

CHAPTER 1 ZONING ADMINISTRATION
ARTICLE 1305 – ENFORCEMENT AND PENALTY

1305.01 Enforcement generally.

(a) The building inspector, deputy building inspector, code enforcement officer, other code official, and any other municipal officer authored to investigate and enforce the provisions of law shall have authority to enforce the provisions of this zoning ordinance.

(b) Subject to any and all right of appeal, whenever reasonable grounds exist to believe that a violation of the provisions of zoning ordinance has occurred or exists, the investigating officer may forthwith summons, by issuance of a citation, the owner, tenant, occupant, and/or other persons or persons responsible to appear before the Judge of the Municipal Court for the City of Fairmont and to answer said charge on or before a date therein stated.

(c) Each day a violation continues to exist or remains unabated shall be deemed a separate offense.

1305.02 Violation deemed common nuisance.

The governing body hereby declares that any building erected, raised or converted, or land or premises used in violation of any provisions of this zoning ordinance or any rule, regulation or requirement adopted or established hereunder shall be a common nuisance and the owner, tenant, occupant, and/or other persons or persons responsible shall be liable for maintaining a common nuisance.

1305.03 Injunction.

(a) The planning commission, City of Fairmont Board of Zoning Appeals, or any designated enforcement official may seek an injunction in the Circuit Court of Marion 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, City of Fairmont Board of Zoning Appeals, or any designated enforcement official may also seek a mandatory injunction in the Circuit Court of Marion 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, City of Fairmont 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.

1305.04 Penalty

Any owner, tenant, occupant, other person or persons responsible who violate any provision of this zoning ordinance is guilty of a misdemeanor and upon conviction, shall be fined not less than fifty dollars nor more than five hundred dollars.

1305.05 Plans

Unless otherwise required by this zoning ordinance, all applications for building permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location of the lot, of the buildings and accessory buildings existing, and the lines within which the building or structure shall be erected, altered, the existing and the intended use of each building or part of a building, the number of families or housekeeping units the building is designed to accommodate and such other information with regard to the lot and neighborhood lots as may be necessary to determine and provide for the enforcement of this ordinance.

1305.06 Certificate of use and occupancy

(a) No person shall use or permit the use of any building or part thereof hereafter erected, created or changed or converted wholly or partly in its use or structure until the building inspector has issued a certificate of use and occupancy stating that the building and premises comply with the provisions of the zoning ordinance. Nothing in this section shall prevent the continuance of the legal nonconforming use of any premises or of any existing building.

(b) A record of all certificates of use and occupancy shall be kept on file on the Office of the Building Inspector and copies shall be furnished on written request.

(c) No permit for the erection of any building shall be issued before application has been made for a certificate of use and occupancy. Such certificates shall be issued within ten days after the completed erection or alteration has been approved. No building or premises may be occupied until the certificate has been issued.

(d) All nonconforming uses under the provisions of this ordinance, for which no variance has been granted by the City of Fairmont Board of Zoning Appeals, or for which application for a certificate of use and occupancy was not submitted prior to April 1, 1981 shall be presumed to have arisen subsequent to that date. For purposes of determining the number of boarders or roomers maintained in dwelling within any district the building inspector may require such proof as he deems necessary.