

CHAPTER 3 DISTRICTS AND REGULATIONS
ARTICLE 1347 GENERAL ZONING REQUIREMENTS

1347.01 Applicability

(a) No building, structure, or land shall hereafter be used or occupied and no building or part thereof or other structure shall be erected razed, moved, reconstructed, extended, enlarged, or altered, except in conformity with the regulations specified for the district in which it is located.

1347.02 Lot standards

Unless otherwise specified, the following provisions shall apply throughout the City of Fairmont regardless of the underlying regulating district.

(a). No yard or lot existing upon adoption of this ordinance shall be reduced in size or area below the minimum requirements of the regulating district. Yards or lots created after the effective date of this ordinance shall meet the minimum requirements established by this ordinance.

(b).Every building erected, moved, or structurally altered shall be located on a lot conforming to the requirements of the regulating district.

(c). Front and side yard setbacks for infill lot development shall be equal to the average for similar principal structures on the same side of the street and within the same zoning district within 300 feet of either side of the lot in question.

(d). Unless otherwise provided, churches and other civic buildings shall be exempt from the front yard setback requirements.

(e). Mixed-use or non-residential buildings on corner lots shall be considered to have 2 front yards and shall utilize the minimum front setback for each façade. Residential structures may reduce the required side yard setback for corner lots upon approval of the Planning Director.

(f). All non-residential structures on a lot shall have access available from a public street for use by service or emergency vehicles.

(g).Generally, all buildings shall front directly upon a street in a manner that creates a public space that is conducive to pedestrian use. With the provision of lane or alley access, lots may front upon a central plaza, courtyard or a square, but shall be of sufficient design to allow for the provision of emergency services.

(h). No lot shall contain any building used in whole or in part for residential purposes unless the lot abuts for at least 40 feet on at least one street; provided however, that up to four residential lots may be accessed by an exclusive unobstructed private easement or access or right of way at least 35 feet wide to a street.

(i). No building on a corner lot shall be nearer a side street than the least depth of the front yard required along that side street for a building on the adjoining lot. No building or structure shall be erected within six feet of an alley line.

1347.03 Irregular lot setbacks

The location of required front, side and rear yards on irregularly shaped lots shall be determined by the City of Fairmont Planning Department. The determination will be based on the spirit and intent of this zoning ordinance to achieve an appropriate spacing and location of buildings and structures on individual lots.

1347.04 Blocks

Generally, the lengths, widths, and shapes of blocks shall be determined by application of the provisions City Code 1359.05 Blocks; however, in addition, due regard should be given to:

- (a). The provision of adequate public open spaces accessible and visible to residents.
- (b). District requirements and design criteria.
- (c). Significant areas of trees and other natural features, and areas of high ground offering scenic views.
- (d). Preservation of existing buildings and environmental protection.

1347.05 Temporary structures/uses

Temporary structures and uses hereinafter set forth shall be permitted in compliance with the provisions of this ordinance and all other ordinances of the City of Fairmont. The planning department may issue a temporary use permit for one (1) year only. At the end of one (1) year, the petitioner must file for another extension of one (1) year with the planning department. At that time, the petitioner must show that construction or plans for construction are proceeding in a diligent manner. The petitioner is allowed a maximum of two (2) extensions.

The following temporary structures and uses shall be permitted:

(a) Construction trailers and mobile home sales offices.

Construction trailers may be permitted on all non-residential construction developments and residential developments with ten (10) or more dwelling units. Construction trailers and mobile residential neighborhood sales offices shall adhere to all district setbacks and shall not be permitted on the lot more than thirty (30) days after the completion of the development.

(b) Reserved

1347.06 Uses not expressly permitted or conditional

Uses designated as "permitted uses" and "uses permitted with conditions" are allowed in a district as a matter of right. Uses classified as "conditional uses" are permitted upon

approval of a development plan approved by the Board of Zoning Appeals. It is recognized that new types or forms of land use will develop within the City of Fairmont 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 Planning Commission to determine if the use can reasonably be interpreted to fit into a similar use category described in the ordinance. The Planning Commission may make such a determination after conducting a public hearing. It is also recognized that certain allowed uses of land may pose significant impacts to adjacent properties, surrounding neighborhoods, and regional infrastructure. In order to provide for the appropriate review and approval of such uses, the Planning Director may designate, in his discretion, that any such uses be processed as Conditional Uses in accordance with the provisions set forth in Chapter 3, Article 1331 of this Code, upon a determination of their potential for adverse impact. Unless a use is allowed as a "permitted use by right", "use permitted with conditions", "conditional use", "nonconforming use", or "temporary use", then such use is prohibited.

1347.07 Use and parking of recreational and commercial vehicles

(a) Recreational vehicles: A recreational vehicle shall not be considered a dwelling unit. The use of a recreation vehicle for living, sleeping or housekeeping and its connection to utility services (other than for periodic maintenance and/or repair purposes) shall be prohibited unless the vehicle is located in a camping and Recreational Vehicle Park designed to accommodate recreation vehicles.

(b) Commercial vehicles: Commercial vehicles used primarily for commercial purposes and with more than two axles are prohibited from parking in residential districts. This shall not be construed as to prevent the temporary parking of delivery trucks, moving vans, and similar vehicles, which deliver goods and services. No residentially developed lot may be used as the base of operation for any freight hauling truck. (There is a code section on parking of trailers)

1347.08 Pending application for building permit

Nothing in this Ordinance shall require any change in the plans, construction, or designed use of any building or structure for which a building permit was secured prior to the adoption of this Ordinance, providing the building permit remains valid.

1347.09 Restoring unsafe buildings

Nothing in this zoning ordinance shall prevent the strengthening or restoring to a safe condition of any part of a building or structure declared unsafe by the City.

1347.10 Accessory structures

(a). Only one principal building and its customary accessory building(s) shall be located on any lot, except in appropriate districts that permit a lot to contain both residential and nonresidential uses in one or more principal structures or within the same structure.

(b). In the case of a corner lot, no wall of an accessory building shall be nearer to a side street than the side line of the main building.

(c). Accessory buildings attached to the principal building by an approved breezeway or similar structure shall meet all yard and court requirements for a principal building.

(d). In any residential district or any lot used exclusively for residential purposes, no accessory structure shall be located in any yard other than the rear yard.

(e). Portable accessory buildings without permanent foundations no exceeding 300 square feet of floor area shall be permitted on approved level area prepared so as to provide adequate support in accordance with its intended use.

1347.11 Required yard use by another building.

No part of a yard, court or open space provided about any building or any structure for the purpose of complying with the provisions of this zoning ordinance shall be included as a part of a yard, court or other open space required under this ordinance for another building or structure.

1347.12 Height, how measured.

(a) For purposes of this zoning ordinance, the height of a wall, or of a part of a building means the vertical distance from the established sidewalk grade or street grade, at the center of the front wall, or from the average finished grade at the building line, whichever is highest to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or the average height of the highest gable or dormer of a pitched roof or a hipped roof, or if there are no gables or dormers to the middle height of the pitched roof or hipped roof.

(b) Where a lot abuts on two or more streets or alleys, or different average established sidewalk grades or street grades, the nearer grades shall control to the midpoint of the lot.

1347.13 Stories

(a) The number, type and designation of stories in any structure shall be as defined by 1303 Definitions of this zoning ordinance.

(b) The mezzanine story shall be deemed a full story where it covers more than thirty-three and one-third percent of the ground story.

(c) In case of any fractional story height, the least widths and depths of yards and courts required under this zoning ordinance may be made the average of the widths and depths required buildings of the number of full stories between which the fractional story occurs.

1347.14 Stripping of top soil

No person, firm or corporation shall strip, excavate or otherwise remove top soil for sale or for use other than on the premises from which the same is taken except in connection with the construction or alteration of a building or site improvements on the premises and excavation or grading incidental thereto.