

CHAPTER 1 ZONING ADMINISTRATION

ARTICLE 1301 INTENT, MAP, INTERPRETATION, GUIDING PRINCIPLES AND SCOPE

1301.01 Intent

The provisions of this Zoning Ordinance shall be held to establish the minimum requirements adopted for purposes of :

- (1) Promoting the general public welfare, health, safety, comfort, and morals;
- (2) Providing for a plan so that adequate light, air, convenience of access, and safety from fire, flood and other danger is secured.
- (3) Ensuring attractiveness and convenience;
- (4) Lessening congestion;
- (5) Preserving historic landmarks, sites, districts and buildings in conjunction with the City of Fairmont Historic Landmarks Commission and the Historic Preservation Review Commission;
- (6) Regulating the use of land and designating specific land uses;
- (7) Authorizing flexible planning standards to create, redevelop, reuse, protect, and enhance the physical qualities of the community;
- (8) Designating historic districts and regulating the uses of land design goals and regulating the uses of land within the corridor overlay districts;
- (9) Establishing corridor overlay districts to achieve land design goals and regulating the uses of land within the corridor overly districts;
- (10) Establishing design standards and site plan approval procedures;
- (11) Dividing the land within the corporate limits of the City of Fairmont into different zone classifications regulating the use of land, establishing performance standards for various land uses when dividing is not desired, or any combination of both;
- (12) Authorizing overlay districts and special design districts within which specific additional development standards for each permitted, accessory and conditional use shall apply;
- (13) Regulating the height, area, bulk, use and architectural features of buildings, including reasonable exterior architectural features and reasonable aesthetic standards for factory built homes;
- (14) Authorizing a process and standards for factory built homes: provided, that the process and standards for regulating factory built homes is no more restrictive than the process and standards for site built homes.
- (15) Preserving green spaces and requiring new green spaces, landscaping, screening and the preservation of adequate natural light;
- (16) Regulating traffic flow and access, pedestrian flow and access, parking and loading;
- (17) Identifying flood prone areas subject to periodic flooding, and regulating with specific control the permitted use, type of construction and height of floor levels above base flood elevation permitted in the area so as to lessen or avoid the hazard of persons and damage to property resulting from the accumulation of storm or flood waters; and
- (18) Authorizing planned unit developments to achieve more efficient use of land and setting standards and regulations for such developments.

1301.02 Interpretation

- A. Words used in the present tense include the future tense.
- B. Words used in the singular number include the plural, and words used in the plural number include the singular.
- C. Any word denoting gender includes the female and the male.
- D. The word "person" includes a firm, association, organization, limited liability company, limited partnership, corporation, trust, company, as well as a natural individual.
- E. The word "lot" includes the word, "plot" or "parcel" or "tract".
- F. The word "shall" and "must" are always mandatory and not merely directory.
- G. The word "structure" shall include the word "building".
- H. The word "Map" or "Zoning Map" or "Zoning Map, City of Fairmont, West Virginia shall mean the Official Land Development Map of Fairmont, West Virginia.
- I. The term "governing body" shall mean the "City Council for the City of Fairmont, Marion County, West Virginia.
- J. The term "planning commission" shall mean the Planning Commission for the City of Fairmont, Marion County, West Virginia.
- K. The term "city planner" shall mean the City Planner for the City of Fairmont, Marion County, West Virginia, or his/her designee.
- L. The term "city clerk" shall mean the City Clerk for the City of Fairmont, Marion County, West Virginia, or his/her designee.
- M. The term "planning department" shall mean the Planning Department for the City of Fairmont, Marion County, West Virginia.
- N. The terms "ordinance", "code" shall be synonymous and refer to the "City of Fairmont Zoning Ordinance"

1301.03 Territorial limits of regulations/applicability

The rules, regulations, and requirements of this Zoning Ordinance shall be applicable within all territory or area that lies within the corporate limits of the City of Fairmont or hereafter annexed into same.

1301.04 Annexed territory

Upon annexation of additional territory into the corporate limits of the City of Fairmont such annexed territory upon entry of the order of annexation shall be subject to the rules, regulations and requirements of this Zoning Ordinance and shall be subject to site review by the planning commission prior to any person undertaking development or re-development thereof until such time as zoning of same shall be undertaken by the governing body based upon a land use study prepared by the city planner and upon the advice of the planning commission.

1301.05 Map and boundaries.

The neighborhood, district, and corridor boundaries, overlay districts, and other elements of zoning established by this ordinance shall be reflected upon and shown on an electronic map or plat maintained by the City of Fairmont entitled or referred to as Land

Use Map Zoning Map, City of Fairmont, West Virginia, duly approved _____". The electronic map required by this ordinance shall be from time to time modified to reflect all subsequent amendments to this ordinance and all changes in the boundaries of any neighborhood, district or corridor or other zoning element which is adopted by the governing body by ordinance. Said map, as amended, shall be available for inspection by the public at all times.

1301.06 Rules for zoning map interpretation

The following rules shall apply in the interpretation of neighborhood, corridor, district or overlay boundaries and the location of centers shown on the zoning map:

- A. Boundaries delineating the centerline of streets, highways, or alleys shall follow such centerlines.
- B. Boundaries delineating lot lines shall follow such lot lines.
- C. Boundaries delineating the Corporate Limits shall follow such Corporate Limits.
- D. Boundaries indicated as following railroad lines shall be midway between the main tracks.
- E. Boundaries indicated as following a river or stream shall be mid stream unless otherwise indicated on the zoning map.
- F. Boundaries shown parallel to or extensions of features indicated in this Section shall be construed as such. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.
- G. Centers shown at the intersection of streets shall be at the intersection of the street centerlines.
- H. Centers shown at parks or other civic spaces shall be at the center of such areas.
- I. Where a boundary line divides a lot in single ownership, the rules, requirements and regulations of this ordinance applicable to the most restrictive portion of the lot shall be construed as extending to the entire lot.
- J. Where the actual location of existing physical or natural features vary with those shown on the zoning map, or in other circumstances not covered by this Section, the planning commission shall be vested with the authority to interpret and determine the boundaries.
- K. Whenever any street, alley or public way is vacated, any applicable boundary shall be automatically extended to the center of such vacation and all areas included in the vacation shall then and henceforth be subject to all applicable rules, regulations and requirements.
- L. Any area shown on the map as a park, playground, school, cemetery, waterway, right of way or any other public or semipublic use, shall be subject to all applicable rules, regulations and requirements of the neighborhood, district, overlay or corridor in which it is situate.

1301.07 Guiding Principles

Existing patterns of urban development have seriously compromised sustainable growth, the quality of life, and economic viability of cities. The practices of land use segregation and auto dependent design criteria have resulted in wide-spread loss of open space and forest cover; increased traffic congestion and air pollution; environmental degradation with increased water runoff, soil erosion, and water supply contamination; increased

housing and infrastructure costs; inadequate provision of schools and public services; and growing areas of declining property values, crime, and poverty. The resultant loss of community identity adds to these problems by discouraging citizen awareness of, and participation in, community affairs. Under this model, a majority of a municipality's time and money is spent replacing and extending infrastructure and mitigating the negative impacts of development. Assessed on a project-by-project basis the total effects and subsequent costs are hidden by immediate tax base increases and owner profits. However, if assessed at the community level, long term, all additional development of the model described above becomes a burden on a community. Low-density development increases the cost of living in order to finance, maintain, and replace infrastructure. Eventually, the increased cost of building and living in such areas prevents growth from continuing. This occurs long before an area reaches full economic potential and physical build out. A development model which addresses these problems must treat a community as a highly complex entity, not merely as a collection of individual market segments or an opportunity for real estate speculation.

The most basic viable unit of our complex economic region is the neighborhood. Neighborhoods provide the daily essential needs of all its residents in an area that is easily definable and pedestrian friendly. Neighborhoods interconnect to form town centers. Traditionally, commercial development respected this neighborhood scale, and therefore integrated itself into the fabric of the neighborhood through appropriate building design and its center. This Code represents the return to traditional and sustainable planning. It differs from conventional planning because it *focuses on physical change of the urban environment through the traditional design elements of town making; public space, infrastructure, buildings, and parks*. It combines these elements to construct places beyond the autonomy of the individual project, interest, or property.

THE CITY

1. The City of Fairmont is a finite place with specifically designated geographic boundaries. The City is comprised of multiple community centers, some with their own identifiable center and edges derived from topography and rivers or streams. These community centers should form a fundamental economic unit of the contemporary world. Governmental cooperation, public policy, physical planning, and economic strategies must foster and promote the development and redevelopment of these identifiable community centers.

2. The City also has a necessary and fragile relationship with the outlying rural unincorporated areas of Marion County and the natural landscape. This relationship is environmental, economic, and cultural. Farmland and nature are as important to the City as the garden is to the house.

3. Development and re-development patterns should not blur or eradicate the edges of the City. Infill development, re-development, reuse and preservation of green spaces within the City all conserve environmental resources, economic investment, and social fabric, while reclaiming, redeveloping and revitalizing marginal and abandoned areas. The City

should develop strategies to encourage such infill development, re-development, reuse and preservation over peripheral expansion.

4. Where appropriate, new development with the City should be organized as neighborhoods and districts, and be integrated with the existing urban pattern. Development and redevelopment should respect historical patterns, precedents, and boundaries.

5. The City should bring into proximity a broad spectrum of public and private uses to support an economy that benefits people of all incomes. Affordable housing should be distributed throughout the City to match job opportunities and to avoid concentrations of poverty.

6. The physical organization of the City should be supported by a framework of transportation alternatives. Transit, pedestrian, and bicycle systems should maximize access and mobility throughout the City while reducing dependence upon the automobile.

7. Revenues and resources should be used to promote rational coordination of transportation, recreation, public services, housing, and community institutions throughout the City.

THE NEIGHBORHOOD, THE DISTRICT, AND THE CORRIDOR

1. The neighborhood, the district, and the corridor are the essential elements of development and redevelopment in the City. They form identifiable areas that encourage citizens to take responsibility for their maintenance and evolution.

2. Neighborhoods should be compact, pedestrian-friendly, and mixed-use. Districts generally emphasize a special single use, and should follow the principles of neighborhood design when possible. Corridors are regional connectors of neighborhoods and districts; they range from boulevards and rail lines to rivers and parkways.

3. Many activities of daily living should occur within walking distance, allowing independence to those who do not drive especially the elderly and the young. Interconnected networks of streets should be designed to encourage walking, reduce the number and length of automobile trips, and conserve energy.

4. Within neighborhoods, a broad range of housing types and price levels can bring people of diverse ages, races, and incomes into daily interaction, strengthening the personal and civic bonds essential to an authentic community.

5. Transit corridors, when properly planned and coordinated, can help organize municipal structure and revitalize the municipality's community centers. In contrast, highway corridors should not displace investment from the municipality's existing community centers.

6. Appropriate building densities and land uses should be within walking distance of transit stops, permitting public transit to become a viable alternative to the automobile.
7. Concentrations of civic, institutional, and commercial activity should be embedded in neighborhoods and districts, not isolated in remote, single-use complexes. Schools, when possible and economically feasible, should be sized and located to enable children to walk or bicycle to them
8. The economic health and harmonious evolution of neighborhoods, districts and corridors can be improved through graphic urban design codes that serve as predictable guides for change.
9. A range of parks, green spaces and community gardens, should be distributed within neighborhoods. When possible, open lands should be used to define and connect different neighborhoods and districts.

THE BLOCK, THE STREET, AND THE BUILDING

1. A primary task of all urban architecture and landscape design is the physical definition of streets and public spaces as places of shared use.
2. Individual architectural projects should be seamlessly linked to their surroundings.
3. The revitalization of urban places depends on safety and security. The design of streets and buildings should reinforce safe environments, but not at the expense of accessibility and openness.
4. In the contemporary city, development must adequately accommodate automobiles. It should do so in ways that respect the pedestrian and the form of public space.
5. Streets and squares should be safe, comfortable, and interesting to the pedestrian. Properly configured, they encourage walking and enable neighbors to know each other and protect their communities.
6. Architecture and landscape design should grow from local climate, topography, history, and building practice.
7. Civic buildings and public gathering places require important sites to reinforce community identity and the culture of democracy. They deserve distinctive form because their role is different from that of other buildings and places that constitute the fabric of the city.

8. All buildings should provide their inhabitants with a clear sense of location, weather and time. Natural methods of heating and cooling can be more resource-efficient than mechanical systems.

9. Preservation and renewal of historic buildings, districts, and landscapes affirm the continuity and evolution of urban society.

To these ends, this zoning ordinance, districts, and the zoning map have been prepared with due consideration of future growth; the promotion of a coherent community scaled built environment, which respects local and regional architecture; the promotion of an integrated and balanced transportation system based on pedestrian, transit, and automobile use; the adequate provision of water and sewer infrastructure, schools, parks, and other public necessities; and for the preservation and enhancement of the natural environment through the protection and replenishment of trees and plantings and by further landscaping and supplemental plantings of the public realm.

Therefore, the purposes of this zoning ordinance include but are not limited to those that provide the minimum regulations necessary to facilitate safe and orderly growth; provide for the health, safety, and welfare of the community; ensure adequate light and air and to prevent the overcrowding of land; preserve and improve property values and to protect private and public investment; and aid in preserving ecological balance by contributing to air purification, oxygen regeneration, and energy conservation, while reducing noise, glare, and heat. In addition to these purposes, this zoning ordinance ensures that growth forms an integral part of a community of functional neighborhoods and existing community centers within the City of Fairmont. This type of planning increases collective security and community identity by promoting civic awareness and responsibility and enhancing the quality of life for the entire town to ensure the greatest possible economic and social benefits for all residents.

1301.08 Relationship to other ordinances

It is not intended that this ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, vested rights or building permits previously adopted or issued pursuant to law and currently effective.

1301.09 Severability

If any Section or specific provision or standard of this Ordinance or any regulating district boundary arising from it is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect. Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.