a silhouette drawing or photograph, of the proposed telecommunications facility.
- h. Unless co-locating as a Class II facility, certification, supported by evidence, that co-locations of the proposed telecommunications facility with an existing approved tower or facility cannot be accommodated is required. Reasons for not co-locating on a site would include, but not be limited to, the following:
 - 1. No existing towers or facilities are located within a two thousand (2,000) foot radius;
 - 2. Existing towers or facilities are not of sufficient height to meet the applicant's engineering requirements;
 - 3. Existing towers or facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment;
 - 4. Applicant's planned equipment would cause radio frequency interference with other existing or planned equipment of the tower, or facility would cause interference with the applicant's planned equipment which cannot be reasonably prevented;
 - 5. Unwillingness of the owner of the existing tower or facility to entertain a co-location proposal; or
 - 6. Existing towers or facilities do not provide an acceptable location for requisite coverage for the applicant's communications network.
- i. *Class I telecommunications facilities.* The following shall apply to all Class I telecommunications facilities:
 - 1. Class I telecommunications facilities shall not exceed a height of sixty (60) feet above grade;
 - 2. A permit is required prior to constructing a Class I facility over six (6) feet in height.
 - 3. A West Virginia licensed engineer shall certify that the design of a Class I facility is such that in the event of structural failure or collapse, no part of the structure will encroach upon any adjoining property or public right-of-way.
- j. *Class II telecommunications facilities.* The following shall apply to all Class II telecommunications facilities:
 - 1. Antennas or associated electronic equipment shall be designed for co-location on an existing, permitted telecommunications tower, or attached to an existing building, water tank, or other existing support structure whose main function is not the support of telecommunication facilities, provided stealth technology is utilized to the fullest extent possible. Unless specifically being attached to an existing, permitted telecommunications tower, these facilities must be designed utilizing the latest stealth technologies as defined in this code.
 - 2. All Class II facilities, not to be co-located on an existing telecommunication tower, are required to be screened by natural vegetation or otherwise camouflaged by stealth technology to conform with existing site color, architecture, and landscaping characteristics so as to minimize visual impact, provided the efficacy of the telecommunication facility is not compromised.
 - 3. A zoning permit is required that shows the siting, placement, screening, co-location or stealth design, camouflage, height, and setback of the Class II facility.
 - 4. Class II telecommunications facilities that are not co-located on an existing telecommunications tower may be permitted on existing structures if such facilities meet all other requirements of this code. The owner of such structure shall, by written certification to the Zoning Officer, establish the following when plans are submitted for a zoning permit:
 - i. Sign an affidavit acknowledging that they understand that the structure will be used to support telecommunication facilities and any ancillary equipment.
 - ii. The height from grade of the telecommunications facilities shall not exceed the height from grade of the support structure by more than twenty (20) feet.

- iii. Any telecommunications facilities and their appurtenances, located above the primary roof of a support structure, are set back one (1) foot from the edge of the primary roof for each one (1) foot in height above the primary roof of the telecommunications facilities. This setback requirement shall not apply to telecommunications facilities and their appurtenances located above the primary roof of a structure if such facilities are appropriately screened from view through the use of panels, walls, fences, or other screening techniques consistent with this code. Setback requirements shall not apply to stealth antennas mounted to the exterior of structures below the primary roof but which do not protrude more than eighteen (18) inches from the side of such a structure.
- k. *Class III telecommunication facilities.* The following shall apply to all Class III telecommunications facilities:
 - 1. Class III is reserved for applicants seeking to erect a new telecommunications tower or facility, with associated antennas and electronic equipment.
 - 2. Towers are exempt from the maximum height restrictions of the zoning districts where located. Towers shall be permitted to a height of one hundred (100) feet, unless the applicant can show good cause to construct a tower exceeding one hundred (100) feet. Under no circumstance shall a tower be greater than two hundred (200) feet above grade.
 - 3. Towers shall be designed in such a manner so as to permit future co-location of other carrier's antennas, rather than construction of additional single-use towers.
 - 4. A Class III telecommunications facility application is required, in which the applicant must show that the new tower is built to minimize visual impact of the tower through careful design, siting, landscaping, and innovative camouflaging and stealth techniques.
 - 5. Security fencing, no less than six (6) feet in height shall be provided around the equipment shed. The fencing shall conform to the requirements found under Section 319.17 of this Zoning Ordinance.
 - 6. Towers shall be setback from all residential property lines a minimum of one hundred (100) feet or one hundred (100) percent of the height of the proposed Tower, whichever is greater.
 - 7. Avoid potential damage to property caused by towers and telecommunications facilities by ensuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or when determined to be structurally unsound.
- l. *Application to develop a Class III telecommunications facility.* An application to develop a Class III telecommunications facility shall include:
 - 1. The name, address, and telephone number of the owner and lessee of the parcel of land upon which the tower is situated. If the applicant is not the owner of the parcel of land upon which the tower is situated, the written consent of the owner shall be evidenced in the application.
 - 2. The legal description, book, and page number from the record of such land kept in the Office of the Clerk of Fayette County, and address of the parcel of land upon which the tower is situated.
 - 3. The names, addresses, and telephone numbers of all owners of other towers or usable antenna support structures within a one-half (0.5) mile radius of the proposed new tower site, including City-owned property. The applicant must notify such property owners by certified mail in writing and supply the Zoning Officer with copies of such notices.
 - 4. The names, addresses, and telephone numbers of adjacent property owners and those property owners within two hundred (200) linear feet of the property line of the proposed new tower site, including City-owned property. The applicant must notify such property owners, by certified mail in writing and supply the Zoning Officer with copies of such notices. Tower separation distances from residentially zoned lands shall be measured by straight line from the base of a tower to the closest point of residentially zoned property.
 - 5. A description of the design plan proposed by the applicant. Applicant must identify its utilization of the most recent technological design, including microcell or small cell design, as part of the design plan. The applicant must demonstrate the need for towers and why design alternatives, such as the use of microcell or small cell, cannot be utilized to accomplish the provision of the applicant's telecommunications services.
 - 6. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to obtain permission to install or co-locate the applicant's telecommunications facilities on another usable tower located within a one-half (0.5) mile radius of the proposed tower site.
 - 7. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install the applicant's telecommunications facilities on a support structure, as a Class II telecommunication facility, owned by other persons located within a one half (0.5) mile radius of the proposed tower site.
 - 8. Written technical evidence from a West Virginia licensed engineer that the proposed tower or telecommunications facilities cannot be installed or co-located on another person's tower or usable antenna

- support structure (as a Class II telecommunication facility) owned by other persons located within one-half (0.5) mile radius of the proposed tower site.
9. A written statement from the telecommunications provider that the construction and placement of the tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties.
 10. Written, technical evidence from a licensed engineer(s) acceptable to the Fire Marshal that the proposed site of the tower or telecommunications facilities does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.
 11. In order to assist the Zoning Officer in evaluating visual impact, the applicant shall submit color photo simulations showing the proposed site of the Tower with a photo-realistic representation of the proposed tower as it would appear viewed from the closest residential property and from adjacent roadways.
 12. The Zoning Officer may require an applicant to supplement any information that the Zoning Officer considers inadequate or that the applicant has failed to supply. The City or any of its duly authorized designees may deny an application on the basis that the applicant has not satisfactorily supplied the information required in this subsection. The Zoning Officer shall review applications in a prompt manner and set forth the reasons for approval or denial.
 13. A fee for management of the application in the amount of two hundred dollars (\$200.00) must be included with the application. Such fee includes administrative costs for processing this application including but not limited to expenses incurred for inspections, document review, and mapping. This fee is non-refundable.
- m. In January of each year, the owner or operator of a communications tower within the City of Mount Hope shall submit written report to the Zoning Officer that there have been no changes in the operating characteristics of the communications tower as approved at the time of approval, including, at a minimum:
1. Copy of the current Federal Communications license, if applicable;
 2. Name, address, and emergency telephone number for the operator of the communications tower;
 3. Copy of Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence covering the communications tower and communications antennas;
 4. At any time during the calendar year, if an amendment to the Federal Communications Commission license is issued, a copy of the amended license shall be submitted to the Zoning Officer.
- n. *Bond for Removal Costs.*
1. At the time of issuance of the permit or application approval for construction of the telecommunication facility, a bond or escrow account shall be posted with the City in an amount certified by the applicant's engineer to be sufficient, but in no case shall be less than \$20,000, to cover the costs of removing such wireless communications facility and disposing of all of its components, together with a financial security agreement authorizing the City to use the funds to remove the facility if the facility is abandoned, and further authorizing the City to place a lien on the premises in the event the escrow or bond is insufficient to cover the costs of removal and disposal.
 2. The financial security agreement shall be executed by both the applicant and the landowner.
 3. At the time of filing of the Annual Report required in Section 321.25(m), any new owner of the land or of the facility, as well as an organization utilizing the facility, shall reaffirm the validity of the financial security agreement or execute a new financial security agreement as may be required.
 4. If the Zoning Officer finds that an abandoned telecommunications facility has not been removed within ninety (90) days of the cessation of use, said officer shall give written notice to the owner of the building or premises on which such facility is located.
 5. Removal of the facility shall be effected within fifteen (15) days after receipt of the notice. If such facility is not removed after the conclusion of the fifteen (15) day period, the Zoning Officer is hereby authorized to cause the antenna to be removed at the expense of the owner of the building or premises on which such antenna is located.
 6. If the escrow or bond is insufficient to cover the entire cost of removal and disposal, the City may place a lien upon the premises that may be collected in accordance with the rules for collection of municipal liens.

Section 321.27 Tourist or Trailer Camp.

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

Section 321.29 Urban Agriculture.

- a. *Definitions for this section.*
 1. “Beekeeping” means the keeping or propagation of honeybee hives for collection of honey or other bee products.
 2. “Community Garden” means a neighborhood-based development with the primary purpose of providing space for members of the community to grow plants for beautification, education, recreation, community distribution, or personal use.
 3. “Composting” means accumulating a mixture of various decaying organic substances, such as dead leaves or manure, intended to be used for fertilizing soil.
 4. “Fowl” means any chicken, duck, goose, turkey, guinea fowl, or pigeon.
 5. “Home Agriculture” means the gardening or production, principally for use or consumption of the property owner or resident, of plants or their products including but not limited to fruits of all kinds, including grapes, nuts, and berries; vegetables; floral, ornamental, and other noncommercial greenhouse products; and bees and apiary products.
 6. “Hydroponics” means the cultivation of plants in nutrient solution rather than soil.
 7. “Livestock” means any hog, pig, goat, cow, horse, pony, emu, alpaca, or other hoofed animal.
- b. *Beekeeping.* Beekeeping is permitted as an accessory use to a dwelling provided that:
 1. No more than three (3) hives, each with only one (1) swarm, are allowed on lots of less than ten thousand (10,000) square feet; and
 2. Hives shall not be located within twenty-five (25) feet of any lot line except when situated eight (8) feet or more above the grade immediately adjacent to the grade of the lot on which the hives are located or when situated less than eight (8) feet above the adjacent existing lot grade and behind a solid fence or hedge six (6) feet high parallel to any lot line within twenty-five (25) feet of a hive and extending at least twenty (20) feet beyond the hive in both directions.
- c. *Community gardens.* The responsibility of managing, maintenance, and operations of community garden sites shall be that of the land owner or designated public or civic entity, nonprofit organization, or other community-based organization. Processing and storage of plants or plant products are prohibited on site. Garden tools and supplies may be stored within an accessory structure.
- d. *Composting.* Composting shall take place at least fifty (50) feet from any dwelling other than the dwelling associated with the use.
- e. *Keeping of fowl.* The keeping of fowl is permitted as an accessory use to a dwelling, provided that the number of fowl on property less than one (1) acre shall not exceed six (6) and the number of fowl kept on property greater than (1) acre shall not exceed (12) twelve, and subject to the following provisions:
 1. A dwelling shall be located on the same lot as the fowl.
 2. Fowl shall be kept within a building, coop, or enclosure, and within a fully enclosed and fenced rear or side yard such that fowl may not be at large within the City. The building, coop, or enclosure in which the fowl are kept must be at least twenty-five (25) feet from any dwelling other than the primary dwelling situated on the property. The building, coop, or enclosure shall be durably constructed and maintained.
 3. A permit is required for keeping fowl within the City. A permit may be obtained from the City Clerk after application to the Zoning Officer and an inspection performed by the Zoning Officer.
- f. *Incidental sales.* Any sale resulting from beekeeping, composting, home agriculture, or keeping of fowl shall constitute a home-based business and is subject to all applicable provisions of this code.
- g. *Location.* Beekeeping, composting, home agriculture, and keeping of fowl shall not take place in the front yard of any lot, except:
 1. Plants that are integrated with the principal structure’s landscaping and primarily serve an ornamental purpose; and
 2. Ten (10) plants grown for use or consumption may be cultivated in a front yard, separate from the principal structure’s landscaping, provided such plants do not exceed four (4) feet in height and the planted area does not exceed twelve (12) square feet.
- h. *Prohibitions.*
 1. Livestock shall not be kept within the City.
 2. Roosters shall not be kept within the City.
 3. Slaughtering and processing more than six (6) fowl per year is prohibited within the City.

Section 321.31 Vehicle, Boat, and Marine Repair/Service/Sales/Rental.

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

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

Section 321.33 Video Lottery Establishment.

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

Section 321.35 Wind Energy Systems.

- a. *Purpose.* The purpose of this section is to regulate the placement, construction, and modification of small wind energy systems while promoting the safe, effective, and efficient use of such systems.
- b. *Applicability.* The requirements set forth in this section shall govern the siting of wind energy systems used to generate electricity or perform work that may be connected to the utility grid pursuant to West Virginia's net metering laws, serve as an independent source of energy, or serve in a hybrid system.
- c. *Siting requirements.* The requirements for siting and construction of all wind energy systems regulated by this section shall include the following:
 1. Wind energy towers shall maintain a galvanized steel finish, unless FAA standards require otherwise, or if the owner is attempting to conform the tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. A wind energy tower may be erected, maintained, or operated on or as an attachment to a building on a lot. A photo simulation may be required.
 2. Wind energy systems shall not be artificially lighted unless required by the Federal Aviation Administration (FAA) or appropriate authority.
 3. No tower shall have any sign, writing, or image that may be construed as advertising by the Zoning Officer or designee.
 4. The applicant shall provide evidence that the proposed height of the wind energy system tower does not exceed the height recommended by the manufacturer or distributor of the system. The tower height shall not exceed a maximum height of seventy (70) feet on a parcel. When situated on or attached to a building, the total height shall not exceed seventy (70) feet. The building itself shall otherwise conform with the applicable height requirement under this ordinance.
 5. The applicant shall provide evidence that the provider of electric utility service to the site has been informed of the applicant's intent to install an interconnected, customer-owned electricity generator, unless the applicant intends, and so states on the application, that the system will not be connected to the electricity grid. Notification will take place by having the electric utility provider sign the conditional use permit application, but such signature does not construe approval for net metering by the electric utility.
 6. Wind energy systems shall adhere to noise limits established by the City of Mount Hope Municipal Code. These levels, however, may be exceeded during short-term events such as utility outages or severe windstorms.
 7. The applicant will provide information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.

8. The minimum distance between the ground and any protruding blade utilized on a small wind energy system shall be fifteen (15) feet, as measured at the lowest point of the arc of the blades. The lowest point of the arc of the blades shall be ten (10) feet above the height of any structure within seventy-five (75) feet of the base. The supporting tower shall be enclosed with a six (6) foot tall fence, or the base of the tower shall not be climbable for a distance of ten (10) feet.
 9. The applicant will provide proof of adequate liability insurance for a small wind energy system. Whether or not the applicant is participating in the net metering program, the applicant will be required to meet the insurance coverage requirements as set forth in W. Va. Code R. 150-33-4 (2011).
 10. The small wind energy system generators and alternators should be constructed so as to prevent the emission of radio and television signals and shall comply with the provisions of Section 47 of the Federal Code of Regulations, Part 15 and subsequent revisions governing said emissions.
- d. *Federal and state requirements.*
1. Compliance with FAA Regulations. Wind energy systems must comply with applicable FAA regulations.
 2. Compliance with National Electric Code. Applications for wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
 3. Compliance with regulations governing energy net metering. Wind energy systems connected to the utility grid must comply with West Virginia Code Section 24-2F-8 and West Virginia Administrative Code Title 150, Series 33.
- e. *Setbacks.* The wind energy system shall be setback a distance at least equal to one hundred ten (110%) percent of the height of the tower plus the blade length from all adjacent property lines and a distance equal at least to one hundred fifty (150%) percent of the tower height plus blade length from any dwelling inhabited by humans on neighboring property. Additionally no portion of the wind energy system, including guy wire anchors, may be extended closer than ten (10) feet to the property line.
- f. *Removal of defective or abandoned wind energy systems.* Any wind energy system found to be unsafe by the Zoning Officer shall be repaired by the owner to meet federal, state, and local safety standards or removed within six (6) months. Any wind energy system that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of the system shall remove the turbine within ninety (90) days of receipt of notice from the Zoning Officer instructing the owner to remove the abandoned wind energy system.

ARTICLE 323 SIGN REGULATIONS

Section 323.01 Findings, Purpose, and Intent; Interpretation.

- a. Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, color, illumination, movement, materials, location, height, and condition of all signs placed on property for exterior observation, thus ensuring the protection of property values; preservation of the character of the various neighborhoods; creation of a convenient, attractive, and harmonious community; protection against destruction of or encroachment upon historic areas; and the safety and welfare of pedestrians and wheeled traffic, while providing convenience to citizens and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, and size of signs. These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of signs while still reducing and mitigating the extent of the harms caused by signs.
- b. This article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this article which can be given effect without the invalid provision.
- c. Signs not expressly permitted under this code are prohibited.

Section 323.03 Permit Required.

- a. *Application for permit.* Except as provided in this code, a sign permit is required prior to the display and erection of any sign.
 1. An application for a sign permit shall be filed with the Zoning Officer on forms furnished by the City. The applicant shall provide sufficient information to determine if the proposed sign is permitted under this code

and other applicable laws. All applications shall demonstrate that the materials used for the sign are appropriate for the particular sign type; the submission of manufacturer's specifications is sufficient to demonstrate the use of appropriate materials. An application for a temporary sign shall state the dates intended for the erection and removal of the sign. An application for an electronic message display shall include the manufacturer's statement that the sign has been pre-programmed, to the extent possible, to conform to the requirements of this code. Such manufacturer's statement shall include, where applicable, the pre-stacked sign settings related to text and graphic features, message change features, message change time intervals, day and night lighting requirements, and any other settings capable of limiting the electronic message display such that the sign conforms to this code.

2. The Zoning Officer shall promptly process the sign permit application and approve the application, reject the application, or notify the applicant of deficiencies in the application within twenty (20) business days after receipt. Any application that complies with all provisions of this code and other applicable laws shall be approved.
 3. If the application is rejected, the Zoning Officer shall provide a list of the reasons for the rejection in writing. An application shall be rejected for non-compliance with the terms of this code or other applicable law.
- b. *Permit fee.* A nonrefundable fee shall accompany all sign permit applications. The permit fee schedule shall be set by the City.
- c. *Duration and revocation of permit.* If a sign is not installed within six (6) months following the issuance of a sign permit or the time period stated within the permit, or within thirty (30) days for a temporary sign permit, the permit shall be void. The permit for a temporary sign shall state its duration, not to exceed thirty (30) days unless otherwise provided in this code. The Zoning Officer may revoke a sign permit under any of the following circumstances:
1. The information in the application was materially false or misleading;
 2. The sign as installed does not conform to the sign permit application; or
 3. The sign violates this code or other applicable law.
- d. *Appeals.* Appeals from the denial or granting of a sign permit shall be made to the Board of Zoning Appeals pursuant to the process set forth in this code.

Section 323.05 Permit Not Required.

The purpose of not requiring a permit for some signage is to exempt certain signs that are frequently used, often by private citizens, and which typically have less of an impact on public safety and aesthetic concerns. Signs permitted under this section count towards the maximum sign area and maximum number of signs allowed per use. A sign permit is not required for:

- a. Signs required by law.
- b. Flags up to sixteen (16) square feet.
- c. The changing of messages on marquees and the repair of an existing permitted sign, except that repair of a nonconforming sign must comply with this code.
- d. Temporary signs as follows, subject to sign area and height limitations of the district in which the sign is located:
 1. One (1) sign, no illumination, no more than twelve (12) square feet in area, located on property where a building permit is active.
 2. On any property for sale or rent, one sign with a total area of up to twelve (12) square feet and a maximum height of six (6) feet.
 3. On dwellings, no more than four (4) temporary signs with a total area of no more than twelve (12) square feet, and which are removed within thirty (30) days after being erected.
 4. Window signs, provided that the total area of window signs does not exceed twenty-five (25%) percent of the total area of all windows on each building façade, and such signs are removed within thirty (30) days after being erected.
 5. Banners for not more than thirty (30) days.
- e. Two (2) minor signs per use.
- f. *Pavement markings.* Any sign applied directly and entirely to and flush with an asphalt, concrete, or similar paved surface.
- g. A permanent window sign, provided that the aggregate area of all window signs on each window or door does not exceed twenty-five (25%) percent of the total area of the window or door.

Section 323.07 Prohibited Signs.

The purpose of prohibiting the following signage is to address substantial public safety and welfare concerns, including aesthetic concerns and protecting property values, associated with certain types of signage. In addition to signs prohibited elsewhere in this code or by applicable state or federal law, the following signs are prohibited:

- a. *General prohibitions.*
 1. Signs that violate any state or federal law relating to outdoor advertising or in violation of this code.
 2. Signs attached to natural vegetation.
 3. Signs simulating, or which are likely to be confused with, a traffic control sign or any other sign displayed by a public authority.
 4. Vehicle or trailer signs, defined as any sign attached to or displayed on a vehicle, if the vehicle or trailer is used primarily to convey a commercial sign and the vehicle fails to display current license plates, inspection sticker, or municipal decal; if the vehicle is inoperable; if evidence of paid-to-date local taxes cannot be made available; or if the sign alters the standard design of such vehicle or trailer.
 5. Animated signs, except where animated sign features as part of an electronic message display are expressly permitted.
 6. Flashing signs or other signs displaying flashing, scrolling, or intermittent lights or lights of changing degrees of intensity, except where flashing features as part of an electronic message display are expressly permitted.
 7. Beacons.
- b. *Prohibitions based on materials.*
 1. Signs consisting of illuminated tubing or strings of lights outlining property lines or open sales areas, rooflines, doors, windows, or wall edges of any building, except for temporary decorations not to exceed three (3) months per year.
 2. Signs that emit smoke, flame, scent, mist, aerosol, liquid, or gas.
 3. Signs that emit sound.
- c. *Prohibitions based on location.*
 1. Signs erected on public land other than those approved by the Zoning Officer in writing, required by law without such approval, or permitted under West Virginia law. Any sign not so authorized is subject to immediate removal by the City, with the costs charged to the owner or person having control of such sign, with payment due within thirty (30) days of notice of charges. Removal of the sign under this provision does not preclude prosecution of the person responsible for the sign.
 2. Roof signs. Signs on the roof surface or extending above the roofline of a building or its parapet wall.
 3. Any sign located in the vision triangle formed by any two (2) or more intersecting streets or any street and alley.
 4. Window signs with an aggregate area on a window or door in excess of twenty-five (25) percent of the total area of the window or door or located above the first floor unless the related use is only on the floor where the window sign is displayed.

Section 323.09 General Requirements.

- a. *Setback and placement.* All signs shall be setback from any public right-of-way at least the height of the sign. Electronic message displays shall be placed perpendicular to residential structures where possible and shall comply with Federal Communications Commission regulations, including the avoidance of harmful interference with radio frequencies.
- b. *Illumination.* The purpose of the following provisions regulating signage lighting is to ensure that signs are lighted in such a manner as to maintain aesthetic consistency with signs already existing in the City and to ensure the safety of drivers and pedestrians, while also ensuring that signs are adequately able to convey sign messages.
 1. Definitions.
 - i. “Candela” means the basic unit of measurement of light in SI (metric) units.
 - ii. “Candela per square meter (cd/m²)” means the SI (metric) unit used to describe the luminance of a light source or of an illuminated surface that reflects light. Also referred to as Nits.
 - iii. “Nit” means a photometric unit of measurement referring to luminance. One (1) nit is equal to one (1) cd/m².
 - iv. “SI (International System of Units)” means the modern metric system of measurement, abbreviated SI for the French term “Le Systeme International d’Unites.”

2. A sign in any district may be illuminated at night. Signs that are illuminated at night may not exceed a maximum luminance level of seven hundred and fifty (750) cd/m² or Nits, regardless of the method of illumination, at least one-half (0.5) hour before Apparent Sunset, as determined by the National Oceanic and Atmospheric Administration (NOAA), US Department of Commerce, for the specific geographic location and date. All illuminated signs must comply with this maximum luminance level throughout the night, if the sign is energized, until Apparent Sunrise, as determined by the NOAA, at which time the sign may resume luminance levels appropriate for daylight conditions.
 3. The maximum luminance during daylight conditions, between Apparent Sunrise and one-half (0.5) hour before Apparent Sunset, shall be ten thousand (10,000) cd/m² or Nits.
 4. All permitted and conditional use signs may be backlit, internally lighted, or indirectly lighted, subject to lighting limitations in this code. All external sign lighting shall have lighting fixtures or luminaires that are fully shielded.
 5. Temporary signs shall not be lighted.
- c. *Maximum height measurements.* Wall signs and other signs with sign structures not affixed to the ground are measured from the lowest attached component of the sign to the highest attached component of the sign. The height of signs with sign structures affixed to the ground is measured as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign, subject to limitations in this article. Normal grade is the lower of:
1. Existing grade prior to construction; or
 2. The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating primarily for the purpose of mounting or elevating the sign.
- d. *Measurement of sign area.* Sign area is calculated under the following principles:
1. With signs that are regular polygons or circles, the area can be calculated by the mathematical formula for that polygon or circle. With signs that are not regular polygons or circles, the sign area is calculated using all that area within a maximum of three (3) abutting or overlapping rectangles that enclose the sign face.
 2. The permitted area of a double-faced a-frame sign shall be considered to be the area on one (1) side only. If one (1) face contains a larger sign area than the other, the larger face shall be used in calculating the sign area.
 3. For projecting signs, the sign area also includes the area of the visible sides of the sign, calculated as a rectangle enclosing each entire side view.
 4. Supports, uprights, or structures on which any sign is supported shall not be included in determining the sign area unless such supports, uprights, or structure are designed in such a way as to form an integral background of the display; except, however, when a sign is placed on a fence, wall, planter, or other similar structure that is designed to serve a separate purpose other than to support the sign, the entire area of such structure shall not be computed.
 5. In instances where there are multiple tenants or users on a property or in a building, allowable sign area for all parties shall not exceed the maximum sign area computed based upon the number of tenants multiplied by forty (40) square feet per tenant. In no case shall any tenant sign exceed forty (40) square feet.
 6. All signs displayed, whether permanent or temporary, and regardless of the type of sign are counted toward the maximum sign area allowed per use.
- e. *Number of signs.* All signs displayed on a lot, whether permanent or temporary, and regardless of the type of sign are counted towards the maximum number of signs permitted per use.
- f. *Wall signs.*
1. Wall signs in excess of one hundred (100) square feet shall provide as part of zoning permit application:
 - i. Express permission from the operator and owner of the building;
 - ii. The name and address of the person applying the wall sign; and
 - iii. A clear drawing of the proposed wall sign including dimensions and location.
 2. Wall signs larger than one hundred (100) square feet are subject to the design review standards in subsection (g).
- g. *Design review standards shall apply to wall signs in excess of one hundred (100) square feet and all signs within the Historic Downtown Commercial district.* The Board of Zoning Appeals shall issue zoning permits for signs subject to design review in accordance with Section 323.03, except that the Board of Zoning Appeals shall issue a determination within forty (40) business days. In determining whether a sign is compatible with the theme and overall character to be achieved in each zoning district, the Board of Zoning Appeals shall base its compatibility determination on the following criteria:

1. The relationship of the scale and placement of the sign to the building or premises on which it is to be displayed.
2. The relationship of the colors of the sign to the colors of adjacent buildings and nearby signs.
3. The similarity or dissimilarity of the sign's size and shape to the size and shape of nearby signs.
4. The similarity or dissimilarity of the style of lettering or number of words on the sign to the style of lettering or number of words of nearby signs.
5. The compatibility of the type of illumination, if any, with the type of illumination of nearby signs.
6. The compatibility of the materials used in the construction of the sign with the materials used in the construction of nearby signs.

Section 323.11 Nonconforming Signs.

- a. Signs lawfully existing on the effective date of this code that do not conform to the provisions of this code, and signs that are accessory to a nonconforming use shall be deemed nonconforming signs and may remain except as qualified below.
 1. Nonconforming signs shall not be enlarged nor shall any feature of a nonconforming sign, such as illumination or technology, be increased.
 2. Nonconforming signs shall not be extended, structurally reconstructed, altered in any manner, or replaced with another nonconforming sign, nor increased in technological advancement, except as permitted by this code.
 3. Nonconforming signs shall not be moved for any distance on the same lot or to any other lot unless such change in location will make the sign conform in all respects to the provisions of this article.
 4. A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding fifty (50) percent of the sign's area may be restored within six (6) months after such destruction or damage, but shall not be enlarged, nor may the sign's nonconformity be increased. If such sign is so destroyed or damaged to an extent exceeding fifty (50) percent of the sign's area, the sign shall not be reconstructed but may be replaced with a sign that is in full accordance with this code.
 5. Nonconforming sign structures shall be removed if the use to which they are accessory has not been in operation for a period of one (1) year or more, except as provided in 323.13(h). Such sign structure shall be removed or made conforming by the owner or lessee of the property. If the owner or lessee fails to remove or make conforming the sign structure within thirty (30) days of notice by the Zoning Officer, the Zoning Officer may cause the sign to be made conforming or removed and the cost of such removal or modification shall be charged to the owner, person having control, or person receiving benefit from such sign, with payment due within thirty (30) days of notice of charges.
 6. If a nonconforming sign is altered such that the sign is conforming or is replaced by a conforming sign, such sign shall thereafter be kept in accordance with the provisions of this code.
- b. The burden of establishing nonconforming status of signs and the physical characteristics and location of such signs shall be with the owner of the property. Upon notice from the Zoning Officer, a property owner shall submit verification that sign(s) were lawfully erected. Failure to provide such verification shall cause the sign to be deemed an illegal sign.
- c. Nothing in this section prevents keeping a nonconforming sign in good repair.

Section 323.13 Maintenance and Removal.

- a. All signs and components thereof shall be maintained in good repair and in a safe, neat, and clean condition.
- b. *Safety hazard.* The Zoning Officer may cause to have removed or repaired immediately without written notice any sign that, in his or her opinion, has become insecure, in danger of falling, or otherwise unsafe, and, as such, presents an immediate threat to the safety of the public. If such action is necessary to render a sign safe, the cost of such emergency removal or repair shall be charged to the owner, person having control, or person receiving benefit from such sign, with payment due within thirty (30) days of notice of charges.
- c. *Nuisance.* Any sign that constitutes a nuisance shall be abated by the owner within thirty (30) days of notice by the Zoning Officer. At any time, the Zoning Officer may cause the nuisance to be abated with the costs charged to the owner, person having control, or person receiving benefit from such sign, with payment due within thirty (30) days of notice of charges.
- d. *Illegal sign and disrepair.* Any sign that is illegal or in disrepair shall be made conforming or repaired within thirty (30) days of notice from the Zoning Officer. Signs of disrepair include chipped paint, missing or significantly faded letters or other aspects of the sign, cracked portions of the sign face, broken lighting, graffiti, and unlevelled portions of the sign structure or face. If an illegal sign or a sign in disrepair is not made

conforming or repaired, the Zoning Officer may cause the sign to be removed or repaired and the cost of such removal or repair shall be charged to the owner, person having control, or person receiving benefit from such sign, with payment due within thirty (30) days of notice of charges.

- e. *Expired permit.* Any sign for which a sign permit has expired shall be removed within five (5) days of the permit expiration. If the sign is not removed, the Zoning Officer may cause the sign to be removed and the cost of such removal shall be charged to the owner, person having control, or person receiving benefit from such sign, with payment due within thirty (30) days of notice of charges.
- f. The owner of any commercial sign, whether conforming or nonconforming, other than a permitted off-premises sign, located on commercial property where the use or business has ceased operating shall, within sixty (60) days of the cessation of the use or business operation, remove temporary signs and all aspects of any permanent signs that refer to the use or business. Property owners may request, in writing, a waiver of such requirement, if the use or businesses is temporarily or seasonally operational, is remodeling, or otherwise has the good will intention of resuming the use or re-opening the business within one (1) year of time of cessation.

Section 323.15 Temporary Signs.

- a. The purpose of this section is to address that temporary signs pose distinct concerns with visual clutter, safety in erection and display, and removal when the time for display has concluded. Temporary signs also pose distinct concerns with materials quality. The following provisions and individual zoning of temporary signs per district serve to address these concerns.
 - 1. Temporary signs require a permit, except as provided in this article, and may be permitted up to thirty (30) days each calendar year.
 - 2. A use may erect one temporary, off-premises sign on property in any district where permitted, with the consent of the persons in charge of such properties, no more than two (2) times in one (1) calendar year. Each sign shall be no more than eight (8) feet in height and sixteen (16) square feet in area.
 - 3. No more than one (1) permitted temporary, off-premises sign may be displayed per lot.
 - 4. Temporary signs shall be securely affixed to the ground or a building, or a pole designated only to a single temporary sign.
 - 5. Person-assisted signs shall not be located more than ten (10) feet from the entrance to a building or within ten (10) feet of a right-of-way.

Section 323.17 Signs for Residential Historic Core, Residential Expansion, and Natural Resources Stewardship Districts.

- a. *Purpose.* Signage in residential districts poses a heightened risk of visual blight and unsightly clutter, as residential neighborhoods typically contain markedly less signage than other districts in order to maintain the residential character of neighborhoods. At the same time, communicating from one's residence is a distinct and impactful form of speech that should be protected, and nonresidential uses within these districts should be afforded adequate signage incidental to the primary use, i.e. on-premises signs. Signs permitted in these districts are smaller, fewer in number, and limited in sign type in order to limit visual clutter and distraction, while affording ample speech.
- b. *Signs permitted as accessory to dwellings.*
 - 1. Permitted permanent sign use as accessory to dwellings: Minor, Wall, or Geological. No more than two (2) permanent signs are permitted per dwelling.
 - 2. Permitted temporary signs as accessory to dwellings: A-frame, Chalkboard, Feather, Inflatable/Tethered, Minor, Pennant, Wicket, or Window. No more than five (5) temporary signs are permitted per dwelling.
 - 3. No more than five (5) flags as accessory to dwellings.
- c. *Signs permitted as accessory to non-dwellings.*
 - 1. Permitted permanent sign use as accessory to non-dwellings: A-frame, Awning/Canopy, Banner, Freestanding, Geological, Minor, Off-premises, Temporary, or Wicket. No more than two (2) permanent signs are permitted per use.
 - 2. Permitted temporary signs: A-frame, Banner, Chalkboard, Feather, Inflatable/Tethered, Minor, Pennant, Wicket, or Window. No more than five (5) temporary signs are permitted per use.
 - 3. No more than five (5) flags as accessory to non-dwellings.

- d. *Dimension specifications chart.* All maximum sign area requirements include the sum total sign area of all signs per use.

	Permitted as Accessory to Dwellings	Permitted as Accessory to Non-dwellings	Temporary Signs	Flags
Max. Sign Area	4 sq. ft.	25 sq. ft.	32 sq. ft.	24 sq. ft. each
Max. Height	4 ft.	4 ft.	8 ft.	25 ft.

Section 323.19 Signs for Civic and Historic Downtown Commercial Districts.

- a. *Purpose.* On-premises signage in civic and historic downtown areas is essential for the operation of a variety of uses. However, in lighter commercial developments, particularly those near residential development and neighboring residential districts, signage that is less intrusive by being smaller, shorter in height, and more uniform in sign type improves the aesthetic qualities of these and neighboring districts and limits the visual distraction of signage.
- b. Permitted sign use as accessory to dwellings shall be the same as for Section 323.17.
- c. *Signs permitted as accessory to non-dwellings.*
1. Permitted permanent sign use as accessory to non-dwellings: A-frame, Awning/Canopy, Chalkboard, Changeable Copy, Freestanding, Geological, Marquee, Minor, Monument, Projecting, Wall, or Window. No more than five (5) permanent signs are permitted per use.
 2. Permitted temporary signs as accessory to non-dwellings: A-frame, Banner, Chalkboard, Feather, Inflatable/Tethered, Minor, Pennant, Wall, Wicket, or Window. No more than two (2) temporary signs are permitted per use.
 3. No more than five (5) flags as accessory to non-dwellings.
- d. *Dimension specifications chart.* All maximum sign area requirements include the sum total sign area of all signs per use.

	Freestanding Signs	All Other Signs	Temporary Signs	Flags
Max. Sign Area	50 sq. ft.	50 sq. ft.	32 sq. ft.	24 sq. ft. each
Max. Height	20 ft.	10 ft.	8 ft.	25 ft.

Section 323.21 Signs for Route 16 and Route 19 Districts.

- a. *Purpose.* Signage in heavier commercial and industrial districts is allowed to a greater extent, in size, number, and sign type, in order to maintain proportion to the size and scope of uses typically present within these districts. However, even the most intensive use districts in smaller communities are still limited in signage to some degree in order to maintain the small town character of smaller communities and to limit visual distraction by signage.
- b. Permitted sign use as accessory to dwellings shall be the same as for Section 323.17.
- c. *Signs permitted as accessory to non-dwellings.*
1. Permitted permanent sign use as accessory to non-dwellings: A-frame, Awning/Canopy, Banner, Chalkboard, Changeable Copy, Geological, EMD-static, EMD-static with transition, EMD- partially animated, EMD- fully animated, Feather, Freestanding, Marquee, Minor, Monument, Neon, Off-premises, Pennant, Projecting, Wall, Wicket, or Window. No more than five (5) permanent signs are permitted per use.
 2. Permitted temporary signs as accessory to non-dwellings: A-frame, Banner, Chalkboard, Feather, Inflatable/Tethered, Minor, Pennant, Person-assisted, Wall, Wicket, or Window. No more than two (2) temporary signs are permitted per use.
 3. No more than five (5) flags as accessory to non-dwellings.
 4. Only one (1) sign is permitted to be over twenty (20) feet, per use.
- d. *Dimension specifications chart.* All maximum sign area requirements include the sum total sign area of all signs per use.

	Freestanding Sign	All Other Signs	Temporary Signs	Flags
Max. Sign Area	150 sq. ft.	100 sq. ft.	100 sq. ft.	24 sq. ft. each
Max. Height	75 ft.	10 ft.	10 ft.	25 ft.

CHAPTER 5 ADMINISTRATION, APPEALS, AND ENFORCEMENT

ARTICLE 501 ADMINISTRATION; ENFORCEMENT

Section 501.01 Purpose.

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

Section 501.03 Powers and Duties of the Zoning Officer.

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

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

Section 501.05 Zoning Permit.

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

Section 501.07 Fees.

Fees to be charged for the issuance of an improvement location permit shall be based on the floor area of the building or structure to be erected, altered, or moved, and shall be determined as follows:

- a. Residential construction, ten (10) dollars for each one hundred (100) square feet of gross floor area.

- b. Commercial construction and any construction other than residential construction, according to the following schedule:

GROSS FLOOR AREA OF CONSTRUCTION	FEE (IN DOLLARS)
<4,000	10.00
5,000	11.00
6,000	13.00
7,000	15.00
8,000	17.00
9,000	19.00
10,000	21.00
11,000	23.00
12,000	25.00
13,000	27.00
14,000	29.00
15,000	31.00
16,000	33.00
17,000	35.00
18,000	37.00
19,000	39.00
20,000	41.00

Section 501.09 Violations and Penalties.

- a. Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction, shall be punished for each offense by a fine not less than \$50.00 nor more than \$300.00. Work carried on in violation of the cancellation of any permit issued under this chapter shall also be deemed a violation punishable in the same manner.
- b. Any buildings erected, raised, or converted, or land or premises used in violation of any provision of this Zoning Ordinance is declared a common nuisance and the owner of the building, land, or premises shall be liable for maintaining a common nuisance.

Section 501.11 Injunction.

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

Section 501.13 Amendments to Zoning Ordinance.

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

ARTICLE 503 BOARD OF ZONING APPEALS; APPEALS

Section 503.01 Board of Zoning Appeals (BZA) Created.

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

Section 503.03 BZA Membership; Eligibility Requirements.

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

Section 503.05 Meeting of the Board of Zoning Appeals.

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

Section 503.07 Powers and Duties of the City of Mount Hope Board of Zoning Appeals.

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

- a. Hear, review, and determine appeals from an order, requirement, decision, or determination made by an administrative official charged with the enforcement of this Zoning Ordinance or rule and regulation adopted pursuant thereto.
- b. Authorize exceptions to the district rules and regulations only in the classes of cases or in particular situations as specified in this Zoning Ordinance.
- c. Hear and decide conditional uses of this Zoning Ordinance upon which the board is required to act under this Zoning Ordinance.
- d. Authorize, upon appeal in specific cases only as provided in this Zoning Ordinance, a variance to this Zoning Ordinance.

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

Section 503.09 Non-conformities.

- a. *Purpose and applicability.* The purpose of this section is to regulate and limit the continued existence of uses, structures, and lots established prior to the effective date of this Zoning Ordinance or any amendment thereto that does not conform to this code. Any non-conformity created by a change in the classification of property or the text of this code shall be regulated by the provisions of this article.
- b. *General provisions.*
 - 1. Non-confirming lots, structures, or uses may continue to exist, be bought or sold, altered, restored, or extended only in accordance with the provisions of this code.
 - 2. Nothing in this code shall prevent the strengthening or restoring to a safe condition any portion of a non-confirming structure declared unsafe by a proper authority.
 - 3. Nothing in this Zoning Ordinance shall be interpreted as authorization for or approval of the continuance of the illegal use of a structure or premises in violation of zoning controls in existence at the time of the effective date of legal enactment of this code.
 - 4. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall apply to any non-conformities existing therein.
 - 5. Nothing in this section prohibits alterations or additions to or replacement of buildings or structures owned by any farm, industry, or manufacturer, or the use of land presently owned by any farm, industry, or manufacturer but not used for agricultural, industrial, or manufacturing purposes, or the use or acquisition of additional land which may be required for the protection, continuing development, or expansion of any agricultural, industrial, or manufacturing operation of any present or future satellite agricultural, industrial, or manufacturing use.
- c. *Non-confirming uses.*
 - 1. If a non-confirming use has ceased for one (1) year, abandonment shall be presumed and the non-confirming use shall not be allowed to resume. Any future use of the land or structures shall conform to and be in accordance with this Zoning Ordinance.
 - 2. The non-confirming use of a building or land that has been abandoned shall not thereafter be returned to such non-confirming use. Abandonment of a non-confirming use shall be presumed if one (1) or more of the following conditions exists, indicating intent on the part of the property owner to abandon the non-confirming use:
 - i. When the intent of the owner to discontinue the use is apparent;
 - ii. Utilities, such as water, gas, and electricity to the property have been disconnected;
 - iii. The property, buildings, and grounds, have fallen into disrepair as evidenced by proper code violation documentation;
 - iv. When the non-confirming use has been replaced by a conforming use;

- v. When the non-conforming use has been changed to a use permitted or conditional use by the Board of Zoning Appeals; or
 - vi. The business license issued by the City of Mount Hope has expired.
- 3. The Zoning Officer shall be responsible for preparing a list of all nonconforming uses existing at the time of the legal enactment of this Zoning Ordinance and such list shall be maintained for public use and information.
- 4. Once a non-conforming use has been changed or converted to a conforming use, it shall not thereafter be used for any non-conforming use.
- 5. Alterations and extensions of a non-conforming use may be made in order to increase the non-conformity's compliance with the provisions of this code.
- f. *Non-conforming structures.*
 - 1. A lawful non-conforming structure that is damaged the extent of fifty percent (50%) or more of its appraised value, as valued within twelve (12) months of when the damage occurred, shall not be restored unless it is in full conformance with this code.
 - 2. A lawful non-conforming structure that is damaged, by neither malfeasance nor wanton disregard by an interested party, to the extent of less than fifty percent (50%) of the structure's appraised value, as valued within twelve (12) months of when the damage occurred, may be reconstructed, provided that:
 - i. The reconstructed structure shall not exceed the height, area, or volume of the original structure; and
 - ii. Reconstruction shall be commenced within one (1) year from the date the structure was destroyed or condemned and shall be carried on without interruption.
 - 3. In the event an aggrieved person contests the appraised value determination, three (3) arbitrators shall be appointed, one (1) by City Council, one (1) by the aggrieved party, and one (1) by the two (2) arbitrators or one (1) by the Board of Zoning appeals if the two (2) arbitrators cannot agree on the third arbitrator. Any determination regarding the percentage of damage made by the three (3) arbitrators shall be deemed the official decision of the BZA.
 - 4. The extension of a lawful use to any portion of a nonconforming structure shall not be deemed the extension of a non-conforming use.
- g. *Non-conforming lot.*
 - 1. Except as provided in this section, a non-conforming vacant lot existing and of official record as of the effective date of this Zoning Ordinance may be developed for any of the uses permitted by these regulations in the zoning district in which it is located, provided that the use meets all applicable yard and setback requirements for the zoning district in which the lot is located.
 - 2. A non-conforming vacant lot shall not be developed if it could be combined with an adjoining lot owned by the same person on or after the effective date of these regulations in order to create a single lot. Where an owner owns adjoining property, construction may occur across the lot lines if that is the only way the yard requirements may be met without a variance. If said combination, however, results in the creation of a single lot that is more than one and one-half (1.5) times the minimum lot width or area required in the zoning district, then the single lot may be divided into two (2) lots of equal width and area without being further classified as non-conforming. For the purposes of this section, "adjoining" shall be deemed to mean the sharing of one or more common lot lines and access to both lots can be provided by the same street without crossing that street.
- h. *Non-conforming accessory uses and structures.* No non-conforming accessory use or accessory structure shall continue after the principal use or structure is terminated by abandonment, damage, or destruction unless such accessory use or accessory structure thereafter is made to conform to the standards for the zoning district in which it is located. No non-conforming accessory use or structure shall become or replace any terminated principal non-conforming use or structure.

Section 503.11 Variances.

- a. A variance is a deviation from the minimum standards of this Zoning Ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a parcel of land.
- b. The City of Mount Hope Board of Zoning Appeals shall grant a variance to this Zoning Ordinance if it finds that the variance:
 - 1. Will not adversely affect the public health, safety, or welfare or the rights of adjacent property owners and residents;

2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
4. Will allow the intent of this Zoning Ordinance to be observed and substantial justice done.

Section 503.13 Appeal to Board of Zoning Appeals.

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

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

Section 503.15 Notice and Hearing of Appeal.

- a. Within ten (10) days of receipt of the appeal by the City of Mount Hope Board of Zoning Appeals, the Board shall set a time for the hearing of the appeal and give notice. The hearing on the appeal must be held within forty-five (45) days of receipt of the appeal by the Board.
- b. At least fifteen (15) days prior to the date set for the hearing on the appeal, the Board shall publish a notice of the date, time, and place of the hearing on the appeal as a Class I legal advertisement, pursuant to the West Virginia Code, and written notice shall be given to the interested parties. The publication area shall be the area covered in the appeal.
- c. The Board of Zoning Appeals may require the party taking the appeal to pay for the cost of public notice and written notice to interested parties.
- d. At the hearing, any party may appear in person, by agent, or by an attorney licensed to practice in this state.
- e. Every decision by the BZA shall be in writing and state specific findings of fact and conclusions of law on which the BZA based its decision. If the BZA fails to provide findings of fact and conclusions of law adequate for decision by the circuit court and as a result of the failure, the circuit court returns an appealed matter to the BZA and dismisses jurisdiction over an applicant's appeal without deciding the matter, whether the court returns the matter with or without restrictions, the BZA shall pay any additional costs for court filing fees, service of process, and reasonable attorney's fees required to permit the person appealing the BZA's decision to return the matter to the circuit court for the completion of the appeal.
- f. The written decision by the BZA shall be rendered within thirty (30) days after the hearing. If the BZA fails to render a written decision within thirty (30) days after the hearing, then any party may pursue additional legal remedies to obtain a decision, including, but not limited to, seeking a writ of mandamus.
- g. When an appeal has been filed with the Board of Zoning Appeals, all proceedings and work on the premises in question shall be stayed, except as provided below:
 1. If the official or board from where the appeal was taken certifies in writing to the Board of Zoning Appeals that a stay would cause imminent peril to life or property;
 2. Upon further administrative proceedings, including, but not limited to, submissions to and reviews by the staff or any administrative body; or
 3. Upon engineering or architectural work that does not disturb the real estate beyond what is necessary to complete engineering, survey work, or other tests.
- h. *Petition for writ of certiorari.* The final decision of the City of Mount Hope Board of Zoning Appeals shall be subject to review by the Circuit Court of Fayette County, West Virginia, by certiorari, as provided by West Virginia Code Section 8A-9-1 et seq.
- i. Nothing in this section prevents a party from obtaining an injunction.

The following ordinances, or portions of ordinances, will need to be repealed upon adopting this zoning ordinance:

The current zoning ordinance.

Ordinance requiring permits for advertising signs in the rights-of-way of city streets.

Just FYI: HLC ordinance looks out of date.