

THE TOWN OF MOOREFIELD ZONING ORDINANCE NO. 2019-3

CHAPTER 20

ARTICLE I PURPOSE AND INTRODUCTION

Section 20-1.01 Title.

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

Section 20-1.03 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 20-1.05 Purpose.

This Zoning Ordinance is consistent with the Town of Moorefield Comprehensive Plan and was developed to promote the health, safety, morals, 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;
- e. To promote the orderly development of land; and
- f. To preserve agricultural land and uses.

Section 20-1.07 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 Town of Moorefield, 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 Town of Moorefield hereby shall not be enforceable in tort.

Section 20-1.09 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 20-1.11 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 Town of Moorefield; nor is it the intent of this code to use public powers in any way to promote the separation within Moorefield of economic, racial, religious, or ethnic groups, except as may be an incidental result of meeting the purposes outlined in this article.

Section 20-1.13 Official Zoning Map.

The Zoning Ordinance of the Town of Moorefield 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 Town Council of Moorefield. All subsequent amendments (i.e., rezoning) of the Official Zoning Map shall be certified by the Town Council of Moorefield and then filed with both the office of the Clerk of Hardy County and the Clerk for the Town of Moorefield.

Section 20-1.15 Enactment.

Therefore, the Council of the Town of Moorefield hereby ordains for the purpose of accomplishing the objectives set out in the West Virginia Code, and Section 20-1.05 of this code, that the following be enacted as the Zoning Ordinance of the Town of Moorefield, West Virginia.

Section 20-1.17 Effective Date.

This ordinance shall take effect October 1, 2019.

ARTICLE II DEFINITIONS

Section 20-2.01 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 “Town” shall mean the Town of Moorefield.
- 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, Town of Moorefield, West Virginia” or “Official Zoning Map” shall mean the map that geographically illustrates all zoning district boundaries within the Town of Moorefield, West Virginia, pursuant to the requirements of Chapter 8A of the West Virginia Code.
- h. The term “governing body” and “Town Council” shall both mean the Town Council for the Town of Moorefield, Hardy County, West Virginia pursuant to the Charter of the Town of Moorefield.
- i. The term “Planning Commission” shall mean the Planning Commission for the Town of Moorefield, Hardy 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 20-2.03 Use Definitions.

1. "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 which offers 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 any 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.
2. "Agriculture" means the cultivation of the soil, including the planting and harvesting of crops.
3. "Amphitheater" means an outdoor gathering space typically for entertainment which 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 band shell-type structure to provide weather protection to a stage.
4. "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.
5. "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.
6. "Automobile Car Wash" means the use of a site for washing and cleaning of automobiles, recreational vehicles, or other light duty equipment.
7. "Bakery" means an establishment primarily engaged in the retail sale of baked goods for consumption off-site.
8. "Bank/Financial Institution" means a bank, savings and loan, credit union, or other institution that provides retail banking services to individuals and businesses.
9. "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. The owner and operator must reside at the bed and breakfast as their primary residence.
10. "Boat Livery" means the rental of canoes, kayaks, and similar small boats for recreational use.
11. "Brewery Pub" means a place of manufacture of nonintoxicating beer or nonintoxicating craft beer owned by a resident brewer as defined by the West Virginia Code, 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.

- i. “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 percent alcohol by volume, but not more than nine and six-tenths of alcohol by weight, or twelve percent by volume, whichever is greater.
12. “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.
13. “Building Material Facility” means an establishment that sells home, lawn, and garden supplies and tools and construction materials, such as brick, lumber, hardware, and other similar materials. Construction goods may be located in outdoor storage.
14. “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.
15. “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.”
16. “Catering Business” means the preparation and delivery of food and beverages for off-site consumption for a fee.
17. “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.
18. “Child Day Care Facility” is 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 children for child care services in any setting. Such facility must strictly adhere to any state requirements for child to adult ratio and any other related requirements. Shall not include overnight accommodations, but may be in the provider’s residence.
19. “Clinic” means an establishment providing medical, dental, chiropractic, psychiatric, substance abuse treatment, or surgical services exclusively on an outpatient basis, including emergency treatment and diagnostic services.
20. “Community Facility” means a nonprofit facility, whether publically or privately owned, with the primary goal to provide a community service.
21. “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.
- 22. "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 displaying merchandise or products outdoors, except where such display is required to sell the merchandise. The use does not include the sale of gasoline unless combined with the gas station use.
- 23. "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.
- 24. "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.
- 25. "Cultural Service" means a library, museum, or similar facility.
- 26. "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.
- 27. "Distribution Facility" means any premises or part thereof, which is stocked with goods to be redistributed to retailers, wholesalers or directly to the consumer.
- 28. "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 unless the use is combined with a kennel and where kennels are also permitted within a district.
- 29. "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.
- 30. "Dwelling, Conversion Apartment" or "Garage Apartment/Conversion" means the remodeling of a single-family dwelling unit into two or more separate living units each having a minimum of five hundred (500) square feet of gross floor area and having separate and private sanitary, cooking, and dining facilities and a minimum of two (2) off-street parking spaces per living unit.
- 31. "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 behind commercial uses and cannot be accessed from any portion of the building that faces the primary street.
- 32. "Dwelling, Multi-Family" means a freestanding building containing two (2) 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 two (2) or more dwelling units.
- 33. "Dwelling, Single-Family" means a detached, permanent structure designed for or occupied exclusively as a residence for only one family.
- 34. "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.
- 35. "Emergency Shelter" means a residential facility which provides room and board for a temporary period, protection, counseling, and pre-placement screening for abused, displaced, or transient adults or children.

36. "Equipment Rental/Repair" means an establishment involved in renting or repairing small tools and equipment, including janitorial equipment.
37. "Essential Utilities and Equipment" means underground or overhead electrical, gas, communications not regulated by the Federal Communications Commission, water and sewage systems, including pole structures, towers, wires, lines, mains, drains, sewers, conduits, cables, fire alarm boxes, public telephone structures, police call boxes, traffic signals, hydrants, regulating and measuring devices and the structures in which they are housed, and other similar equipment accessories in connection therewith.
38. "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.
39. "Factory-Built Home" means manufactured 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, 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, and usually built to the voluntary industry standard of the American National Standards Institute (ANSI)--A119.1 standards for mobile homes.
40. "Factory-Built Home Rental Community" means a parcel of land under single or common ownership upon which two or more factory-built homes are located on a continual, non-recreational 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.
41. "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.
42. "Farm" means the raising of crops or livestock, including orchards, vineyards, or nurseries, along with any buildings or structures necessary to conduct such activities.
43. "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.
44. "Farmer's Market" means the offering for sale of agricultural products directly to the consumer at an open-air market designated as a community activity.
45. "Federal, State, County and Municipal Offices" means government owned buildings not being industrial in nature.
46. "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.

47. "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.
48. "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.
49. "Garage, Public" means a garage conducted as a business. The rental of storage space for more than two passenger cars or for one commercial vehicle not owned by a person residing on the premises shall be deemed a business use.
50. "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.
51. "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.
52. "Greenhouse, Commercial" means a building used for the growing of plants, all or part of which are sold at retail or wholesale.
53. "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.
54. "Group Residential Home" means a building owned or leased by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence. This includes a place for transitional group living arrangements for persons discharged from hospitals, correctional facilities, or in lieu of hospitalization, characterized by the presence of such live-in staff, emphasizing the development of skills necessary for more independent living. The facility shall be licensed and operated in accordance with all applicable laws.
55. "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.
56. "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.

57. "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.
58. "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.
59. "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.
60. "Kennel" means any establishment wherein cats and dogs are kept or boarded, registered under West Virginia Code Section 19-20-3. Business may be conducted in conjunction with a dog day care or veterinary clinic.
61. "Laboratory" means a facility equipped for experimental study in a science or for testing and analysis, providing opportunity for research, experimentation, observation, or practice in a field of study, and shall not include illegal activity.
62. "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.
63. "Lumberyard" means an establishment where processed wood timbers and products are stored for bulk and retail sale.
64. "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.
65. "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.
66. "Marina" means a business or recreational facility engaged in the secure mooring of boats, including facilities for storage and repair of boats and sale of boating supplies and fuel.
67. "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 hour long term institutional care to elderly or disabled adults who are in need of such services by virtue of physical and mental impairment.
68. "Night Club/Tavern/Drinking Establishment/Bar" means an establishment for evening entertainment, generally open until the early morning that serves liquor or alcoholic beverages for consumption on premises and may serve food or offer patrons music, comedy acts, a floor show, or dancing; but is not characterized as a forum for sexually oriented material.
69. "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.
70. "Parcel Delivery Facility" means an establishment engaged in the delivery, receipt, and transmittal of documents, packages, and parcels.
71. "Park" means land set aside for open space and recreational purposes.
72. "Parking Lot" means an off-street surfaced area used for parking two or more vehicles which is served by an entrance and possibly an access way connecting the parking lot and a public or private road, but does not include parking for a single-family or two-family dwelling.

73. "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, laundromats, and dry cleaning and laundry pick-up stations where customers drop-off and pick up garments or articles that are sent to another location for cleaning or laundering. Personal services do not include on-site dry cleaning or laundry facilities.
74. "Pet Shop" means an establishment where animals are bought, sold, exchanged, or offered for sale or exchange to the general public.
75. "Pharmacy" means an establishment in which prescription or nonprescription drugs or devices are compounded, dispensed, or distributed. Ancillary retail items also may be sold.
76. "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.
77. "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 such place 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.
78. "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.
79. "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.
80. "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, canoe liveries, and similar facilities.
81. "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.
82. "Recycling Facility" means any solid waste facility for the purpose of recycling or otherwise recovering resources, at which neither land disposal nor biological, chemical, or thermal transformation of solid waste occurs: Provided, That mixed waste recovery facilities, sludge processing facilities and composting facilities are not considered recycling facilities nor considered to be reusing or recycling solid waste within the meaning of the West Virginia Code.
83. "Research and Development" means research, development, and testing laboratories that do not involve the mass manufacturing, 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.
84. "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 barrels of nonintoxicating beer or nonintoxicating craft beer annually, and does not self-distribute more than ten thousand barrels thereof in the state of West Virginia annually.

85. “Restaurant” means a commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building and where food sales constitute a substantial portion of the gross sales receipts. Can include ready-to-eat food to be consumed off premises, or food served at a counter or in a motor vehicle.
86. “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 such sales equal at least eighty (80) percent of the gross sales of the business. Size restrictions on retail stores are measured in gross floor area.
87. “Roadside Vendor Stand” means location, trailers, truck beds, or similar facilities offering products for sale which may or may not be produced on the immediate premise; typically includes produce, jarred foods, and similar items.
88. “Salvage Yard” or “Junkyard” means any place which 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 or more vehicles not in operating condition constitute a salvage yard.
89. “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.
90. “School, Preschool to 12” means an educational establishment offering educational instruction between pre-school through twelfth grade. Schools can be public or private, licensed in accordance with the West Virginia Code.
91. “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.
92. “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.
93. “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.
94. “Shopping Center” means a group of retail and other commercial establishments that is planned, owned, and managed as a single property.
95. “Short-term Rental” means the rental of an entire house, apartment, room, or rooms ordinarily used for residential purposes for a period not to exceed thirty (30) days in one calendar year.
96. “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.
97. “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, recycling 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 town or county where the majority of the spatial area of such facility is located.

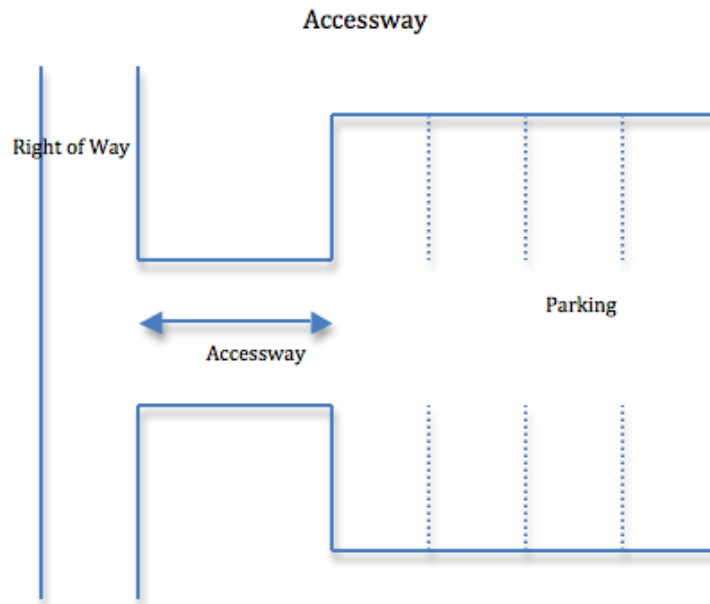
98. "Sports arena" means a central stage, ring, area, or the like, used for sports and surrounded by seats for spectators.
99. "Stockyards" means an enclosed yard where livestock are kept.
100. "Studio, Dancing, Music, or Art" means a facility used for the rehearsal or performance of performing arts, such as music, dance, or theatre; 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 during special events.
101. "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.
102. "Telecommunications, Class I" means facilities that include but are not limited to such facilities as television antennas, ham radio antennas, and AM/FM reception. No Class I facility may be utilized for cellular phone reception.
103. "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.
104. "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.
105. "Temporary Shelter" means a structure or part thereof, operated on a non-profit basis to temporarily house families or individuals who are victims of disaster, who are affected through action on the part of or on behalf of the municipality other than routine redevelopment related relocation activities, or who have bona fide emergency housing needs.
106. "Theater" means a building or part of a building devoted to presenting motion pictures or live performances.
107. "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.
108. "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.
109. "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.
110. "Urban Agriculture" means land used for beekeeping, community gardens, keeping up to six (6) hens, and other small-scale agricultural activities. Does not include the keeping of roosters.
111. "Vehicle, Boat and Marine Repair/Service/Sales/Rental" means any building, structure, improvements, or land used for the repair or maintenance of automobiles, motorcycles, trucks,

- trailers, boats, marine vehicles, 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.
112. "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.
 113. "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.
 114. "Water Treatment Plant" means facilities that treat water and produce potable water for public consumption.
 115. "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.
 116. "Wind Energy System" means any electric generation facility whose main purpose is to convert and store wind energy into usable forms of energy which includes the wind turbine(s), structural supports, electrical infrastructure, and other appurtenant structures and facilities. Consisting of a maximum of one (1) wind turbine per parcel of land.
 117. "Winery" means an establishment where wine is manufactured or in any way prepared in accordance with the West Virginia Code.

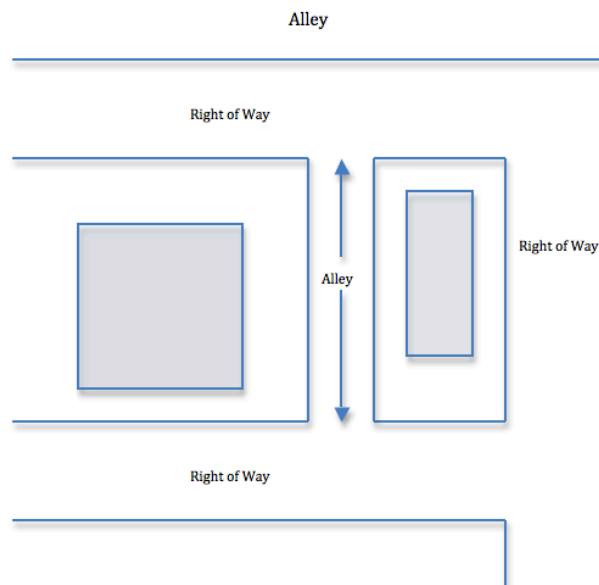
Section 20-2.05 General Definitions.

- a. Unless otherwise expressly stated, the following words shall, for the purpose of this Zoning Ordinance, be defined as follows:
 1. "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.
 2. "Abandoned motor vehicle" means any motor vehicle, or major part thereof, which is inoperative and which has been abandoned on public property for any period over five 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 on private property without consent of the owner or person in control of the property for any period over five 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: Provided, That a motor vehicle, or major part thereof, is not an abandoned motor vehicle if: (a) the owner of the motor vehicle is storing the motor vehicle on the owner's property; (b) the motor vehicle is being stored for the purpose of using its parts on other motor vehicles owned by the owner; (c) the owner owns other motor vehicles similar to the motor vehicle being stored; and (d) the owner is a business licensed to do business in the State of West Virginia and not in the primary business of offering motor vehicles or parts thereof for sale.
 3. "Accessory Structure" or "Accessory Building" means a structure or building 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, satellite dishes, doghouses and dog-related structures, noncommercial greenhouses, sheds, and private garages.
 4. "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

5. "Access way" 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 of a public or private road to the parking lot.

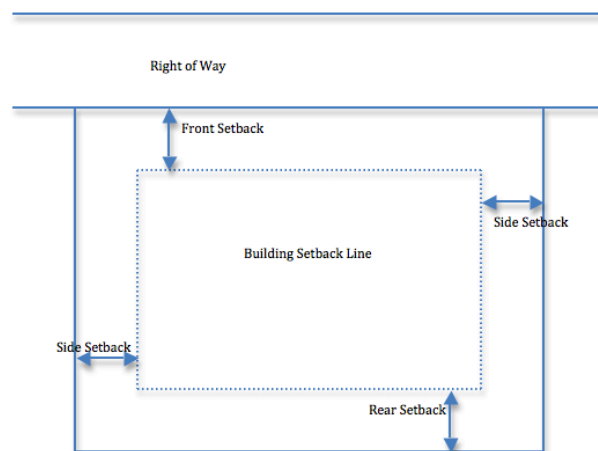


6. "Advertising" means any words, symbol, color, or design used to call attention to a commercial product, service, or activity.
7. "Aggrieved or Aggrieved Person" means a person who (1) is denied by the planning commission, board of subdivision and land development appeals, or the board of zoning appeals, 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.
8. "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.

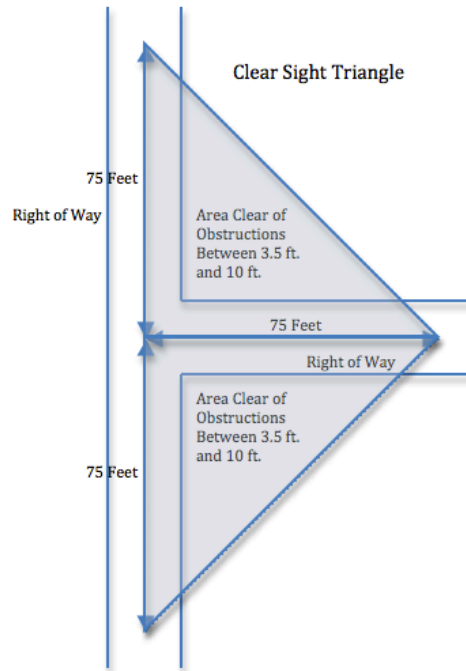


9. "Alteration" means any change or expansion in the size, configuration, exterior features, or location of a structure; or any change or expansion in the use of a structure or lot from a previously approved or legally existing size, configuration, location, or use.
10. "Antenna Support Structure" means any building or structure other than a tower which can be used for location of telecommunications facilities.
11. "Automobile" means a road vehicle, typically with four wheels, able to carry a small number of people.
12. "Basement" means a story having one half (0.5) or more of its clear height below grade.
13. "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.
14. "Bollard" means a short, vertical, and permanent post, usually ornamental in nature, used to inhibit trespass by persons or vehicles, or to prevent encroachment onto private property or other defined space.
15. "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.
16. "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

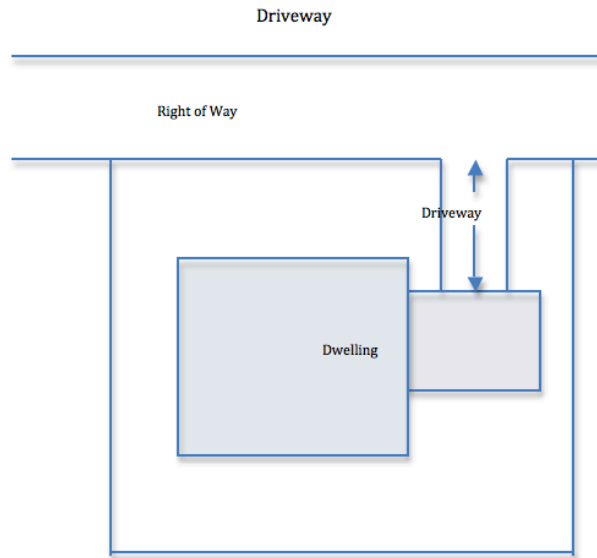


17. "Centerline" means an imaginary line running parallel to street or easement right-of-way lines and equidistant from the lines on each side of the street or easement, or a line following the center of a physical feature such as a stream.
18. "Clear Sight Triangle" means the triangular area formed 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.



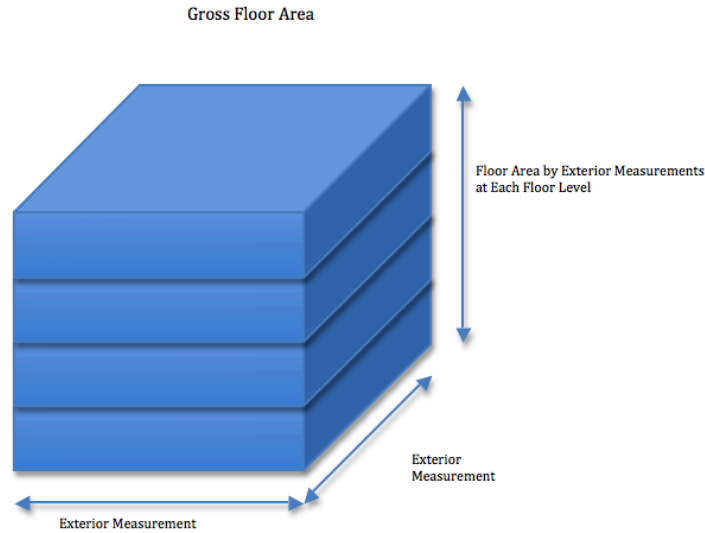
19. "Compact Parking Stall" an off-street space available for parking of one (1) automobile and having an area not less than eight (8) feet in width by eighteen (18) feet in depth and an area exclusive of passageways, access ways, and driveways appurtenant thereto, and having a means to direct access to a street or road.
20. "Comprehensive Plan" means the comprehensive plan for the Town of Moorefield.
21. "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.
22. "Council" means the Council of the Town of Moorefield.
23. "County" means Hardy County, West Virginia.
24. "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 or parking spot. 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.

25. “Driveway” means privately owned vehicular access from a street to properties abutting the street and serving no more than four dwelling units.



26. “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.
27. “Dwelling Unit” means any dwelling or portion thereof used or intended to be used by one family and providing complete housekeeping facilities.
28. “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 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 year, provided that in the case of natural resources, the absence of natural resources extraction or harvesting is not abandonment of the use.
29. “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, subject to the requirements of the Building Code.
30. “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.

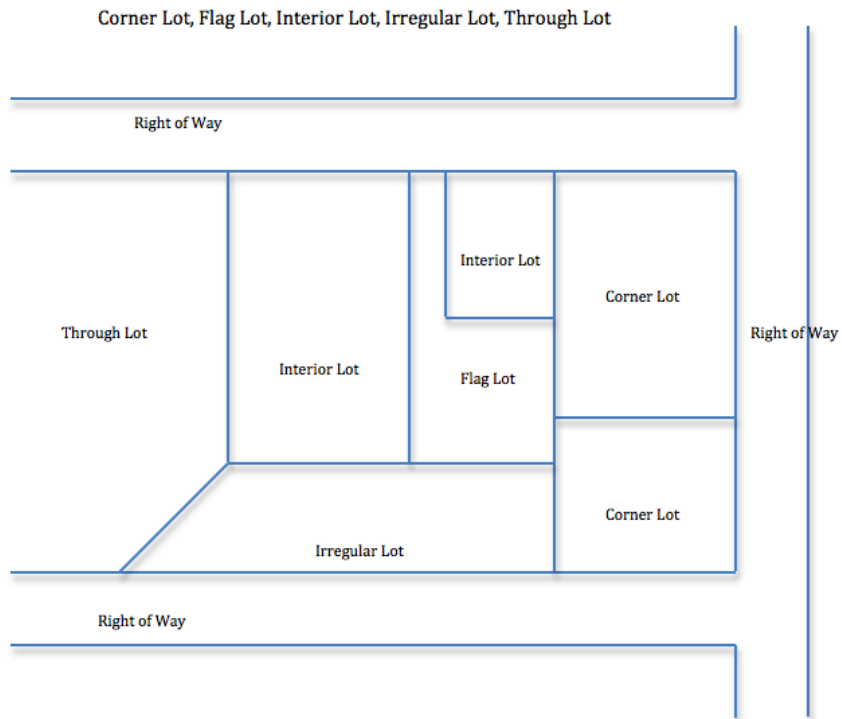
31. “Floor Area, Gross” means the total area of a building measured by taking the outside dimensions of the building at each floor level.



32. “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.
33. “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.
34. “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 includes, but is 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.
35. “Greenhouse, Non-commercial” 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.
36. “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.
37. “Historic Landmark” means a site, building, structure, or object designated as historic on a national, state, or local register.
38. “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 designated as historic on a national, state, or local register.
39. “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.
40. “Livestock” means any and all kinds of livestock produced for food purposes, and any and all livestock produced and used to do work, such as horses and mules, as well as others, and shall also include all kinds of livestock used for pleasure, show and exhibition purposes. The word "livestock" also includes any ass, jennet, cattle, sheep, goat or swine, of whatever age or sex, with the exception

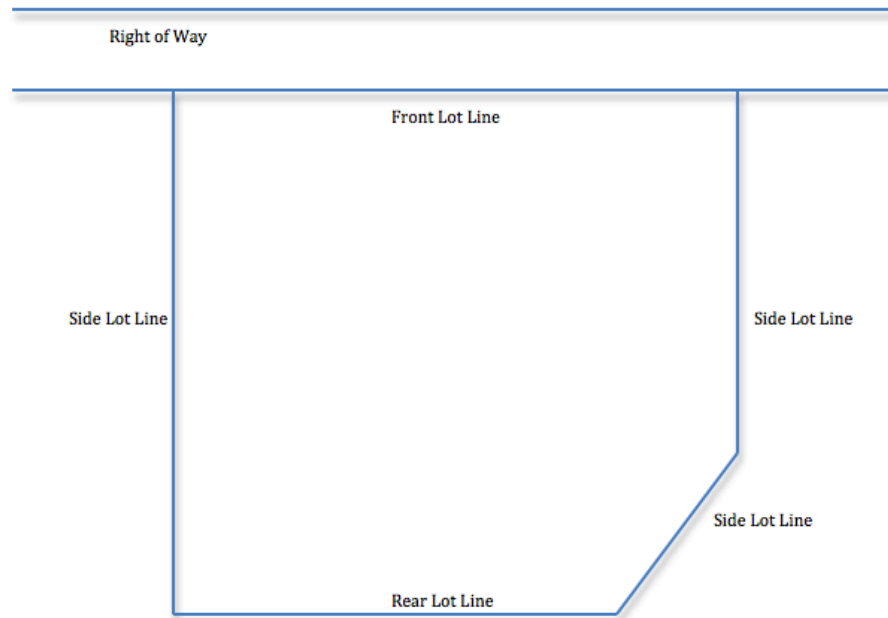
that potbellied pigs that have been neutered or spayed as is applicable, shall not be considered as livestock for the purposes of this chapter.

41. "Loading Space" means an area or berth available for the loading or unloading of goods from commercial vehicles.
42. "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.



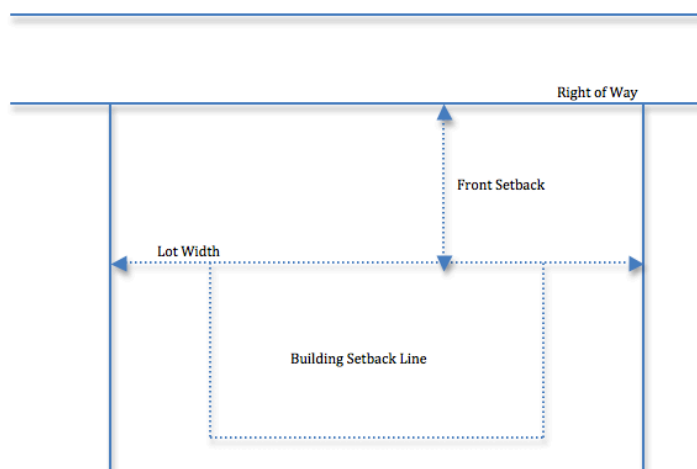
43. "Lot, Corner" means a lot at the junction of and abutting two or more intersecting streets.
44. "Lot, Interior" means a lot other than a corner lot with only one frontage on a street.
45. "Lot, Flag" means a lot not meeting minimum frontage requirements and where access to the public road is by a narrow, private right-of-way or driveway, or "handle."
46. "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.
47. "Lot Line" means the property boundary line of any lot held in single or joint ownership that divides one 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 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



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

Lot Width



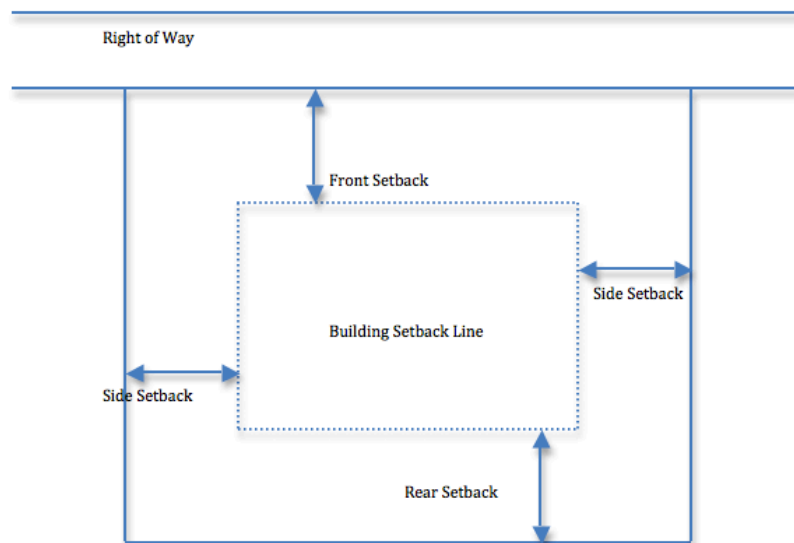
- 50. "Nonconforming Building or Structure" means a building or structure lawfully constructed and not otherwise abandoned, existing on the effective date of this code, on the effective date of any amendment thereto, or prior to annexation, which renders such building or structure illegal within

a district, or not complying in any fashion with any of the rules, requirements, and regulations of this code or any amendments thereto.

51. “Nonconforming 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, no longer conforms to the land use standards or use regulations of the district in which it is located.
52. “Nonconforming 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.
53. “Nonconforming 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.
54. “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) of alcohol by weight, or twelve (12%) percent by volume, whichever is greater.
55. “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.
56. “Owner” means any individual, firm, association, syndicate, estate, corporation, trust, or any other legal entity having proprietary interest in the land.
57. “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, access ways, and driveways appurtenant thereto, and having a means to direct access to a street or road.
58. “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, access ways, and driveways appurtenant thereto, and having a means to direct access to a street or road.
59. “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.
60. “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.
61. “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.
62. “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.
63. “Right-of-way” 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.
64. “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.

65. “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.
66. “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

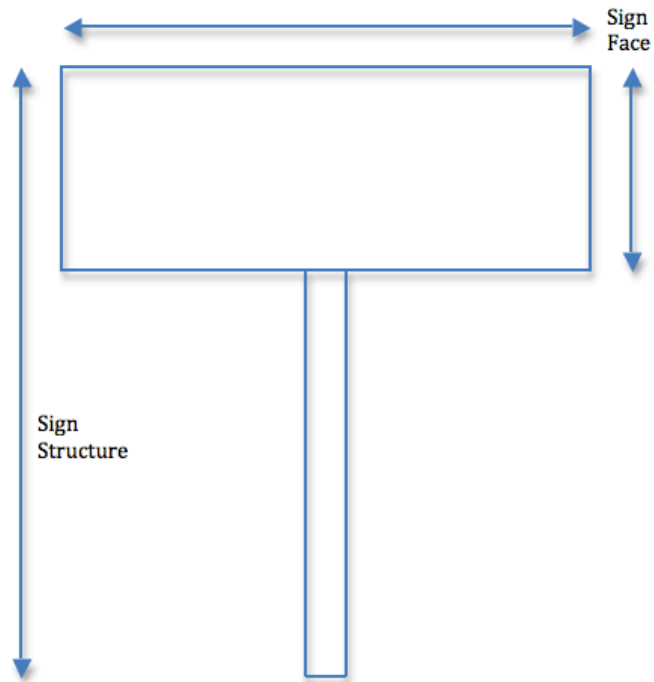


67. “Sign” means any device (writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag, banner or pennant, or any other device, figure or character, or delineation) with the essential purpose to communicate, designed to communicate, 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” signs.
 - ii. “Animated Sign” or 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 or more beams directed into the atmosphere or directed at one 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 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 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. “Illegal sign” means any sign erected without obtaining a required permit or which otherwise does not comply with any provision of this code.
- xiv. “Inflatable/tethered signs” are signs which are filled with air to convey a message or to draw attention to a message or location.
- xv. “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.
- xvi. “Minor Sign” means a sign not exceeding two (2) square feet in area, not exceeding four (4) feet in height, and not illuminated.

- xvii. “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. Monument signs may contain changeable copy components.
- xviii. “Neon Sign” means a sign containing exposed tubes filled with light-emitting gas.
- xix. “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.
- xx. “Pennant” means a geometric shaped flag made of flexible materials, suspended from one or two corners fastened to a string, which is secured or tethered so as to allow movement and used as an attention-getting form of media.
- xxi. “Person-assisted sign” means a sign that includes an individual paid to hold, move, wear, or otherwise direct attention to a commercial sign.
- xxii. “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.
- xxiii. “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.
- xxiv. “Temporary Sign” means any sign intended to be displayed for a limited period of time not to exceed thirty (30) days.
- xxv. “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 the vehicle or trailer 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.
- xxvi. “Wall Sign” means any sign, inscription, artwork, figure, marking, or design that is attached, painted, drawn, marked, etched, or scratched into a wall or against a flat vertical exterior surface of a structure, including portions of doors which do not contain windows.
- xxvii. “Wicket Sign” means a sign with an H- or U-shaped frame that is put into the ground or placed above the ground.
- xxviii. “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.

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



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

70. “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 1-percent annual chance flood is also referred to as the base flood or 100-year flood.

71. “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.

72. “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.

73. “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.

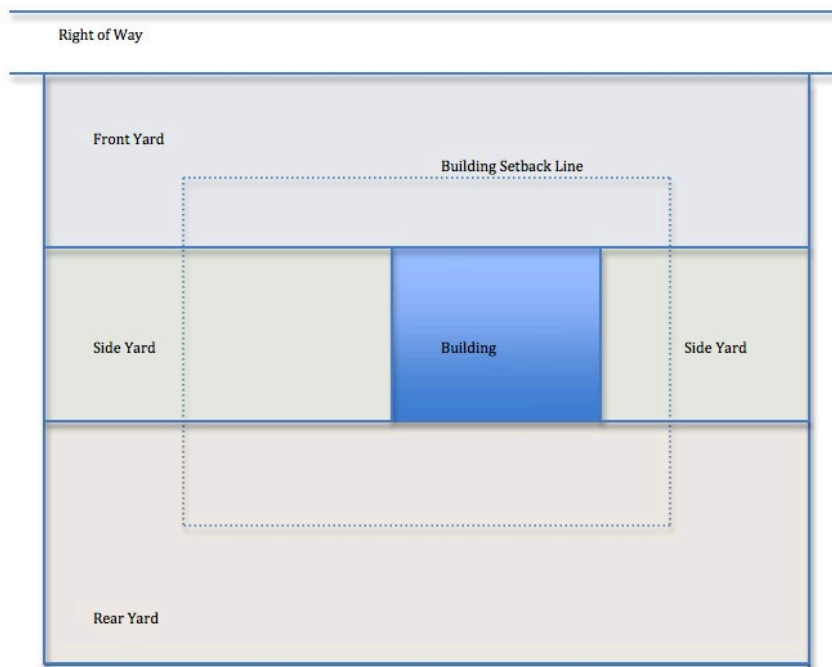
74. “Telecommunications Tower” means any structure that is designated and constructed primarily for the purpose of supporting one or more telecommunication antennas. This includes guyed towers, lattice towers, monopoles, and towers taller than fifteen (15) feet constructed on the top of another building, along with any separate building on the lot used to house any supporting electronic equipment.

75. “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 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.
 - vi. “Utility Trailer” means any trailer designed to haul a boat, lawnmower, recreational equipment, or similar vehicle or equipment.
76. “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.
77. “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.
78. “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.
79. “Yard” means open space that lays between the principal building or structure and the nearest lot line. Any lot, building, or structure with characteristics that require an individual determination of yard location will be resolved at the discretion of the Zoning Officer. 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



80. "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.
81. "Zoning Officer" means the person designated by the Town of Moorefield through the Board of Zoning Appeals to administer and enforce the provisions of this code.

ARTICLE III DISTRICTS ESTABLISHED; CLASSIFICATION OF DISTRICTS

Section 20-3.01 Districts Established.

- a. For the purpose of this Zoning Ordinance, the Town of Moorefield is hereby divided into the following zoning districts:
 1. R-1: Single Family Residential
 2. R-2: Multi-Family Residential
 3. C-1: Corridor Commercial
 4. C-2: Historic Neighborhood Commercial
 5. OS: Conservation
 6. I: Industrial
 7. PRD: Planned Residential Development

Section 20-3.03 Zoning Map.

Section 20-3.05 Use Table.

Section 20-3.07 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 Town.
- 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 20-3.09 Procedures Relating to Annexed or Vacated Areas.

- a. *Zoning of Annexed Lands.* Zoning classification for any land annexed into the Town 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. Town Council shall hear zoning recommendations from the Planning Commission for the subject area during the required hearing for annexation. Prior to any hearings, the Moorefield Planning Commission shall submit its written recommendations, to be consistent with the comprehensive plan, to Town 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 Town 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 owners have been notified by certified mail, the Town Council shall hold a public hearing regarding the zoning designation of the newly annexed land. After the hearing, Town 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 20-3.11 Uses Not Expressly Permitted or Conditional.

It is recognized that new types or forms of land use will develop within the Town of Moorefield 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 IV R-1: SINGLE FAMILY RESIDENTIAL DISTRICT

Section 20-4.01 Purpose.

The purpose of the Single Family Residential 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 single-family residential development.

Section 20-4.03 Uses permitted by right.

- a. The following shall be uses permitted by right in the Single-family Residential District:
 - 1. Dwelling, Single Family
 - 2. Educational Institution
 - 3. Essential Utilities and Equipment
 - 4. Federal, State, County, Municipal Offices
 - 5. Group Residential Facility
 - 6. Group Residential Home
 - 7. Home-based Business
 - 8. Park
 - 9. Places of Worship/Religious Institution
 - 10. Recreation, Public
 - 11. Senior Independent Housing
 - 12. Telecommunications, Class I

Section 20-4.05 Conditional Uses.

- a. The following shall be conditional uses in the Single-family Residential District:
 - 1. Bed and Breakfast Inn
 - 2. Cemetery/Mausoleum
 - 3. Child Day Care Facility
 - 4. Continuing Care Facility
 - 5. Convenience Store
 - 6. Conversion of Old Schools/Churches
 - 7. Cultural Service
 - 8. Dwelling, Conversion Apartment

9. Dwelling, Multi-Family
10. Emergency Services
11. Factory-built Home
12. Garden Center
13. Gas Station
14. Health Club
15. School, Preschool to 12
16. Short-term Rental
17. Solar Energy System, Small
18. Wind Energy System, Small

Section 20-4.07 Lot, Yard, and Height Requirements.

Single-family Residential District Requirements	
Max. Building Height	30 feet
Min. Lot Size (Sq. Ft.)	6,000 square feet
Min. Lot Width	60 feet
Max. Lot Coverage (as a %)	40%
Min. Front Setback	12 feet, or the average of the two adjoining properties which have pre-existing structures, whichever is less
Min. Side Setback	10 feet
Min. Rear Setback	20 feet

ARTICLE V R-2: MULTI-FAMILY RESIDENTIAL DISTRICT

Section 20-5.01 Purpose.

To maintain the residential character of neighborhoods and encourage smart and attractive development. The Multi-Family Residential District is to provide for a variety of housing types and accessory uses at a density higher than the R-1 Single Family 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 20-5.03 Uses permitted by right.

- a. The following shall be uses permitted by right in the Multi-Family Residential District:
 1. Dwelling, Multi-Family
 2. Dwelling, Single-Family
 3. Educational Institution
 4. Essential Utilities and Equipment
 5. Federal, State, County, Municipal Offices
 6. Group Residential Facility
 7. Group Residential Home
 8. Home-based Business
 9. Park
 10. Places of Worship/Religious Institution
 11. Recreation, Public
 12. Senior Independent Housing
 13. Telecommunications, Class I

Section 20-5.05 Conditional Uses.

- a. The following shall be conditional uses in the Multi-Family Residential District:
1. Bed and Breakfast Inn
 2. Boarding and/or Rooming House
 3. Cemetery/Mausoleum
 4. Child Day Care Facility
 5. Continuing Care Facility
 6. Convenience Store
 7. Conversion of Old Schools/Churches
 8. Cultural Service
 9. Dwelling, Conversion Apartment
 10. Dwelling, Mixed Use
 11. Emergency Services
 12. Factory-built Home
 13. Factory-built Home Rental Community
 14. Garden Center
 15. Gas Station
 16. Health Club
 17. Laundromat
 18. Retail Store <7,000 square feet
 19. School, Preschool to 12
 20. Short-term Rental
 21. Solar Energy System, Small
 22. Wind Energy System, Small

Section 20-5.07 Lot, Yard, and Height Requirements.

Multi-Family Residential District Requirements	
Max. Building Height	50 feet
Min. Lot Size (Sq. Ft.)	5,000 square feet
Min. Lot Width	50 feet
Max. Lot Coverage (as a %)	50%
Min. Front Setback	25 feet, or the average of the two adjoining properties which have pre-existing structures, whichever is less
Min. Side Setback	8 feet
Min. Rear Setback	15 feet

ARTICLE VI C-1: CORRIDOR COMMERCIAL DISTRICT

Section 20-6.01 Purpose.

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

Section 20-6.03 Uses permitted by right.

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

1. Amphitheater
2. Amusement and Recreation Center
3. Animal Hospital/Veterinary Office
4. Automobile Car Wash
5. Bank/Financial Institution
6. Brewery Pub
7. Broadcasting Studio
8. Building Material Facility
9. Catering Business
10. Child Day Care Facility
11. Clinic
12. Community Facility
13. Continuing Care Facility
14. Convenience Store
15. Cultural Service
16. Dog Day Care
17. Dry Cleaner
18. Educational Institution
19. Emergency Services
20. Essential Utilities and Equipment
21. Farm/Construction Equipment and Supply Sales
22. Federal, State, County, Municipal Offices
23. Flea Market
24. Funeral Home/Mortuary
25. Garage, Public
26. Garden Center
27. Gas Station
28. Greenhouse, Commercial
29. Group Residential Facility
30. Group Residential Home
31. Health Club
32. Home-Based Business
33. Hotel/Motel
34. Laboratory
35. Laundromat
36. Liquor Store
37. Manufacturing (Light)
38. Medical Cannabis Dispensary
39. Night Club
40. Office Supply Establishment
41. Park
42. Personal Service
43. Pet Shop
44. Pharmacy
45. Photographic Studio
46. Places of Worship/Religious Institution
47. Private Club
48. Professional Services
49. Recreation, Private

50. Recreation, Public
51. Research and Development
52. Resident Brewer
53. Restaurant
54. Retail Store <7,000
55. Retail Store 7,000 to 25,000
56. Retail Store >25,000
57. Roadside Vendor Stand
58. Self Storage Facility
59. Senior Independent Housing
60. Studio, Dancing, Music or Art
61. Tattoo Parlor/Body Piercing Studio
62. Telecommunications, Class I
63. Telecommunications, Class II
64. Theater
65. Vehicle, Boat and Marine Repair/Service/Sales/Rental
66. Warehouse

Section 20-6.05 Conditional Uses.

a. The following shall be conditional uses in the Corridor Commercial District:

1. Adult Business
2. Boat Livery
3. Bus & Transit Facilities
4. Cemetery/Mausoleum
5. Correctional Facility
6. Distillery
7. Distribution Facility
8. Dwelling, Conversion Apartment
9. Dwelling, Mixed Use
10. Emergency Shelter
11. Equipment Rental/Repair
12. Factory-built Home
13. Factory-built Home Rental Community
14. Fairground
15. Farmer's Market
16. Freight Terminal
17. Hospital
18. Kennel
19. Lumberyard
20. Manufacturing (Heavy)
21. Medical Adult Day Care Center
22. Parcel Delivery Facility
23. Parking Lot
24. Recycling Facility
25. Resource Recovery Facility
26. School, Commercial
27. School, Preschool to 12
28. Shopping Center
29. Short-term Rental
30. Solar Energy System, Small
31. Temporary Shelter

- 32. Travel Plaza
- 33. Truck Terminal
- 34. Urban Agriculture
- 35. Video Lottery Establishment
- 36. Wholesale Establishment
- 37. Wind Energy System, Small

Section 20-6.07 Lot, Yard, and Height Requirements.

Corridor Commercial District Requirements	
Max. Building Height	60 feet
Min. Lot Size (Sq. Ft.)	10,000 square feet
Min. Lot Width	75 feet
Max. Lot Coverage (as a %)	70%
Min. Front Setback	15 feet, or the average of the two adjoining properties which have pre-existing structures, whichever is less
Min. Side Setback	10 feet
Min. Rear Setback	10 feet

ARTICLE VII C-2: HISTORIC AND NEIGHBORHOOD COMMERCIAL DISTRICT

Section 20-7.01 Purpose.

The purpose of the Historic and Neighborhood Commercial District is to encourage a centralized commercial area that provides for convenient business uses. Such uses tend to meet the daily shopping and service needs of the residents of an immediate and surrounding neighborhood. The district will also preserve structures of historic and architectural value, encourage the establishment and maintenance of local office and trade establishments, and which contain 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.

Section 20-7.03 Uses permitted by right.

- a. The following shall be uses permitted by right in the Historic and Neighborhood Commercial District:
 - 1. Bank/Financial Institution
 - 2. Catering Business
 - 3. Child Day Care Facility
 - 4. Community Facility
 - 5. Continuing Care Facility
 - 6. Convenience Store
 - 7. Cultural Service
 - 8. Dwelling, Single Family
 - 9. Dwelling, Mixed Use
 - 10. Essential Utilities and Equipment
 - 11. Federal, State, County, Municipal Offices
 - 12. Funeral Home/Mortuary
 - 13. Garage, Public
 - 14. Garden Center
 - 15. Gas Station
 - 16. Group Residential Home
 - 17. Group Residential Facility

18. Health Club
19. Laundromat
20. Liquor store
21. Medical Cannabis Dispensary
22. Night Club
23. Office Supply Establishment
24. Park
25. Personal Service
26. Pet Shop
27. Pharmacy
28. Photographic Studio
29. Places of Worship, Religious Institution
30. Private Club
31. Professional Services
32. Recreation, Public
33. Research and Development
34. Resident Brewer
35. Restaurant
36. Retail Store <7,000
37. Retail Store 7,000 to 25,000
38. Studio, Dancing or Music
39. Tavern/Drinking Establishment
40. Telecommunications, Class I
41. Theater

Section 20-7.05 Conditional Uses.

- a. The following shall be conditional uses in the Historic and Neighborhood Commercial District:
 1. Amphitheater
 2. Amusement and Recreation Center
 3. Animal Hospital/Veterinary Office
 4. Automobile Car Wash
 5. Bed and Breakfast Inn
 6. Boarding House and/or Rooming House
 7. Brewery Pub
 8. Building Material Facility
 9. Bus & Transit Facilities
 10. Cemetery/Mausoleum
 11. Clinic
 12. Dry Cleaner
 13. Dwelling, Conversion Apartment
 14. Dwelling, Multi-Family
 15. Educational Institution
 16. Emergency Services
 17. Equipment Rental/Repair
 18. Farm/Construction Equipment and Supply Sales
 19. Farmer's Market
 20. Flea Market
 21. Greenhouse, Commercial
 22. Hotel/Motel
 23. Laboratory
 24. Manufacturing (Light)

- 25. Opioid Treatment Services
- 26. Parcel Delivery Facility
- 27. Retail Store >25,000
- 28. School, Commercial
- 29. School, Preschool to 12
- 30. Shopping Center
- 31. Short-term Rental
- 32. Solar Energy System, Small
- 33. Tattoo Parlor/Body Piercing Studio
- 34. Telecommunications, Class II
- 35. Temporary Shelter
- 36. Travel Plaza
- 37. Urban Agriculture
- 38. Vehicle, Boat and Marine Repair/Service/Sales/Rental
- 39. Video Lottery Establishment
- 40. Wind Energy System, Small

Section 20-7.07 Lot, Yard, and Height Requirements.

Historic and Neighborhood Commercial District Requirements	
Max. Building Height	50 feet
Min. Lot Size (Sq. Ft.)	4,000 square feet
Min. Lot Width	60 feet
Max. Lot Coverage (as a %)	60%
Min. Front Setback	15 feet, or the average of the two adjoining properties which have pre-existing structures, whichever is less
Min. Side Setback	10 feet
Min. Rear Setback	10 feet

ARTICLE IX OS: CONSERVATION DISTRICT

Section 20-9.01 Purpose.

The purpose of the Open Space and Conservation District is to encourage open space to protect the natural beauty and scenic value of the Town, and to provide for a recreational area within the Town for the enjoyment of the river and other related activities. It 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 20-9.03 Uses permitted by right.

- a. The following shall be uses permitted by right in the Conservation District:
 - 1. Agriculture
 - 2. Amphitheater
 - 3. Essential Utilities and Equipment
 - 4. Federal, State, County, Municipal Offices
 - 5. Group Residential Facility
 - 6. Group Residential Home
 - 7. Park

Section 20-9.05 Conditional Uses.

- a. The following shall be conditional uses in the Conservation District:
1. Amusement and Recreation
 2. Boat Livery
 3. Campground
 4. Fairground
 5. Farm
 6. Recreation Public
 7. Solar Energy System, Small
 8. Urban Agriculture
 9. Wind Energy System, Small

Section 20-9.07 Lot, Yard, and Height Requirements.

Conservation District Requirements	
Max. Building Height	25 feet
Min. Lot Size (Sq. Ft.)	10,000 square feet
Min. Lot Width	50 feet
Max. Lot Coverage (as a %)	20%
Min. Front Setback	20 feet
Min. Side Setback	15 feet
Min. Rear Setback	20 feet

ARTICLE X I: INDUSTRIAL

Section 20-10.01 Purpose.

The purpose of the Industrial District is to provide for the Town’s industrial and manufacturing base. The Industrial District is designed to allow for the development of research and industrial parks, wholesale businesses, manufacturing and processing, and the like, while ensuring the safety of the Town’s residents. This District is intended for the location of both heavy and light industrial uses compatible with one another. Industrial developments are intended to become complementary assets to the community.

Section 20-10.03 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. Bank/Financial Institution
 4. Brewery Pub
 5. Broadcasting Studio
 6. Building Material Facility
 7. Catering Business
 8. Cemetery/Mausoleum
 9. Community Facility
 10. Convenience Store
 11. Distribution Facility
 12. Dog Day Care
 13. Dry Cleaner
 14. Emergency Services
 15. Equipment Rental/Repair

16. Essential Utilities and Equipment
17. Farm
18. Farm/Construction Equipment and Supply Sales
19. Farmer's Market
20. Federal, State, County, Municipal Offices
21. Flea Market
22. Funeral Home/Mortuary
23. Garage, Public
24. Garden Center
25. Gas Station
26. Greenhouse, Commercial
27. Group Residential Facility
28. Group Residential Home
29. Health Club
30. Home-Based Business
31. Hotel/Motel
32. Industrial Park
33. Kennel
34. Laboratory
35. Laundromat
36. Liquor Store
37. Lumberyard
38. Manufacturing (Heavy)
39. Manufacturing (Light)
40. Marina
41. Medical Adult Day Care Center
42. Medical Cannabis Growing Facility
43. Medical Cannabis Processing Facility
44. Night Club
45. Office Supply Establishment
46. Parcel Delivery Facility
47. Park
48. Personal Service
49. Pet Shop
50. Pharmacy
51. Photographic Studio
52. Places of Worship/Religious Institution
53. Private Club
54. Professional Services
55. Recreation, Private
56. Recreation, Public
57. Research and Development
58. Resident Brewer
59. Restaurant
60. Retail Store <7,000
61. Retail Store 7,000 to 25,000
62. Retail Store >25,000
63. Roadside Vendor Stand
64. Self-storage Facility
65. Senior Independent Housing
66. Shopping Center

- 67. Solar Energy System, Small
- 68. Studio, Dancing, Music, or Art
- 69. Tattoo Parlor/Body Piercing Studio
- 70. Telecommunications, Class I
- 71. Telecommunications, Class II
- 72. Theater
- 73. Vehicle, Boat and Marine Repair/Service/Sales/Rental
- 74. Warehouse
- 75. Wholesale Establishment
- 76. Wind Energy System, Small

Section 20-10.05 Conditional Uses.

- a. The following shall be conditional uses in the Industrial District:
 - 1. Adult Business
 - 2. Child Day Care Facility
 - 3. Correctional Facility
 - 4. Distillery
 - 5. Educational Institution
 - 6. Extractive Industry
 - 7. Factory-built Home
 - 8. Factory-built Home Rental Community
 - 9. Fairground
 - 10. Freight Terminal
 - 11. Hospital
 - 12. Opioid Treatment Services
 - 13. Recycling Facility
 - 14. Salvage Yard
 - 15. Sewage Treatment Facility
 - 16. Solar Energy System, Large
 - 17. Solid Waste Disposal Areas/Facility
 - 18. Stockyards
 - 19. Telecommunications, Class III
 - 20. Temporary Shelter
 - 21. Tourist or Trailer Camp
 - 22. Travel Plaza
 - 23. Truck Terminal
 - 24. Urban Agriculture
 - 25. Video Lottery Establishment
 - 26. Water Treatment Plant
 - 27. Winery

Section 20-10.07 Lot, Yard, and Height Requirements.

Industrial District Requirements	
Max. Building Height	50 feet
Min. Lot Size (Sq. Ft.)	12,000 square feet
Min. Lot Width	100 feet
Max. Lot Coverage (as a %)	70%
Min. Front Setback	0 feet
Min. Side Setback	0 feet, unless adjoining residential property, then 10 feet

Min. Rear Setback	10 feet
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Article Xa PRD: PLANNED RESIDENTIAL DEVELOPMENTS

Section 20-10a.01 Statement of intent.

- a. The intent of this article is to provide, in the case of planned projects consisting of five (5) acres or more, an added degree of flexibility in the placement, bulk, and inter-relationship of the buildings and uses within the planned project and the implementation of new design concepts, while at the same time maintaining the overall intensity of use, density of population, and amounts of light, air, access, and open space as specified by this chapter for the district in which the proposed project is to be located.
- b. The housing type, minimum lot area, yard, height, and accessory uses shall be determined by the requirements and procedures set out below, which shall prevail over conflicting requirements of this chapter or the regulations governing the subdivision of land.

Section 20-10a.03 Procedure.

- a. Application shall be made to the Moorefield Planning Commission. This application shall contain at the least the following:
 - 1. A legal description of the property under consideration, which also shows that such property is at least ten acres in area;
 - 2. A fully dimensioned map of the land, including topographic information at a contour interval of not less than two feet where land slopes do not exceed five percent or a contour interval of not less than five feet where land slopes exceed five percent;
 - 3. A site plan showing the location of all existing and proposed principal and accessory buildings and structures, parking lots, buffer strips, plantings, streets, public ways, and curb cuts;
 - 4. Proposed reservations for parks, parkways, playgrounds, school sites, and other open spaces with an indication of structure of organization proposed to own and maintain the common open space;
 - 5. A vicinity map showing the location of the site in relation to the surrounding neighborhood;
 - 6. Architectural sketches, at an appropriate scale, showing building height, bulk, interior layout, and proposed use;
 - 7. The feasibility of proposals for the disposition of sanitary waste and storm water;
 - 8. The substance of covenants, grants of easement, or other restrictions proposed to be imposed upon the use of the land, buildings, and structures, including proposed easements or grants for public utilities;
 - 9. The required modifications in the land use regulations otherwise applicable to the subject property;
 - 10. A schedule showing the proposed times within which applications for final approval of all sections of the planned residential development are intended to be filed if the development plans call for development over a period of years. This schedule must be updated annually on the anniversary of its approval until the development is completed and accepted;
 - 11. A written statement by the landowner setting forth the reasons why, in his opinion, a planned residential development would be in the public interest and would be consistent with the comprehensive plan for the development of the town.
- b. The planning commission shall hold a public hearing within sixty (60) days after the filing of the application for tentative approval in the manner prescribed in section 20-19.06 for the enactment of an amendment to the zoning ordinance. The planning commission may continue the hearing from time to time; provided, however, that in any event, the public hearing or hearings shall be concluded within sixty (60) days after the date of the first public hearing.
- c. After a study of the application and within thirty (30) days following the conclusion of the public hearings, the planning commission shall forward the application to Town Council and recommend approval of the development plan as submitted, granting tentative approval subject to specified conditions not included in the development plan as submitted, or denying tentative approval to the

development plan. With the advice of the planning commission, Town Council may then grant tentative approval, grant tentative approval subject to specified conditions, or deny tentative approval. If tentative approval is granted subject to conditions, the landowner may, within thirty (30) days after receiving a copy of the official written report, notify Town Council of the refusal to accept all said conditions, in which case Town Council shall be deemed to have denied tentative approval of the development plan. If the landowner does not, within said period, notify Town Council of the refusal to accept all said conditions, tentative approval of the development plan, with all said conditions, shall stand as granted.

The granting or denial of tentative approval by Town Council shall include conclusions of law and findings of fact related to the proposal and the reasons for the grant, with or without conditions, or the denial provided to the applicant by certified mail. Also contained in the communication shall be a statement of the respects in which the development plan is or is not in the public interest, including conclusions of law on the following:

1. In those respects in which the development plan is or is not consistent with the comprehensive plan for the development of the town;
 2. The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including, but not limited to, density, bulk and use and the reasons why such departures are or are not deemed to be in the public interest;
 3. The purpose, location, and amount of the common open space in the planned residential development; the reliability of the proposals for maintenance and conservation of the common open space; and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development;
 4. The physical design of the development plan and the manner in which said design does or does not make adequate provision for public services; provide adequate control over vehicular traffic; and further the amenities of light and air, recreation, and visual enjoyment;
 5. The relationship, beneficial or adverse, of the proposed planned residential development to the neighborhood in which it is proposed to be established;
 6. In the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents of the planned residential development in the integrity of the development plan; and
 7. The time period within which an application for final approval shall be filed or, in the case of a development plan which provides for development over a period of years, the periods of time within which sectional applications for final approval of each part thereof shall be filed. The time so established shall not be less than three months and, in the case of the phased development, not less than twelve months for applications for each part of a plan.
- d. The official written communication shall be certified by the secretary of the Town Council and filed in his or her office. Where tentative approval has been granted, with or without conditions, the affected area shall be designated as Planned Residential Development (PRD) on the zoning map by amendment. Upon amendment, the Planned Residential Development area shall be subject to the tentatively approved development plan.

Tentative approval shall not qualify a plat of the planned residential development for recording, development, or the issuance of any building permits. A plan that has received tentative approval shall not be modified, revoked, nor otherwise impaired by action of the town if the time periods for submission of final application specified in said written communication are being fulfilled without the consent of the applicant.

In the event tentative approval was granted, but prior to final approval, an applicant elects to abandon said plan and notifies Town Council in writing or fails to file for final approval within the specified times, the tentative approval shall be deemed to be revoked; and all the area in the development plan that has not received final approval shall be subject to the zoning ordinance as otherwise applicable thereto and the same shall be noted on the zoning map and in the records of the secretary of Town Council.

- e. The application for final approval may be for all the land included in the plan or, to the extent set forth in the tentative approval, for a section thereof. The application shall be made to the planning commission within the time or times specified by the tentative approval. The application for final approval shall meet all requirements and contain all enclosures specified for the final plan of subdivision within the Moorefield town subdivision ordinance. A public hearing on an application for final approval of the development plan or part thereof shall not be required, provided the development plan or part thereof submitted for final approval is in compliance with the development plan theretofore given tentative approval and with any specified conditions attached thereto.
 - 1. When the final application has been filed, together with all drawings, specifications and other documents in support thereof, and as required by the ordinance and the official written communication of tentative approval, the planning commission shall forward the final application to Town Council, who shall have up to thirty days to grant or deny final approval.
 - 2. When the final application contains variations from the plan given tentative approval, the Town Council may refuse to grant final approval and shall, within thirty days of the filing, so advise the applicant of said refusal, setting forth the reasons why one or more of the variations are not in the public interest. In the event of such refusal, the applicant may either refile the application without objected variations or request a public hearing on the application for final approval. Either action shall be taken within the time which the applicant was entitled to apply for final approval or within thirty additional days if the time has already passed when the applicant was advised of the denial. If no action is taken by the applicant, the plan is deemed to have been abandoned. If a public hearing is requested, the hearing shall be conducted in the same manner prescribed for tentative approval, but the written communication shall either grant or deny final approval.
- f. When a development plan or any part thereof has received final approval, the zoning ordinance and zoning map shall be amended to incorporate the final development plan. From that point of time, no modification of the provisions of the plan or part thereof as finally approved shall be made without the consent of the landowner.
- g. In the event a plan or section thereof has been given final approval and the landowner decides to abandon the plan or section and shall so notify Town Council or shall fail to develop the plan according to the annually updated schedule, no development or further development shall take place on the property included in the plan until the property is re-subdivided and reclassified by enactment of an amendment to the zoning map and the zoning ordinance is updated by amendment.

Section 20-10a.05 Planned development standards.

- a. *Dwelling units permitted.* The number of dwelling units permitted shall be determined by dividing the net development area by the minimum lot area per use required by the district or districts in which the area is located. Net development area shall be determined by subtracting the area set aside for churches, schools, and unbuildable areas, such as steep slopes and floodplains, from the gross development area and deducting fifteen percent of the remainder for streets, regardless of the amount of land actually required for streets. The area of land set aside for common, open space, or recreational uses shall be included in determining the number of dwelling units permitted.
- b. *Lot area and frontage.* The minimum lot area and minimum lot frontage of single-family dwelling lots established within the development shall not be less than two-thirds of the normal minimum lot area or minimum lot frontage of the single-family district in which the lot is located. In no case shall a single-family lot be created with an area of less than four thousand square feet or a frontage of less than forty feet at the building line and thirty feet at the right-of-way (property) line.
- c. *Other requirements.* Off-street parking shall be provided according to the minimum requirements set forth in section 20-16.07. Layout and improvement of parking lots and garages shall also conform to this section and other applicable ordinances. Design, arrangement and improvement of streets and driveways shall conform to the ordinances regulating the subdivision of land.

ARTICLE XI CONDITIONAL USE STANDARDS

Section 20-11.01 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 adverse impacts conditional uses may have on the health, safety, and welfare of the public.

Section 20-11.03 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 Town'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 proposed 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 Town of Moorefield Fire Department.
 7. The use will not endanger public health or safety or constitute a public nuisance.
 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 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 which 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 XII GENERAL REGULATIONS

Section 20-12.01 Purpose.

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 20-12.03 Accessory Uses, Buildings, and Structures.

- a. All accessory uses, buildings, or structures shall require a Zoning Permit and 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, building, or structure.
- b. Accessory buildings and structures shall be setback five (5) feet from any lot line, excluding fences and mailboxes. On residential property, accessory buildings and structures shall not be located in the front yard, except driveways, mailboxes, or accessory uses permitted in the front yard elsewhere in this code or that are customarily located in the front yard. On nonresidential property, accessory buildings shall not be located in the front yard except those customarily located in the front yard. Accessory buildings and structures shall not be closer than five (5) feet from a principle structure. Accessory buildings and structures, together with principle buildings and structures, shall not exceed the maximum lot coverage permitted in a zoning district.
- c. Accessory buildings and structures shall not be used as a dwelling, except caretaker's residences as provided in this code, conversion apartments, or up to one (1) dwelling unit occupied by employees of the main residence on residential property.
- d. Accessory buildings and structures shall be no more than seventy-five (75) percent of the height of the principal structure's height, and in no circumstance higher than the applicable zoning district's maximum height requirement.
- e. Accessory buildings and 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.
- f. No use conducted in an accessory building or structure shall be in violation of the permitted uses in that zoning district. Accessory uses within the principal structure shall not occupy more than twenty-five (25%) percent of the gross floor area.

Section 20-12.05 Yard Requirements.

- a. All yards required under this code shall be open to the sky and unobstructed by any building or structure except as provided in Section 20-12.03, Section 20-12.17, and other provisions of this code, and the following:
 - 1. Steps and stoops 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 three and one-half (3.5) feet in width and placed so as not to obstruct light or ventilation; and
 3. Sills, eaves, 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 which 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 20-12.07 Additional Principal Buildings.

- a. *Residential.* Individual lots or subdivided parcels ten acres or less in size shall have no building or buildings used for living purposes in addition to the principal residence, except as provided in this code. Undivided land parcels of ten (10) acres or greater in size shall be limited to one (1) residential building per ten (10) acre unit of undivided land area. This provision does not apply to factory-built home rental communities.
- b. *Nonresidential.* More than one principal building may be located upon the lot or tract of nonresidential properties, but only when such buildings conform to all setback requirements. Additional principle buildings may include a caretaker's residence used in conjunction with an active industrial establishment or a caretaker's residence used in conjunction with a place of worship or religious institution.

Section 20-12.09 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 conditions of the lot warrant a different orientation, or another orientation is necessary for emergency services access.

Section 20-12.11 Height Exceptions.

- a. Special industrial structures such as cooling towers, elevator bulkheads, fire towers, water tanks, and water towers, which require a greater height than provided in the district, may be erected to a greater height than permitted provided that:
 1. The structure shall not occupy more than twenty-five percent (25%) of the lot area;
 2. The setback requirements of the district in which the structure is erected shall be increased by one 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 spires, belfries, or chimneys.

Section 20-12.13 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. 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 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 lot line farthest from any street shall be considered a rear lot line. Where there is only one lot line other than street lot lines, it shall be considered the rear lot line.

Section 20-12.17 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 plantings, or walls shall otherwise impose a threat to 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 six (6) 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, razor wire, barbed wire, or electric fencing.
 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 six (6) 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, provided it is approved 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 six (6) feet.
 5. All species within the screen planting shall be indigenous or otherwise well-suited to the Town, except those trees with large leaves which could clog storm drains and trees which are brittle, disease-prone, have low, spreading branches or shallow root systems; which drop large fruit or much sap; or which are otherwise messy shall also be avoided.
 6. Hedges shall be kept trimmed so that their branches shall not extend into the public road, or upon the lands of an adjoining owner, more than eighteen 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, which 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, bollards, 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. *Ground-mounted and monument signs.* All non-temporary ground-mounted or monument signs shall be installed with a minimum surround of three (3) feet of regularly maintained floral and shrubbery landscaping in every direction.

Section 20-12.19 Lighting.

- a. All lighting shall be low intensity and shielded so there is no illumination of adjoining residential properties. All lighting shall be erected and maintained so that light is confined to the property and will not cast direct light or glare upon adjacent properties or public rights-of-way. Bare, un-shaded bulbs are prohibited.
- 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 20-12.21 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 20-12.23 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 20-12.23(b), provided that any fractional parking space be computed as a whole space. Any commercial building not listed Table 20-12.23(b) which are built, converted, modified, or structurally altered shall provide one parking space per 200 square feet of gross floor area and one 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.
 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 lot, but the required space assigned to one use may not be assigned to another use at the same time, except that one half (1/2) of the parking space 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. *Off-street parking table.*

Table 20-12.23(b): Off-street Parking	
<i>Use</i>	<i>Number of Required Spaces (all indoor square footage in gross floor area)</i>
<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 Boat and Marine 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, Farmer's 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, Pre-K to 12 School, 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 two beds
Dwelling Unit, Home-based Business	2 spaces

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 20-12.23(d) Parking Standards:

d. *Parking standards table.*

Table 20-12.23(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 access way provisions.
 - i. Driveways and access ways 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 access ways and driveways shall be designed to conform to West Virginia Department of Transportation 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 access way 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 which dangerously obscures the view of approaching traffic along the street, or at any intersection, including driveways and access ways.
2. Driveway and access way width.
 - i. Commercial parking shall provide one or more access way, 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 access ways shall be at least nine (9) feet in width.

3. Driveway and ramp slopes. The maximum slope of any driveway, access way, 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 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. All parking areas and driveways for all uses shall be paved with a permanent surface material, which includes asphalt, concrete, brick, or concrete pavers or with a similar material approved by the Zoning Officer. Pervious surfaces including pervious asphalt, concrete, and brick pavers shall be encouraged in residential parking if found to be structurally sound by a certified engineer and primarily located in the side or rear yard.
 - ii. 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."
8. Retail parking. Off-street parking areas for all new retail businesses over seven thousand (7,000) square feet shall be designed to include bollards to prevent vehicles from driving into the business. All retail businesses existing before the date of this ordinance shall install bollards when replacing or substantially working on the sidewalk in front of the business's entrance.
- 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 Town of Moorefield.
- 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 bicycle parking space shall be provided for each fifteen 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 20-12.25 Off-Street Loading Space and Facilities Requirements.

In connection with any building or structure which is to be erected or substantially altered and which 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 access ways, 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. *Off-street loading space table.*

Table 20-12.25(e): Off-street Loading Space Table	
<i>Use</i>	<i>Off-street Loading Space Requirements</i>
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 20-12.27 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 20-12.29 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 premise 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. Any storage of scrap metal, inoperable automobiles for purposes other than repair, or secondhand building materials closer than one thousand (1,000) feet to an interstate highway or three hundred (300) feet to any road shall be screened by a solid wall or fence at least ten (10) feet tall. If such wall or fence does not fully screen the scrap metal, inoperable automobiles for purposes other than repair, or secondhand building materials because of topography or piling, the storage may not be closer than three hundred (300) feet to any interstate highway or road.
- c. *Flammable liquids.* The storage of alcohol, gasoline, crude oil, or any other highly flammable liquids in above ground tanks with unit capacity greater than five hundred and fifty (550) gallons shall be prohibited in all districts unless such tanks up to and including ten thousand (10,000) gallon capacity are placed not less than fifty (50) feet from all property lines and unless all such tanks of more than ten thousand (10,000) gallon capacity are placed not less than one hundred (100) feet from all property lines. All tanks having a capacity greater than five hundred fifty (550) gallons shall be properly diked with dikes having a capacity not less than one and one-half (1.5) times the capacity of the tank or tanks surrounded.
- d. *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 Town of Moorefield Fire Department.

Section 20-12.31 Storage of Trailers, Camping and Recreational Equipment.

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

- a. At no time shall trailers or camping and recreational equipment be occupied or used for living, sleeping, or housekeeping purposes while being temporarily or permanently parked or stored on a residential property.
- b. Recreational vehicles may not be hooked up to utilities while parked or stored within the Town of Moorefield, except for within designated campgrounds.

Section 20-12.35 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 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 Town of Moorefield, including but not limited to obtaining a business license.

ARTICLE XIII SUPPLEMENTAL REGULATIONS

Section 20-13.01 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 20-13.03 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, 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 which might fall under a use category other than adult business is combined with or includes activities which 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 20-13.05 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 is 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 20-13.07 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 access ways clearly defined and designed so as not to interfere with the character of the neighborhood.

Section 20-13.09 Child Day Care.

- 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 Town Building Inspector and Fire Marshal 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. Any gates shall be self-latching.
- e. Parks may be used to meet outdoor activity requirements if located immediately adjacent to the facility.

Section 20-13.11 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 daily or more often if necessary to prevent accumulation and to reduce disease hazards, insects, pests and odors.

Section 20-13.13 Garage Sales.

- a. No more than four (4) garage sales, yard sales, or rummage sales are permitted within any twelve (12) month period for each residence.
- b. For the purpose of this subsection, garage sale, yard sale, and rummage sale shall be deemed to mean the same thing.
- c. Sales must be contained within the individual's property and may not encroach into a public right-of-way.
- d. Each garage sale shall not be permitted to last more than forty-eight (48) hours.
- e. A garage sale shall not include the sale of new merchandise.
- f. Tents may be used during the event subject to subsection (c) above and must be removed immediately following the conclusion of each event.
- g. All items must be removed from the exterior of the premise at the end of the sales event.
- h. All persons desiring to conduct a garage sale, yard sale, or rummage sale must first obtain, at no cost, a permit from the Town Clerk's Office.

Section 20-13.15 Home-based Business.

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

- a. There shall be no appearance of the business on the exterior of the dwelling.
- b. Customer, client, patient, or other traffic shall be restricted to 8 a.m. to 6 p.m.
- c. 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.
- d. The home-based business shall be compatible with the use of the property as a residence and surrounding residences.
- e. The home-based business shall not employ anyone other than family residing in the dwelling to physically work at the dwelling.
- f. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.
- g. 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.
- h. 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.
- i. The business activity may not occupy more than twenty-five (25) percent of the gross floor area of the residence.
- j. The business may not involve any illegal activity or mortuary services.

Section 20-13.19 Factory-built Home Neighborhood.

Mobile home parks and subdivisions, providing each mobile home park and extensions thereof shall conform to the following requirements:

- a. The minimum mobile home park or subdivision tract shall be not less than five acres in area with a twenty-five foot setback at the front, rear and each side of the total tract so used,

- b. A minimum of five thousand square feet shall be provided for each mobile home unit stand,
- c. There shall not be more than seven mobile home unit stands per net acre of land used,
- d. Side yard distances measured from outside of each mobile home shall not be less than thirty feet in total and no one side yard distance less than twelve feet,
- e. Front and rear yards shall not be less than fifteen feet,
- f. A minimum of thirty feet shall be maintained between any two mobile home units,
- g. All applications for a mobile home park or subdivision shall be accompanied by a plot plan showing location of site, topography, drainage, number of units, access, road layout, name and address of owner and names of abutting owners,
- h. Provisions must be made to connect each mobile home unit to a municipal-type water and sanitary sewer system, and
- i. Conformance is required to any applicable local and state regulations governing mobile home parks.

Section 20-13.20 Medical Cannabis Organizations.

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

- a. No medical cannabis growing facility or processing facility may be located within three hundred (300) feet school or church.
- b. 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 daycare center.
- c. No more than one (1) medical cannabis dispensaries are permitted within the Town of Moorefield. No more than one (1) medical cannabis processing facilities and no more than one (1) medical cannabis growing facilities are permitted within Town of Moorefield.
- d. Medical cannabis dispensaries shall not be open to the public for business outside of the hours of 9:00 a.m. to 6:00 p.m.
- e. 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.
- f. Medical cannabis organizations shall possess all applicable state licenses.

Section 20-13.21 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 fifty (50) square feet of gross floor area for every one (1) customer.

Section 20-13.23 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 20-13.24 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 Hardy County Commission.
- 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 Town of Moorefield and with the State of West Virginia and shall not operate as a short-term rental until obtaining the appropriate licenses.
- e. All permits shall be subject to the following provisions:
 - 1. The number of occupants permitted in the rental structure shall not exceed two (2) adults and one 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. A child, under this provision, shall be considered any person four (4) years in age or younger.
 - 3. The structure must have working smoke and heat detectors/alarms in general areas of the kitchen, the location of furnaces or other heating devices, and by the entrance into each bedroom.
 - 4. 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.
 - 5. 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).
 - 6. 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 Town Hall and to the Town Police Department and immediate notification of any change therein shall be given by the owner or authorized agent.
 - 7. Signs for residences used as vacation rentals are subject to the sign regulations for signs accessory to dwellings.
 - 8. The owner or the owner's designated agent shall be responsible for the collection and payment of all licensing fees, sales taxes, 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.
 - 9. 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 Town shall not be responsible to either party for loss of use of the structure.

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 20-13.25 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, which 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/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 letter of commitment from an FCC license holder to locate at least one 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 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;
 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 building 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 which 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. All Class III telecommunication facilities must adhere to the Town's building code standards.
 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 20-12.17 of this code.
 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 Hardy 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 mile radius of the proposed new tower site, including Town-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 Town-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 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 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 mile radius of the proposed tower site. 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 mile radius of the proposed tower site.
 8. 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.
 9. Written, technical evidence from a licensed engineer(s) acceptable to the Fire Marshal and the building official 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.
 10. 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.
 11. 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 Town 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.
 12. 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 Town of Moorefield 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 Commission 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 Town 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 Town to use the funds to remove the facility if the facility is abandoned, and further authorizing the Town 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 20-13.25(m), above, 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 by the Town Solicitor.
 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 Town may place a lien upon the premises that may be collected in accordance with the rules for collection of municipal liens.

Section 20-13.27 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 20-13.29 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 non-commercial greenhouse products; and bees and apiary products.
 6. "Hydroponics" means the cultivation of plants in nutrient solution rather than soil.
- 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 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 Town. 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 in conformance with the West Virginia State Building Code.
 3. A permit is required for keeping fowl within the Town. A permit may be obtained from the Town Clerk after application to the Zoning Officer, which includes verification that the fowl have been tested and certified under the National Poultry Improvement Plan (NPIP), 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 Town, except within stockyards, where permitted.
 2. Roosters shall not be kept within the Town.
 3. Slaughtering and processing more than six (6) fowl per year is prohibited within the Town in connection with a residential use.

Section 20-13.31 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 20-13.33 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 which 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 which houses an establishment that offers or provides video gaming or lottery.

Section 20-13.35 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 which 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 Federal Aviation Administration 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 to 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 constitute approval for net metering by the electric utility.
 - 6. Wind energy systems shall adhere to noise limits as established in the Town of Moorefield 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 the Moorefield Building Code. Building permit applications for wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including tower, base, and footings. An engineering analysis of the tower showing compliance with the Moorefield Building Code and certified by a licensed professional engineer shall also be submitted.
 2. Compliance with FAA Regulations. Wind energy systems must comply with applicable FAA regulations.
 3. Compliance with National Electric Code. Building permit 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.
 4. 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.
- 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 XIV SIGNS

Section 20-14.01 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 20-14.03 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 Town. The applicant shall provide sufficient information to determine if the proposed sign is permitted under this code and other applicable law. 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 relating 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 it 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, the building 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, building 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 Town.
- 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, building 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 20-14.05 Permit Not Required.

The purpose of not requiring a permit for some signage is to exempt from the process of permitting signs that are frequently used, often by private citizens, and which typically have less of an impact on the 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. Signs 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.
 - 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.
 - 5. Banners for not more than fifteen (15) 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 20-14.07 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 display a commercial sign and the vehicle or trailer 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 sign 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.
 - 4. Neon signs, except in windows where permitted in a district.
- c. *Prohibitions based on location.*
 - 1. Off-premises signs, unless specifically permitted by this chapter.
 - 2. 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 Town, 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.

3. Roof signs. Signs on the roof surface or extending above the roofline of a building or its parapet wall.
4. Any sign located in the vision triangle formed by any two (2) or more intersecting streets or any street and alley.
5. 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 20-14.09 General Requirements.

- a. *Setback and placement.* All signs shall be set back 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 town and to ensure the safety of drivers and pedestrians, while also ensuring that signs are adequately able to convey sign messages.
 - a. Definitions.
 1. “Candela” means the basic unit of measurement of light in SI (metric) units.
 2. “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.
 3. “Nit” means a photometric unit of measurement referring to luminance. One nit is equal to one cd/m².
 4. “SI (International System of Units)” means the modern metric system of measurement, abbreviated SI for the French term “Le Systeme International d’Unites.”
 - b. 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 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.
 - c. The maximum luminance during daylight conditions, between Apparent Sunrise and one-half hour before Apparent Sunset, shall be ten thousand (10,000) cd/m² or Nits.
 - d. 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.
 - e. 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 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 side only. If one 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 shall provide as part of zoning permit application:
 - i. Express permission from the operator and/or 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 standard in subsection (g).
- g. Design review standards for wall signs in excess of one hundred (100) square feet. The Board of Zoning Appeals shall issue permits for signs subject to design review. 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 other signs in the area.
 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 in the area.
 6. The compatibility of the materials used in the construction of the sign with the materials used in the construction of other signs in the area.

Section 20-14.11 Nonconforming Signs.

- a. Signs lawfully existing on the effective date of this code which do not conform to the provisions of this code, and signs which are accessory to a nonconforming use shall be deemed nonconforming signs and may remain except as qualified below.
 1. No nonconforming sign shall 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 its area may be restored within six (6) months after such destruction or damage, but shall not be enlarged. If such sign is so destroyed or damaged to an extent exceeding fifty (50) percent of its 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 Section 20-14.13(g). 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 shall be deemed to prevent keeping a nonconforming sign in good repair.

Section 20-14.13 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 which, 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 which 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 which 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. Signs located within ten (10) feet of any public right-of-way and in violation of this code may be impounded at any time.
- g. 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 sign that refer to the use or business. Property owner may request, in writing, a waiver of such requirement, if the businesses is temporarily or seasonally operational, is remodeling, or otherwise has the good will intention of opening that business back up within one (1) year of time of cessation.

Section 20-14.15 Temporary Signs.

- a. Temporary signs pose distinct concerns with visual clutter, safety in erection and display, and clean-up 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, except residential districts, with the consent of the persons in charge of such properties, no more than two (2) times in one 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) 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 20-14.17 Signs for Single Family Residential and Multi-Family Residential 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 the neighborhood. At the same time, communicating from one's residence is a distinct and impactful form of speech that should be protected, and nonresidential uses 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.
- b. *Signs permitted as accessory to dwellings.*
 - 1. Permitted permanent sign use as accessory to dwellings: minor, projecting, window. No more than two (2) permanent signs are permitted by right per dwelling.
 - 2. Permitted temporary signs as accessory to dwellings: a-frame and chalkboard only during daylight hours, banners not more than three (3) feet by five (5) feet in area, feather, inflatable/tethered, minor, wicket, and window. No more than two (2) temporary signs are permitted by right per dwelling.
 - 3. No more than four (4) flags as accessory to dwellings larger than three (3) feet by five (5) feet. Flags smaller than three (3) feet by five (5) feet are not limited by this provision.

- c. *Sign permitted as accessory to non-dwellings.*
1. Permitted permanent sign use as accessory to non-dwellings: awning/canopy, chalkboard, freestanding not to exceed four (4) feet by five (5) feet, minor, monument, projecting, wall not to exceed four (4) feet by five (5) feet, window. No more than two (2) permanent signs are permitted by right per use.
 2. Permitted temporary signs: a-frame, banner, chalkboard, feather, inflatable/tethered, minor, wicket, and window. No more than two (2) temporary signs are permitted by right per use.
 3. No more than four (4) flags.
- d. *Dimension specifications chart.* All maximum sign area requirements include the sum total sign area per use.

	Permitted as Accessory to Dwellings	Permitted as Accessory to Non-dwellings	Temporary Signs as Accessory to Dwellings and Non-dwellings	Flags
Max. Sign Area	4 sq. ft.	25 sq. ft.	16 sq. ft.	42 sq. ft. each
Max. Height	4 ft.	4 ft.	4 ft.	25 ft.

Section 20-14.19 Signs for Conservation District.

- a. *Purpose.* Signage in conservation and preservation areas should be kept to a minimum in order to preserve the open space and natural appearance of these areas. Some signage is afforded as necessary for communication needs specific to these areas.
- b. Permitted sign use as accessory to dwellings shall be the same as for Section 20-14.17.
- c. *Sign permitted as accessory to non-dwellings.*
1. Permitted permanent sign use as accessory to non-dwellings: a-frame only during daylight hours, freestanding signs not to exceed six (6) feet by eight (8) feet, minor, monument. No more than three (3) permanent signs are permitted by right per use.
 2. Permitted temporary signs: a-frame, banner, chalkboard, changeable copy, feather, inflatable/tethered, minor, off-premises, pennant, person assisted, wall, wicket, and window. No more than two (2) temporary signs are permitted by right per use. Temporary signs are permitted in the Conservation District for up to seven (7) days, with the option to renew one time the temporary permit for a particular sign.
 3. No more than four (4) flags.
- d. *Dimension specifications chart.* All maximum sign area requirements include the sum total sign area per use.

	Freestanding	All Other Permanent Signs	Temporary Signs	Flags
Max. Sign Area	50 sq. ft.	50 sq. ft.	50 sq. ft.	42 sq. ft. each
Max. Height	12 ft.	12 ft.	15 ft.	25 ft.

Section 20-14.21 Signs for Historic and Neighborhood Commercial District.

- a. *Purpose.* Signage in lighter commercial areas is allowed to a greater extent, but maintains proportion to the size and scope of uses typically present. Critically important in these areas is the need to maintain compatibility with surrounding residential areas as well as the small town character of smaller communities.
- b. Permitted sign use as accessory to dwellings shall be the same as for Section 20-14.17.

c. *Sign permitted as accessory to non-dwellings.*

1. Permitted permanent sign use as accessory to non-dwellings: a-frame and chalkboard only during daylight hours, awning/canopy, chalkboard, changeable copy, static EMD, static EMD with transition, partially animated EMD, freestanding, marquee, minor, monument, neon, off-premises, projecting, roof, wicket, window. No more than two (2) permanent signs are permitted by right per use.
2. Permitted temporary signs: a-frame and chalkboard only during daylight hours, banners not more than four (4) by six (6) feet in area, changeable copy, feather, inflatable/tethered, minor, off-premises, pennant, person assisted, wall, wicket, window. No more than three (3) temporary signs are permitted by right per use.
3. No more than four (3) flags.

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

	Freestanding Sign	All Other Permanent Signs	Temporary Signs	Flags
Max. Sign Area	50 sq. ft.	50 sq. ft.	25 sq. ft.	120 sq. ft. each
Max. Height	20 ft.	10 ft.	5 ft.	35 ft.

Section 20-14.23 Signs for Corridor Commercial and Industrial Districts.

e. *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.

f. Permitted sign use as accessory to dwellings shall be the same as for Section 20-14.17.

g. *Sign permitted as accessory to non-dwellings.*

1. Permitted permanent sign use as accessory to non-dwellings: a-frame, awning/canopy, chalkboard, changeable copy, static EMD, static EMD with transition, partially animated EMD, fully animated EMD, feather, freestanding, inflatable/tethered, marquee, minor, monument, neon, off-premises, pennant, projecting, roof, wall, wicket, window. No more than three (3) permanent signs are permitted by right per use.
2. Permitted temporary signs: a-frame, banner, chalkboard, changeable copy, feather, inflatable/tethered, minor, off-premises, pennant, person assisted, wall, wicket, and window. No more than four (4) temporary signs are permitted by right per use.
3. No more than four (4) flags.

h. *Dimension specifications chart.* All maximum sign area requirements include the sum total sign area per use.

	Freestanding Sign	All Other Permanent Signs	Temporary Signs	Flags
Max. Sign Area	150 sq. ft.	100 sq. ft.	100 sq. ft.	425 sq. ft. each
Max. Height	120 ft.	10 ft.	10 ft.	65 ft.

ARTICLE XV ADMINISTRATION; ENFORCEMENT

Section 20-15.01 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 20-15.03 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 Town Council on all permits issued and notice and orders issued.
- h. Perform additional tasks and duties as may be prescribed by the Town Council.

Section 20-15.05 Zoning Permit.

1. 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.
2. Applications for a zoning permit shall be made available at town hall.
3. 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.
4. If the zoning permit application is approved by the Zoning Officer, then an appropriate placard issued by the Town 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.
5. A zoning permit does not alleviate the necessity to obtain a building permit as required by the Town of Moorefield Municipal Code.

Section 20-15.07 Fees.

Fees to be charged for the issuance of a zoning permit shall be determined by a schedule made available at town hall.

Section 20-15.09 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 \$500.00. Each day the violation continues shall be considered a separate offense. 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 20-15.11 Injunction.

- a. The Planning Commission, Moorefield Board of Zoning Appeals, or any designated enforcement official may seek an injunction in the Circuit Court of Hardy 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, Moorefield Board of Zoning Appeals, or any designated enforcement official may also seek a mandatory injunction in the Circuit Court of Hardy 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, Moorefield 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 20-15.13 Amendments to Zoning Ordinance.

- a. The Moorefield Town Council may amend this Zoning Ordinance. Before amending this Zoning Ordinance, the Town 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 Town 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 XVI BOARD OF ZONING APPEALS; APPEALS

Section 20-16.01 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 Town of Moorefield Board of Zoning Appeals.

Section 20-16.03 BZA Membership; Eligibility Requirements.

- a. The Town of Moorefield Board of Zoning Appeals shall have five (5) members to be appointed by the governing body. The members of the Town of Moorefield Board of Zoning Appeals shall be residents of the Town of Moorefield 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 Town of Moorefield.
- 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 Town of Moorefield 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 Town of Moorefield 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 Town of Moorefield 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 20-16.05 Meeting of the Board of Zoning Appeals.

- a. The Town of Moorefield 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 Town of Moorefield 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 Town of Moorefield 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 20-16.07 Powers and Duties of the Town of Moorefield Board of Zoning Appeals.

The Town of Moorefield 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 Board taken on appeal is consistent with the rules, regulations, and requirements of this Zoning Ordinance.
- f. Authorize, upon appeal, the substitution of one legal nonconforming use existing at the effective date of this Zoning Ordinance for another similar nonconforming 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 Board's duties under the terms of this article.
- h. Keep minutes of the Board's proceedings.
- i. Keep an accurate and complete audit record of all the Board's proceedings and official actions and keep the audio record in a safe manner, which audio record is accessible within twenty-four (24) hours of demand, for three (3) years.
- j. Record the vote on all actions taken.
- k. Take responsibility for the custody and preservation of all papers and documents of the Board. All minutes and records shall be filed in the office of the Board and shall be public records.
- l. With consent of the governing body, hire employees necessary to carry out the duties and responsibilities of the Board, provided that the governing body sets the salaries.
- m. Supervise the fiscal affairs and responsibilities of the Board.

Section 20-16.09 Nonconformities.

- 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. Nonconforming 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 nonconforming 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 nonconformities 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. *Nonconforming uses.*
 - 1. If a nonconforming use has ceased for one (1) year, abandonment shall be presumed and the nonconforming use shall not resume. Any future use of the land or structures shall conform to and be in accordance with this Zoning Ordinance. Abandonment of a nonconforming 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 nonconforming 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 nonconforming use has been replaced by a conforming use;
 - v. When the nonconforming use has been changed to a use permitted or conditional use by the Town of Moorefield; or
 - vi. The business license issued by the Town of Moorefield has expired.
2. 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.
 3. Once a nonconforming use has been changed or converted to a conforming use, it shall not thereafter be used for any nonconforming use.
 4. Alterations and extensions of a nonconforming use may be made in order to increase the nonconformity's compliance with the provisions of this code.
6. *Nonconforming buildings or structures.*
1. A lawful nonconforming structure, which 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 nonconforming structure which is damaged, by neither malfeasance nor wanton disregard by an interested party, to the extent of less than fifty percent (50%) of its 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 year from the date the structure was destroyed or condemned and shall be carried on without interruption.
 3. The extension of a lawful use to any portion of a nonconforming structure shall not be deemed the extension of a nonconforming use.
7. *Nonconforming lot.*
1. Except as provided in this section, a nonconforming 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 nonconforming 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 lots of equal width and area without being further classified as nonconforming. 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.
8. *Nonconforming accessory uses and structures.* No nonconforming 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 nonconforming accessory use or structure shall become or replace any terminated principal nonconforming use or structure.
9. *Enlargement or extension of a nonconforming use.*
- a. Nonconforming structures used for a permitted use may be enlarged, provided that the enlargement shall not create any additional nonconformity or increase the degree of the existing nonconformity of such structure.

- b. Nonconforming structures and uses may enlarge principal structures by adding decks or porches provided structural nonconformities are not increased and that all requirements of this Code are met, including but not limited to setback and yard requirements.
- c. Nonconforming residential uses of single-family residential structures may enlarge or extend principal residential structures provided that all requirements of this Code are met, including but not limited to setback and yard requirements, and provided that the enlargement or extension does not increase the number of dwelling units.
- d. Enlargement or extension approval shall be void if construction work does not begin within one year from the date of approval, or if work is suspended or abandoned for a period of ninety (90) days at any time after the work is commenced.
- e. All enlargement or extension of a nonconforming use must comply with the applicable floodplain management requirements.

Section 20-16.11 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 Town of Moorefield 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 20-16.13 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 Town of Moorefield 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 Town of Moorefield 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 20-16.15 Notice and Hearing of Appeal.

- a. Within ten (10) days of receipt of the appeal by the Town of Moorefield 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 Board shall be in writing and state specific findings of fact and conclusions of law on which the Board based its decision. If the Board fails to provide findings of fact and conclusions of law adequate for decision by the circuit court and as a result of the failure, the circuit court returns an appealed matter to the Board and dismisses jurisdiction over an applicant's appeal without deciding the matter, whether the court returns the matter with or without restrictions, the Board shall pay any additional costs for court filing fees, service of process, and reasonable attorney's fees required to permit the person appealing the Board's decision to return the matter to the circuit court for the completion of the appeal.
- f. The written decision by the Board shall be rendered within thirty (30) days after the hearing. If the Board fails to render a written decision within thirty 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 Town of Moorefield Board of Zoning Appeals shall be subject to review by the Circuit Court of Hardy 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.

Amendment to take effect on the 1st day of October 2019.

Date : October 1, 2019

Council Members voting
FOR Amendments:

Council Members voting
AGAINST Amendments:

The undersigned Mayor of the Town of Moorefield does hereby certify that the foregoing Amendments were adopted by a majority of council.

Gary B. Stalnaker – Mayor

Date: _____

ATTEST: _____
James R. Freeman II – City Clerk

Repeal the following:

Sec. 4-9. - Prohibited to be kept within the city.

It shall be unlawful for any person to keep, graze, maintain, produce or pasture any hog, cattle or livestock, fowl or bees within the corporate limits of the city, whether for commercial purpose or domestic or family use, or for any other purpose.

Chapter 20