

CHAPTER 5 CONDITIONAL USES
ARTICLE 1331 USES PERMITTED WITH CONDITIONS

SECTION 1331.1 PURPOSE

The City of Fairmont finds that there are certain uses that exist which may be constructed, continued, and/or expanded provided they meet certain mitigating conditions specific to their design and/or operation, in addition to the general requirements provided by this Zoning Code. Such conditions ensure compatibility among building types so that different uses may be located in proximity to one another without adverse affects to either. This Article specifies those requirements that must be met by all the uses listed in the Uses Permitted With Conditions section for each District in Chapter 3. Each use shall be permitted in compliance with all conditions listed for the use in this chapter. Certain uses are classified as **Conditional Uses** must meet the conditions listed and require Planning Commission approval.

SECTION 1331.2 CONDITIONS

1331.2.1 ADULT ESTABLISHMENTS

- a) No such adult establishment shall be located less than 1,000 ft from a school, place of worship, library, day care center, civic building, park, historic district, lot in residential use, lot with residential districting or other adult establishment as measured from door to front door along the curb line of public streets providing access;
- b) All doors, windows, and other apertures shall be located, covered or screened in with opaque glazing to discourage and prevent visibility or viewing of the interior;
- c) The maximum floor area of each use shall be 1500 square feet; and
- d) No exterior signage, building element, advertisement, display or other promotional material shall be pornographic in nature or convey any such idea or element or relate to specified anatomical areas, as defined in Section 1303, and shall not be visible from a public right of way or pedestrian walk.

1331.2.2 AUTOMOTIVE/BOAT/HEAVY EQUIPMENT/FACTORY BUILT HOMES REPAIR SALES AND/ OR SERVICE (Excluding Fueling Stations. For fueling stations see Convenience Stores/Fueling Stations)

- a) Automotive repair, sales and service in Main Corridor Commercial shall be subject to the following conditions
 - (i) Buildings shall be oriented to the front of the lot facing the main street;
 - (ii) Parking and display areas shall be located in the rear or side yards;
 - (iii) No franchise architecture shall be permitted;

(iv) Lighting shall be shielded and subdued so as not to interfere with the quiet use and enjoyment of surrounding properties as determined by the planning director;

(v) Traffic flow shall be patterned in such a manner so as not to interfere with the quiet use and enjoyment of surrounding properties.

(vi) Other conditions which the Planning Commission may deem warranted under the particular or unique circumstances of the situation necessary to meet the contour of the land and to protect the quiet use and enjoyment of surrounding properties.

(vii) Shall be subject to submission, review and approval of a site plan.

(viii) For automobile sales, there shall be a minimum of 6000 square feet of outdoor display area.

b. Automotive, boat, heavy equipment and factory built home sales and service in the Highway Commercial shall be subject to the following conditions:

i) Large surface parking lots should be visually and functionally segmented into several smaller lots. The size of any single surface parking lot shall be limited to three acres, unless divided by a street, principal building, or Type A Opaque Screen/Buffer.

ii) No outdoor public address system shall be permitted which can be heard beyond the boundaries of the property.

1331.2.3 AUTOMOTIVE, RECREATIONAL VEHICLE, BOAT, AND TRACTOR TRAILER PARKING/STORAGE AS A PRINCIPAL USE

a) Large surface parking lots should be visually and functionally segmented into several smaller lots. The size of any single surface parking lot shall be limited to three acres, unless divided by a street, principal building, or Type A Opaque Buffer.

b) Type C Interior Plantings shall be provided in and around the parking/storage areas.

c) A minimum 10 foot Type A Opaque Buffer is required around the perimeter of the parking/storage area.

d) Fences visible from the street shall be a maximum of 8 feet in height, shall be decorative, and shall be made of wood, wrought iron, or similar material. Fences not visible from the street shall be a maximum of 8 feet in height and may be constructed of another durable material.

1331.2.4 BARS AND NIGHTCLUBS

(a) The total number of such establishments in concurrent operation within any district where permitted cannot exceed 10;

(b) No two of such uses shall be located within 500 feet of each other measured front door to front door along the curb line of the public streets providing access;

(c) The gross square footage of floor area to customer ratio shall be 1 customer for every 50 square feet of floor area. Floor area shall include the area dedicated for customer service and storage area;

(d) Plans and specifications for exterior design, interior layout, service area and signage must be submitted for review at the time of the application for a conditional use permit and shall comply with all district regulations, including any architectural requirements of this Code; and

(e) Closing time for the business shall be 2:00 a.m. except on New Year's Eve.

(f) Parking requirements may be satisfied using shared parking, off-street parking areas, or on-street parking.

1331.2.5 BED AND BREAKFAST INNS

a) Single family homes used as bed and breakfast inns shall have a minimum heated floor area of 2,500 square feet.

b) Single family homes used as bed and breakfast inns may not subdivide existing rooms into less than 200 sq ft.

c) The bed and breakfast inn shall be owner-occupied.

d) All guests parking shall be to the rear of the home. Where on-street parking is permitted, the length of the street in front of the lot may be counted as parking. There shall be one space per room of lodging.

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

1331.2.6 BUS STOP SHELTERS

(a) Bus stop shelters shall be visually and functionally compatible with surrounding development.

(b) Seating and protection from the weather shall be provided.

(c) A trash receptacle shall be provided

(d) No shelter can cause the obstruction a vehicular/pedestrian right of way .

1331.2.7 CEMETERY

(a) Brick or stone walls between 1.5 and 4.0 feet are permitted.

(b) Wood or wrought iron fences between 2.0 and 8.0 feet are permitted.

(c) Set backs from all street right of way and adjacent properties to a wall or grave shall be a minimum of 8 feet.

1331.2.8 CHURCHES AND OTHER PLACES OF WORSHIP

- (a) New construction shall be of monumental ecclesiastical architecture which shall be subject to the submission, review and approval of a site plan.
- (b) An existing residential structure converted to a church or place of worship shall:
 - (1) Retain its residential character, appearance and driveway;
 - (2) Not display signage of any kind
 - (3) Not create off street parking out of any portion of the required front, side or rear yards. Any allowable parking shall be situate towards the interior of the lot.
 - (4) Not provide for any significant alteration to the exterior of the structure; and
 - (5) Not interfere with the quiet use and enjoyment of the neighboring properties as a result of noise, light or increased traffic.

1331.2.9 CIVIC USES

- a) Building(s) incidental to the principal structure shall be behind a line a minimum of 20 ft from the front facade of the structure, and if more than one, shall be arranged to create secondary gathering spaces within the lot.
- b) Parking shall be located towards the interior of the lot. Parking may not occur within a front setback or corner side setback.
- c) Front setbacks may be altered to preserve views or significant trees.
- d) Civic Use development over 3 acres shall provide 90% of the parking on-site.

1331.2.10 COMMERCIAL USES EXCEEDING 30,000 SQUARE FEET

- a) Uses generating an additional 8,000 or more car trips a day shall be required to improve adjoining street or intersection infrastructure as determined by the City and/or West Virginia Division of Highways.
- (b) Parking shall be to the rear and the side of any building or structure.
- (c) Significant trees and stands of trees within the required setbacks shall be preserved.
- (d) Front setbacks may be altered (increased) to preserve significant trees and stands of trees.

1331.2.11 CONVENIENCE STORES/AUTOMOBILE FUELING STATION

- (a) Hours of operation in Neighborhood Mixed Use shall be restricted to 6:00 a.m. to 11:00 p.m.;
- (b) Shall be oriented to the front of the lot facing the main street;
- (c) Gasoline pump and parking shall be located in the rear or side yards;
- (d) No outdoor display of merchandise or products shall be permitted;

- (e) No franchise architecture shall be permitted; and
- (f) Lighting shall be shielded and subdued so as not to interfere with the quiet use and enjoyment of surrounding properties as determined by the planning director;
- (g) Traffic flow shall be patterned in such a manner so as not to interfere with the quiet use and enjoyment of surrounding properties.
- (h) Other conditions which the Planning Commission may deem warranted under the particular or unique circumstances of the situation necessary to meet the contour of the land and to protect the quiet use and enjoyment of surrounding properties.
- (i) Shall be subject to submission, review and approval of a site plan.

1331.2.12 COUNTRY CLUB

- a) A country club building shall form a central gathering place for a neighborhood.
- b) Parking shall be to the rear and/or side of the building(s).
- c) The principal building shall face the fronting street and shall not be setback a distance that inhibits pedestrian access.

1331.2.13 DAYCARE/PRESCHOOLS

- a) Daycares and preschools shall be located on lots which provide ample outdoor play area. A fenced area in the rear yard or side yard a minimum of 2,500 square feet shall be provided. Fences shall be a minimum of 6 feet in height. Daycares and preschools located adjacent to parks are exempt from this provision.
- b) On-street parking may be used to fulfill parking requirements.
- c) All play equipment shall be located in the fenced area. Front yards shall not be used as playground areas.
- d) Decorative fencing or a vinyl coated chain link fence screened with landscaping shall be provided when the fence is visible from the street.

1331.2.14 DRIVE-THROUGH WINDOW FACILITIES

- a) Side-loaded drive-through windows in the VC and HC district require a Conditional Use Permit.
- b) Rear-loaded drive-through windows and services in the Highway Commercial and Village Center districts as a Conditional Use are permitted provided the conditions of this section are met.

c) Drive-through windows located on the side of a building shall be limited to one lane and screened from off-site view. Restaurant uses in the VC district with side-loaded drive-through windows are not permitted.

d) Vehicle storage for drive-through window uses shall be located outside of and physically separated from the right-of-way of any street. This area shall not interfere with the efficient internal circulation of traffic on the site, adjacent property, or adjacent street right-of-way.

e) Drive-through window facilities shall be screened from off-site view from a street right of way by a Type A buffer with a minimum width of 10 ft.

1331.2.15 ENTERTAINMENT USES

(a) Shall be oriented to the front of the lot facing the main street;

(b) Lighting shall be shielded and subdued so as not to interfere with the quiet use and enjoyment of surrounding properties as determined by the Planning Commission;

(c) Noise shall be of such a nature so as not to interfere with the quiet use and enjoyment of surrounding properties.

(d) Traffic flow shall be patterned in such a manner so as not to interfere with the quiet use and enjoyment of surrounding properties.

(e) Other conditions which the Planning Commission may deem warranted under the particular or unique circumstances of the situation necessary to meet the contour of the land and to protect the quiet use and enjoyment of surrounding properties.

(f) Parking shall be underground or to the rear or the side of the main structure

(g) Shall be subject to submission, review and approval of a site plan.

1331.2.16 ESSENTIAL SERVICES, CLASS 1 & 2 (All Districts) Wireless Communications Facilities and Towers; Electric Substations

a) All wireless communications facilities and freestanding communications towers shall comply with any and all Federal Aviation Administration and all other federal and state regulations.

b) Wireless communications facilities may exist in all districts as a component of an existing or proposed structure not intended for residential use (i.e. Church bell tower or steeple) or attached to existing or proposed public infrastructure such as street lights, water towers and electrical transmission towers. All such facilities shall be designed using stealth design elements. Wireless communications facilities attached to existing or proposed structures such as water towers, transmission towers, church steeples, streetlights, bell towers, or similar structures do not require a Conditional Use permit.

c) Freestanding wireless communications tower may exist only in Highway Commercial and Industrial Districts as a conditional use. The owner or developer of shall submit a site plan for all proposed tower projects and require a conditional use permit, which shall be subject to the following conditions:

(i) The maximum height of all freestanding wireless communications towers shall be 180 feet; provided, however, that the maximum height of a tower may be greater than 180 feet, but less than 200 feet when such tower is designed and constructed to accommodate the present or potential co-location of an additional wireless communications service provider and/or public safety communication use;

(ii) Freestanding wireless communications towers shall be setback from all property lines a distance equal to 125% of the total height of the tower measured from grade elevation from all adjoining properties. Peripheral supports and guy anchors for communication towers may be located within the required setbacks, provided that they shall be located within the boundaries of the property on which the tower is located and shall be located no closer than five feet from any lot line;

(iii) No freestanding wireless communications tower shall be sited within 1 mile of another wireless communications tower except as a component of existing public utility infrastructure;

(iv) All ancillary structures, including guy anchors and peripheral support, shall be screened with an opaque screen of landscaping, wood fence, or wall, or any combination thereof;

(v) All freestanding wireless communications towers in the HC and IC districts shall be constructed using a monopole design;

(vi) All freestanding wireless communications towers shall, when appropriate, display, in large bold letters the following "HIGH VOLTAGE".

d) All Essential Service facilities, including wireless communications facilities and freestanding towers other than those described in subpart (b) above, shall be located outside of all front and side yards and shall provide Type A Opaque Screening around all ground facilities.

e) All Essential Service facilities, including wireless communications facilities and freestanding towers, that are not used for a period of at least six months shall be determined to be abandoned and shall be removed. The owner of the Essential Service facilities shall remove any abandoned, obsolete or structurally unsound facility within ninety days. The Building Inspector may establish a shorter period of time for the removal of a facility that is structurally unsound. To assure the removal of any abandoned, obsolete or structurally unsound facility, the applicant, owner, or developer shall submit a statement of financial responsibility for each facility at the time of installation.

(f) No Essential Service facility, including wireless communications facilities and freestanding towers shall be subject to the following additional standards:

1) No advertising sign or logo is permitted on any such facility;

- 2) Output power levels shall not exceed federally approved levels for exposure to electromagnetic radiation;
- 3) There is no danger to the public health or safety;
- 4) The facility will not substantially injure the value of adjoining property and shall be in harmony with proximate land uses.

1331.2.17 FULL SERVICE HOTELS IN EXCESS OF THREE STORIES ; MOTELS/HOTELS/INNS

- (a) Shall be oriented to the front of the lot facing the main street;
- (b) Lighting shall be shielded and subdued so as not to interfere with the quiet use and enjoyment of surrounding properties as determined by the Planning Commission;
- (c) Noise shall be of such a nature so as not to interfere with the quiet use and enjoyment of surrounding properties.
- (d) Traffic flow shall be patterned in such a manner so as not to interfere with the quiet use and enjoyment of surrounding properties.
- (e) Other conditions which the Planning Commission may deem warranted under the particular or unique circumstances of the situation necessary to meet the contour of the land and to protect the quiet use and enjoyment of surrounding properties.
- (f) Parking shall be underground or to the rear or the side of the main structure
- (g) Shall be subject to submission, review and approval of a site plan.

1331.2.18 HOME OCCUPATIONS; MINOR AND MAJOR

a) A home occupation is an occupation or business activity which results in a product or service and is conducted in whole or in part in the dwelling unit, and is clearly subordinate to the residential use of the dwelling unit.

b) No home occupation shall be permitted that:

- (i) Changes the outside appearance of the dwelling or is visible from the street;
- (ii) Creates a hazard to person or property, results in electrical interference, noxious fumes, excessive noise or becomes a nuisance for the neighborhood;
- (iii) Results in any outside storage or display of material, wares, inventory or merchandise;
- (iv) Results in a non-resident employee contracted, employed or otherwise hired, on the premises;
- (v) Makes use of any accessory building other than for limited storage not to exceed the amount of area used by the home occupation in the principal residence.
- (vi) Occupies more than 25% of the total square footage living space of the home (living space shall not include any garage, attic and basement). The applicant shall provide a sketch showing the entire floor plan, the total square footage of living space and the area thereof to be utilized for the conduct of the home occupation;
- (vii) Results in retail sales from the premises;
- (viii) Is open to the public before 9:00 a.m., nor later than 5:00 p.m.; and
- (ix) Results in advertisements which include the physical address of the property;

c) All home occupations shall be subject to and comply with all City Building, Fire, Life Safety and all other applicable codes and regulations;

d) All home occupations shall be subject to inspection by the Building Inspector to determine compliance with the City Building, Fire, Life Safety and all other applicable codes and regulations; and

e) All home occupations shall be subject to all City business licensing requirements and to all City business and occupation tax filing and payment requirements.

f) Minor Home Occupations.

Minor home occupations shall be permitted in all districts where residential uses are permitted. These are occupations that by nature generate little or no traffic, require a minimum amount of parking and will not result in the increased use of public services in excess of what is normal for an exclusive residential use.

Minor home occupations may be but are not limited to:

(i) Dressmaking, sewing, and tailoring, provided that no laundry service, pressing or cleaning is done on the premises;

(ii) Painting, sculpting, writing;

(iii) Telephone answering;

(iv) Home crafts such as model making, rug weaving and lapidary work;

(v) Tutoring for not more than one student at a time;

(vi) Computer programming;

(vii) Architectural , engineering, drafting or graphic services;

(viii) Musical or artistic instruction for not more than one student at a time;

(ix) Accounting services;

(x) Day care centers which accommodate not more than six (6) children and subject to the conditions set forth in Section 1331.2.13;

(xi) Any other similar use as determined by the Planning Director

g) Major Home Occupations.

Major home occupations are permitted in all zoning districts where residential uses are permitted except GR. These are occupations that by nature generate additional traffic, require parking, and the use of additional public services. These home occupations shall require a conditional use permit issued by the City of Fairmont Board of Zoning Appeals. Major home occupations include but are not limited to:

(i) Law offices;

(ii) Barbershops or beauty salons with a single chair, or single station tanning parlors;

(iii) Instructions of arts, music or crafts for not more than six (6) students;

(iv) Small crafts not for sale on the premises, including but not limited, to crafts of wood, paper, cloth and ceramics (not to include cabinet making or furniture refinishing);

(v) Repair of watches, jewelry and small appliances;

(vi) Insurance offices;

(vii) Printing services;

(viii) Photographic services;

(ix) Offices for contractors, including masonry, plumbing or painting provided that there is no on-site storage of materials; and

(x) Similar uses in nature as determined by the Planning Director.

h) The following uses are prohibited as home occupations in General Residential, Neighborhood Residential and Neighborhood Mixed Use districts:

(i) Medical offices, dental offices or other recognized health related practices.

(ii) Animal hospitals and grooming facilities;

(iii) Mortuaries;

(iv) Bars and Nightclubs;

(v) Restaurant, Restaurant/Lounges;

(vi) Automobile repair and painting;

(vii) Welding services;

(viii) Exercise studios, physical fitness facilities, dance studios; and

(ix) Uses of a similar nature as determined by the Building Inspector.

1331.2.19 IMPOUND FACILITIES (IC)

Impound facilities as defined by section 1303.03 Definitions of this Code, provided that no more than fifteen (15) motor vehicles are stored at one time in the same facility and said storage is completely secluded and screened from view on all sides by Type A Opaque Screening; provided that the total number of such impound facilities in concurrent existence within all Industrial districts within the corporate limits shall not exceed three and no two (2) such uses shall exist on the same lot or be located within 1500 feet of each other as measured from the closed property line to the closest property line along the curb line of the public street providing access to said facility.

1331.2.20 INSTITUTIONAL USES.

(a) Shall be oriented to the front of the lot facing the main street;

(b) Lighting shall be shielded and subdued so as not to interfere with the quiet use and enjoyment of surrounding properties as determined by the Planning Commission;

(c) Noise shall be of such a nature so as not to interfere with the quiet use and enjoyment of surrounding properties.

(d) Traffic flow shall be patterned in such a manner so as not to interfere with the quiet use and enjoyment of surrounding properties.

(e) Other conditions which the Planning Commission may deem warranted under the particular or unique circumstances of the situation necessary to meet the contour of the land and to protect the quiet use and enjoyment of surrounding properties.

(f) Parking shall be underground or to the rear or the side of the main structure

(g) Shall be subject to submission, review and approval of a site plan.

1331.2.21 LIBRARIES, MUSEUMS AND ART GALLERIES

(a) New construction shall be monumental architecture and shall provide a gathering or focal point in the district and shall be subject to the submission, review and approval of a site plan.

(b) An existing residential structure converted to a museum, library or art gallery shall:

- (1) Retain its residential character, appearance and driveway;
- (2) Not display signage of any kind
- (3) Not create off street parking out of any portion of the required front, side or rear yards. All parking shall be situate towards the interior of the lot.
- (4) Not provide for any significant alteration to the exterior of the structure; and
- (5) Not interfere with the quiet use and enjoyment of the neighboring properties as a result of noise, light or increased traffic.

1331.2.22 LIGHT MANUFACTURING

Within any City Center, light manufacturing shall be subject to the following performance standards.

(a) Air Pollution. Manufacturing processes emitting odor, dust, fumes, smoke or other pollutants shall not be permitted.

(b) Vibration. Except in temporary instances during site construction work, the maximum permitted vibration from any cause shall not exceed the following, when measured at the lot line:

<u>Frequency</u> <u>(Cycles per second)</u>	<u>Displacement</u> <u>Inches)</u>
.0008	
10 and below	.0008
10 – 20	.0005
20 - 30	.0003
30 – 40	.0002
40 – 50	.0001
50 and above	.0001

(c) Radiation. Research operation shall cause no dangerous radiation at any property line and shall conform to all federal, state and/or local regulations and standards. Radioactive Materials. The handling of radioactive materials, the discharge of such materials into air or water, and the disposal of radioactive wastes ,shall conform to all federal, state and/or local regulations and standards.

(d) Electromagnetic Interference. Industries. shall emit only that amount of unshielded spurious electromagnetic radiation as is necessary for the conduct of their operations. Federal. Communications Commission .requirements shall govern maximum radiation which tends to interfere with meaningful signals and all such emissions shall conform to all federal, state and/or local regulations and standards.

(e) Water Pollution. No effluent shall be discharged into any stream. Discharge into the City of Fairmont sewer system shall be as approved by the City Engineer and the Director of Public Works and shall conform to all federal, state and/or local regulations and standards.

(f) Industrial Waste. All industrial. waste shall be treated and disposed of in such a manner as to comply with all federal, state and/or local regulations and standards.

(g) Storage Requirements. No outdoor storage of raw materials or component parts.

1331.2.23 LIMITED VIDEO LOTTERY

(a) Establishments that offer or provide limited video lottery regulated under the provisions of the Limited Video Lottery Act, West Virginia Code §29-22B-101 et seq., provided that any such establishment that offers video lottery shall not be located within one thousand five hundred (1500) feet of any residential zone, school, church or place of worship, 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 limited video lottery as measured in a straight line from the nearest point of the wall of the establishment offering limited video lottery to the nearest property line of any residential zone, school, church or place of worship, 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 limited video lottery.

(b) No establishment may be approved for the conditional use to offer or provide limited video lottery until such establishment has been in operation as a Restaurant Lounge under the provisions of this Ordinance for a period of one year.

(c) No establishment may be approved for the conditional use to offer or provide limited video lottery when such establishment is located in an approved Historic District.

(d) All exterior signage and design of the establishment must be approved by the Planning Department.

1331.2.24 MOBILE HOME PARKS WITH MORE THAN 24 SPACES

(a) Lighting shall be shielded and subdued so as not to interfere with the quiet use and enjoyment of surrounding properties as determined by the Planning Commission;

- (b) Noise shall be of such a nature so as not to interfere with the quiet use and enjoyment of surrounding properties.
- (c) Traffic flow shall be patterned in such a manner so as not to interfere with the quiet use and enjoyment of surrounding properties.
- (d) Other conditions which the Planning Commission may deem warranted under the particular or unique circumstances of the situation necessary to meet the contour of the land and to protect the quiet use and enjoyment of surrounding properties.
- (e) Shall be subject to submission, review and approval of a site plan.
- (f) Shall provide improved active open space based upon a ratio of 1/2 acre for each 25 spaces.

1331.2.25 MIXED USE BUILDINGS AND LIVE-WORK UNITS

- a) Mixed-use buildings within the NR district are limited to the main arterial street frontages only, and also require a conditional use permit.
- b) Residential driveway character should be maintained.
- c) No outdoor sales or display is permitted in the front or side yards.
- d) All mixed-use buildings shall have at least two occupiable stories with at least 50% of the habitable area of the building dedicated to residential use. The remainder of the building may be used for neighborhood commercial uses.
- e) New construction, additions, and renovations, rehabilitations, or remodels of existing structures shall meet all requirements of this Zoning Code, including all miscellaneous requirements provided by Articles 1341, 1343, and 1345 of this Zoning Code.

1331.2.26 MULTI-FAMILY RESIDENCES; TOWNHOUSES/ROWHOUSES; DUPLEXES

A. Multi-Family Residences

- 1) Minimum of 3 acres for new development within a NR district.
- 2) Multi-family residences within a NR district shall not exceed 30 percent of the total number of dwelling units.
- 3) Multi-family developments within the NR district require Major Site Plan or Master Plan review and approval by the Planning Commission.

B. Townhouse/Rowhouse:

- 1) Each townhouse/rowhouse lot shall have a minimum of One Thousand Two Hundred (1,200) square feet;

- 2) A parcel or tract used for a row of townhouses or rowhouses shall have minimum width of 80;
- 3) There shall be no less than three and on more than nine townhouses in each row;
- 4) Each townhouse or rowhouse lot shall have a minimum width 20 feet;
- 5) All requirements of this Zoning Code, including those provided by Article 1341, 1343, and 1345 shall be satisfied;
- 6) All district requirements or the requirements of an approved Planned Unit Development shall be satisfied.
- 7) All townhouses/rowhouses which are designed to be owner occupied, shall be a part of a homeowner's association formed by the developer, at his sole cost and expense.
- 8) Unless a greater district rear yard requirement is mandated, each townhouse or rowhouse shall have a rear yard of at least twenty feet.

C. Duplexes (Two-Family Homes)

- 1) Developments consisting only of duplexes are not permitted on lots greater than three (3) acres.
- 2) Duplex developments must be visually compatible with the surrounding neighborhood.
- 3) Duplexes on corner lots shall be designed in a way that each unit fronts on a different street.
- 4) Parking for at least one unit of a duplex shall be located in the rear yard.

D. Minimum Lot Area for Multi Family Residences and duplexes, and

The minimum lot area requirements shall be as follows:

Number of Dwellings Units in Building	Area of Lot in Square Feet
Single Family Dwelling	6,000
Two-family Dwelling	7,000
Three-family Dwelling	8,000
Four-family Dwelling	9,000

1331.2.27 OFFICE, RETAIL OR SERVICE USE IN EXCESS OF 2500 SQ FT FIRST FLOOR AND 5000 SQ FT TOTAL FLOOR AREA (NEW CONSTRUCTION)

- (a) Hours of operation in shall be restricted to 8:00 a.m. to 10:00 p.m.;
- (b) Shall be oriented to the front of the lot facing the main street;
- (c) Parking shall be located in the rear or side yards;
- (d) No outdoor display of merchandise or products shall be permitted;

- (e) No franchise architecture shall be permitted; and
- (f) Lighting shall be shielded and subdued so as not to interfere with the quiet use and enjoyment of surrounding properties as determined by the planning director;
- (g) Traffic flow shall be patterned in such a manner so as not to interfere with the quiet use and enjoyment of surrounding properties.
- (h) Other conditions which the Planning Commission may deem warranted under the particular or unique circumstances of the situation necessary to meet the contour of the land and to protect the quiet use and enjoyment of surrounding properties.
- (i) Shall be subject to submission, review and approval of a site plan.

1331.2.28 OUTDOOR SALES/DISPLAY

- a) All outdoor sales or display of products (including automobile and lumber yard sales) shall be setback twenty (20) feet from the front property lines.
- b) A Type B Semi-Opaque Screen shall be provided around the perimeter of all outdoor sales areas.

1331.2.29 OUTDOOR STORAGE

- a) All outdoor storage shall be located in the rear yard only.
- b) All outdoor storage shall be screened from view with Type A Landscaping (Opaque Screen/Buffer).

1331.2.30 RECREATIONAL FACILITIES a) All recreational facilities shall be treated as parks in design and landscaping. All structures associated with a recreational facility shall be located toward the perimeter of the lot.

- b) Recreational facilities are encouraged to be built adjoining school campuses, parks, greenbelts, parkways, greenways, or waterfronts.
- c) Parking shall be located behind structures, or along the perimeter of the lot and shall be in accordance with **Section 1343 Off-Street Parking Area Design Specifications**.

1331.2.31 RESIDENTIAL CARE FACILITY (More than 6 residents)

- a) Any institutional facility that provides residential care for more than six (6) persons or a home that does not meet all requirements for a Residential Care Home is considered a Residential Care Facility.
- b) A residential care facility must be licensed with the West Virginia Department of Health and Human Resources before operating.

1331.2.32 RESIDENTIAL CARE HOME (6 or less residents) In accordance with West Virginia Code.

This section applies to adult care homes, child or adolescent care homes, family care homes, group homes, halfway houses, and mental health care homes. These uses are

deemed residential uses and are permitted in all residential districts subject to the following conditions:

- a) No more than six (6) residents other than the homeowner and the homeowner's immediate family are permitted to live in a residential care home.
- b) A residential care home must be licensed with the West Virginia Department of Health and Human Resources before operating.
- c) No residential care home may be located within a one-half (1/2) mile radius of any other residential care home.
- d) No exterior signage is permitted.
- e) No lockdown, violent, and dangerous residents.
- f) Only incidental and occasional medical care may be provided.

1331.2.33 RESTAURANT; RESTAURANT/LOUNGE

- a) The permitted hours of operation for a restaurant and restaurant lounge are from 6:00 a.m. to 1:00 a.m.

1331.2.34 ROOMING/BOARDING HOMES

- a) Single family homes used as a rooming/boarding house may not subdivide existing rooms into less than 200 sq ft.
- b) The rooming/boarding house shall be owner-occupied.
- c) No more than 1 person or couple may inhabit a single room.
- d) All parking shall be to the rear of the home. Where on-street parking is permitted, the length of the street in front of the lot may be counted as parking. There shall be one space per room of lodging.

1331.2.35 STORAGE OF HAZARDOUS MATERIAL

- a) All storage of hazardous materials shall be in compliance with all state, federal, and local regulations, particularly Part 11 Health and Sanitation Code of the City of Fairmont.
- b) Such material shall be listed and made known with the Office of the Chief of the City of Fairmont Fire Department.

SUBDIVISION FAMILY

1331.2.36 SUPPORT RETAIL

- a) Support retail shall be located in buildings of no less than two (2) stories in height.

b) Support retail shall not exceed the first floor footprint of the building.

1331.2.37 TEMPORARY USES

a) Christmas Tree Sales, Produce Stands, and similar temporary retail sales are permitted as temporary uses.

b) Truck trailers and flat beds are not permitted except for short-term delivery services.

c) Temporary uses utilizing a tent or similar canopy shall secure approval from the Fire Prevention and Training Officer of the City of Fairmont Fire Department prior to zoning approval.

d) Temporary uses shall be permitted for a maximum of forty-five (45) days. An extension may be granted for an additional seven (7) days upon application to the Planning Department.

e) Produce Stands may be permitted for a maximum of six (6) months but may be re-permitted upon submission of a new application.

f) Temporary uses shall present proof of property owner approval prior to the issuance of a permit.