

**LEWISBURG AND FORT SPRING DISTRICT ZONING ORDINANCE  
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## ARTICLE 100

### REVISION AND SCOPE OF ZONING ORDINANCE

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100.03 SHORT TITLE

100.04 STATEMENT OF LEGISLATIVE INTENT

100.05 TERRITORIAL APPLICABILITY

100.06 SEVERABILITY CLAUSE

100.07 REPLACEMENT OF EXISTING ORDINANCE

### 100.00 ENACTMENT AND SCOPE OF ZONING ORDINANCE

#### 100.01 PURPOSE

The zoning regulations and districts as herein described have been established for the purpose of securing adequate light, air, convenience of access, and safety from fires, flood and other danger; that congestion in the public streets may be lessened or avoided; that the public health, safety, comfort, morals, convenience and general public welfare may be promoted; that the future development of the County may be planned, that new community centers grow only with adequate highway, utility, health educational, and recreational facilities; that the needs of agriculture, industry and business be recognized in future growth; that residential areas provide healthy surroundings for family life; and with the efficient and economical use of public funds.

#### 100.02 GENERAL

This ordinance revises zoning regulations for the unincorporated areas of Lewisburg and Fort Spring Tax districts, Greenbrier County, West Virginia. The ordinance provides for the administration, enforcement, and amendment thereof, in accordance with the provisions of Article 24, Chapter 8 of the Code of West Virginia.

#### 100.03 TITLE

This ordinance shall be known, cited and referred to as the **Greenbrier County Zoning Ordinance of May 2003 Revised Edition** and shall incorporate the Zoning Map from the 1999 Revised Edition.

#### 100.04 STATEMENT OF LEGISLATIVE INTENT

It is the intent of this ordinance to protect and promote the public health, safety, convenience, morals, and general welfare. More specifically, this ordinance is intended to assist in achieving the following objectives of the Greenbrier County Land Use Plan:

#### LAND USE CONFLICTS

What land use conflicts should be addressed?

The Plan's general objective is to:

Address the negative effects of incompatible land uses

- Residential vs. commercial and industrial
- Single-family housing vs. multi-family housing
- Light commercial/industrial vs. heavy commercial/industrial

Incompatible uses impact negatively on:

Property values, noise, traffic, aesthetics, safety, parking and lighting

Address the physical limitations of the land, which include:

Drainage, streams, slope, wetlands and topography

Assure development has adequate capacity for:

Parking, traffic flow, drainage, loading facilities, utilities and sight distances

#### LAND USE OPPORTUNITIES

What land use opportunities should be addressed?

The Plan's general objective is to:

- promote residential, commercial and light industrial development
- promote the financial appreciation of our homes, businesses and land
- enhance traffic flow, capacity and safety, guide growth to create a quality of life and community that will be beneficial to the area today and in the future
- create and preserve open space and green ways

#### AESTHETICS/BEAUTIFICATION

How should important aesthetics/beautification issues be addressed?

The Plan's general objective is to:

- maintain Greenbrier County as a pleasant mixture of agriculture and emission free manufacturing with pleasing sights and sounds vs. a congested urban setting
- protect the beauty of our county
- encourage installation of underground utilities and when relocating above-ground utilities, do so to less visual areas
- encourage good planning and design of screening, signs and landscaping

#### ADMINISTRATION/ENFORCEMENT

How should present and future regulations be administered and enforced?

The Plan's general objective is to:

- recommend that boards and committees reflect and represent the community
- recommend that procedures are fair, equitable **and** timely
- recommend that regulations are flexible to allow for changes periodically
- recommend that regulations and procedures are responsive to needs
- develop a data and mapping program that will be kept up to date and can be used by all county agencies

#### 100.05 TERRITORIAL APPLICABILITY

The regulations contained within this ordinance shall apply to areas illustrated on the "Official Zoning Map - Lewisburg and Fort Spring Tax Districts, Greenbrier County, West Virginia."

#### 100.06 SEVERABILITY CLAUSE

Should any section or provision of this ordinance be declared by the courts 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 declared to be unconstitutional or invalid.

#### 100.07 REPLACEMENT OF EXISTING ORDINANCE

This ordinance shall replace the Greenbrier County Zoning ordinance Number One Revised Addition **and the Greenbrier County Zoning Ordinance 1995 Revised Edition**. All development, construction, signs and land usages applicable to the provisions of this ordinance, following the effective date of this ordinance, shall comply with the provisions of this ordinance.

## ARTICLE 200

### DEFINITIONS

#### 200.01 GENERAL DEFINITIONS

#### 200.02 SPECIFIC DEFINITIONS

#### 200.01 GENERAL DEFINITIONS

The following rules of construction shall apply to the text of this ordinance:

- A. The particular shall control the general.
- B. In the event there is any conflict or inconsistency between the heading of an article, section, subsection, or paragraph of this ordinance and the context thereof, said heading shall not be deemed to affect the scope, meaning, or intent of such context.
- C. In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.
- D. In case of conflict between regulations or by private restrictions, covenants, or declarations, the more restrictive shall apply.
- E. Words used in the present tense shall include the future.
- F. Words used in the singular number shall include the plural, and the plural the singular, unless the context indicates the contrary.
- G. The masculine shall include the feminine and the neuter.
- H. The word "shall" is always mandatory and not discretionary.
- I. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", "either.. or", the conjunction shall be interpreted as follows:
  - 1. "and" indicates that all the connected items, conditions, provisions, or events shall apply.
  - 2. "or" indicates that the connected items, conditions, provisions, or events shall apply singly or in any combination.
  - 3. "either..or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- J. The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".
- K. The word "includes" or "including" or the phrase "such as" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances like or kind of character.
- L. A "building" or "structure" shall include any part thereof.

- M.** The word "person" includes: an individual; a private, public or quasi-public corporation whether operated for profit or nonprofit; a partnership; an association; a governmental body or agency, or any other similar entity.
- N.** The word "state" shall mean the State of West Virginia. The word "county" shall mean the County of Greenbrier, State of West Virginia.
- O.** The word "Planning Commission" shall mean the County Planning Commission of Greenbrier County, West Virginia.
- P.** The word "Commission" shall mean the County Commission of Greenbrier County.
- Q.** The terms "Assessor", "Board of Zoning Appeals", "Building Permit Officer", "County Clerk", "County Health Department", "County Board of Education", "Fire Chief", "Fire Department", "Fire Inspection Bureau", "County Planning Commission", etc. shall mean the respective boards, commissions, and officers of the county or their authorized agents.
- R.** The words "Building Permit Officer" or "Permit Officer" shall mean the Building Permit Officer of Greenbrier County.
- S.** The term "Code of West Virginia" shall mean the code of the State of West Virginia, 1931, as amended.
- T.** The term "Comprehensive Plan" shall mean the strategic comprehensive development plan for Greenbrier County, and as subsequently amended.
- U.** The phrase "this ordinance" shall mean all portions of this Zoning Ordinance including the Official Zoning Map for Lewisburg and Fort Spring Districts, Greenbrier County, as passed by the County Commission and as subsequently amended.

#### **200.02 SPECIFIC DEFINITIONS**

When used in this Ordinance the following words and phrases shall have the meaning given in this section:

**200.03 Abandonment:** The voluntary evacuation of a use for a continuous period of at least 6 months duration, either by completely or partly vacating the zoned property.

**200.04 Abattoir:** A commercial slaughter house.

**200.05 Accessory Use or Structure:** A subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or building.

**200.06 Administrator:** The official charged with the enforcement of the zoning ordinance. He or she may be any appointed or elected official who is by formal resolution designated to the position by the governing body. He or she may serve with or without compensation as determined by the governing body. The Assessor is charged with the enforcement of the zoning ordinance and the Building Permit Officer is employed by the Assessor.

**200.07 Agriculture:** The exclusive use of land for a bona fide farming operation. This includes activities such as dairying, horticulture, floriculture, animal and poultry husbandry, and other similar activities.



Agricultural activity shall not include commercial slaughtering of livestock, poultry, nor fish and meat processing.

**200.08 Airport:** A place, either on land or on water, where aircraft may land to discharge or receive cargo and passengers, make repairs, or take on fuel.

**200.09 Airport Hazard:** Any structure, tree, or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport.

**200.10 Alley:** A platted service way providing a secondary means of access to abutting properties.

**200.11 Alteration:** Any change in the total floor area, use, adaptability, or external appearance of an existing structure.

**200.12 Animal or Poultry Husbandry:** Any keeping, boarding, breeding or raising of any number of horses, goats, sheep, poultry or other customary farm animals for any purpose; or of more than ten (10) dogs, cats, or other customary pet animals for non-commercial purposes.

**200.13 Antique Shop:** A shop or structure to be utilized for the sales of antiques or collectibles. An antique or collectible is defined as an object of an earlier period, a work of art, piece of furniture, or decorative object made at an earlier period.

**200.14 Apartment House:** A building used or intended to be used as a residence of three (3) or more families living independently of each other.

**200.15 Apartment Development:** A development containing one or more multi-family dwellings containing apartments, with accessory parking, open space, recreation and management facilities, and any other facilities, for common use.

**200.16 Art Studio:** A structure for the display and sales of art work such as paintings, drawings, sculptures, and photography. Does not include obscene materials.

**200.17 Automobile Graveyard:** Any lot or place which is exposed to weather upon which more than two (2) motor vehicles of any kind, without valid approved, State of West Virginia, motor vehicle inspection stickers. Automobile graveyards are a prohibited use in all districts governed by this ordinance. A salvage yard approved by the State and the Planning Commission is not considered part of this definition.

**200.18 Automobile Service Station:** Any area of land, including structures thereon used for the retail sale of gasoline or oil, automobile accessories, and incidental services including facilities for lubricating, hand washing and cleaning, or otherwise servicing automobiles, but excluding painting, major repair, or automatic washing.

**200.19 Banner:** Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official

flag of any institution or business shall not be considered a banner.  
(Temporary sign)

**200.20 Beauty Shop:** A place for the cutting or styling of hair, manicures, and pedicures.

**200.21 Bed and Breakfast Home stay:** An owner occupied house or portion thereof involving the rental of up to four (4) rooms to overnight guests and offering breakfast meals only to said guests.

**200.22 Bed and Breakfast Inn:** A commercial establishment involving the rental of up to twenty (20) rooms to overnight guests, and which may include a restaurant serving the general public as well as overnight guests.

**200.23 Basement:** A story having part but not more than one-half (1/2) of its height below grade. A basement shall count as a story for the purpose of height regulations, if it is used for business purposes, or for dwelling purposes by other than a janitor employed on the premises.

**200.24 Board:** The Board of Zoning Appeals as established under this Ordinance.

**200.25 board:** Meals, food, or snacks.

**200.26 Boarding House (Rooming House):** A building or part thereof, other than a hotel, motel, or restaurant, where meals and/or lodging are provided for compensation for three (3) to fifteen (15) unrelated persons where no cooking or dining facilities are provided in individual rooms and in which the length of stay usually exceeds one (1) week in duration. A lodging house is also included in this definition.

**200.27 Building:** A structure with a roof built and maintained for the support, shelter, or enclosure of persons, motor vehicles, animals, or personal or real property.

**200.28 Building, Accessory:** A subordinate building located on the same lot as the main building, the use of which is incidental and accessory to that of the main building or use.

**200.29 Building, Height of:** 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.

**200.30 Building, Main:** A building in which is conducted the main or principal use of the lot on which said building is situated.

**200.31 Canopy:** A structure attached to a building and projecting out parallel to the ground, for the purpose of providing protection from the weather. A canopy is not designed to be raised to a position float against the building when not in use.

**200.32 Cellar:** A story having more than one-half (1/2) of its height below grade and which may not be occupied for dwelling purposes.

200.33 **Cemetery:** A site used for the permanent interment of dead bodies or the cremated remains thereof. It may be a burial park for earth interments, a mausoleum for vault or crypt interments, or a columbarium for cinerary interments.

200.34 **Child Care Center:** A day nursery or other place for the reception, board, or care, with or without compensation, of seven or more children under 16 years of age. This term shall not apply to:

A. a kindergarten, pre-school, or school education program which is operated by a public school, or a school which is accredited by the State Department of Education, or any other kindergarten, pre-school or school programs which operate with sessions not exceeding four hours per day;

B. a facility operated for nonresidential care of children for brief periods, not more than four hours, while the parent(s) is shopping, engaging in recreational activities, attending religious services, or engaging in other business or personal affairs;

C. summer recreation camps operated for children attending for periods not exceeding thirty days; or

D. family and in-home care when fewer than seven children are cared for.

E. In accordance with State and Federal Laws.

200.34<sup>35</sup> **Clinic, animal:** A facility established to supply examination, diagnostic, and prophylactic services, and medical and surgical treatment to house pets.

200.36 **Commercial:** Any wholesale, retail, or service business activity established to carry on trade for a profit.

200.37 **Community Center:** Non-profit community entertainment and recreation and meeting place.

200.38 **Conforming use:** Any use which complies with the regulations of this ordinance.

200.39 **Cul-de-Sac:** A street with only one outlet terminating in a circular turning area.

200.40 **Dairy:** A commercial establishment for the manufacture and sale of dairy products.

200.41 **Development:** A tract of land developed or to be developed as a unit under single ownership or unified control which is to contain three or more residential dwelling units. The term "development" shall not be construed to include any property which will be principally devoted to agricultural production.

200.42 **Driveway:** Any private way provided for the principal purpose of providing vehicular access to an off-street parking area or service in the case of drive-in type uses.

200.43 **Dwelling:** Any building or portion thereof which is designed for or used for residential purposes.

- 200.44 Dwelling, Multi-Family:** A building designated for or occupied exclusively by four (4) or more families living independently of each other; the term includes condominiums of similar physical appearance, character, and structure.
- 200.45 Dwelling, Single-Family:** A building designed for or occupied exclusively by one (1) family.
- 200.46 Dwelling, two-family (Duplex):** A building designed for or occupied exclusively by two (2) families living independently of each other.
- 200.47 Dwelling Unit:** One or more rooms in a dwelling designed for living or sleeping purposes, and having at least one (1) kitchen.
- 200.48 Easement:** A grant by a property owner of the use of land for a specific purpose or purposes by the general public, a corporation, or a certain person or persons.
- 200.49 Factory-built home rental community (trailer park):** 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, for sale by commercial venture.
- 200.50 Factory-built home site (trailer lot):** A parcel of land within the boundaries of a factory-built home rental community provided for the placement of a single factory-built home and the exclusive use of its occupants.
- 200.51 Family:** One or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from persons occupying a boarding house, lodging house, or hotel, as herein defined. Private household workers employed and housed on the premises may be considered as included in the family occupying said premises.
- 200.52 Family Day Care Home:** Any private home in which six or less children, at any one time, under age 16 are provided reception, board, or care with or without compensation.
- 200.53 Flood:** A general temporary inundation of lands not normally covered by water that are used or usable by many. Concurrent mudslides shall be deemed to be included in this definition.
- 200.54 Flood Hazard Area:** As defined in the Greenbrier County Floodplain Ordinance. The maximum area of the floodplain which is likely to be flooded once every one hundred years or for which mudslides can be reasonably anticipated as designated by the official flood hazard boundary map.
- 200.55 Flood Plain:** As defined in the Greenbrier County Floodplain Ordinance. An area designated by the flood hazard boundary map.
- 200.56 Flood, base:** As defined in the Greenbrier County Floodplain Ordinance. The flood which has been selected to serve as the basis upon

which the flood plain management provisions of this and other ordinances have been prepared; for purposes of this Ordinance, the one-hundred (100) year flood.

**200.57 Frontage:** The minimum width of a lot measured from one side lot line to the other along a straight line on which no point shall be farther away from the street upon which the lot fronts than the building setback line as defined and required herein.

**200.58 Garage Apartment:** A private garage that has one dwelling unit located in the story above the automobile parking story.

**200.59 Garage, Private:** Accessory building designed or used for the storage of not more than three (3) automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of one and one-half (1 1/2) times as many automobiles as there are dwelling units.

**200.60 Garage, Public:** A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling, or storing motor-driven vehicles.

**200.61 Gardening:** Any use of land unenclosed except for fencing for the raising of grass, flowers, vegetables, crops, trees, or other botanical objects of natural growth, but not including accessory structures used for the same purpose.

**200.62 General Store, Country:** A single store, the ground floor area which is four thousand (4,000) square feet or less and which offers for sale primarily, most of the following articles: bread, milk, cheese, canned and bottled foods and drinks, tobacco products, candy, papers and magazines, and general hardware articles. Gasoline and automotive products may also be offered for sale.

**200.63 Golf Course:** Any golf course, publicly or privately owned, on which the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as defined herein.

**200.64 Golf Driving Range:** A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.

**200.65 Group Home:** A residential facility for more than three, but not more than 20, unrelated residents (not including staff), owned or operated by a social service agency, providing food, shelter, supervision, or counseling, in a home-like atmosphere, on a short term or long term basis. The term "group home" shall not apply to child care centers as defined in this ordinance. For the purposes of this definition, a social service agency shall be either (1) an agency licensed by the state to operate a group home, or (b) an organization, association, firm, or corporation that verifies to the director, Planning Commission that it is a group home by illustrating the agency's overall activities and experience, intent, and governing board. Group homes are permitted in all districts by the State Code in Article 8-24-50B.

**200.66 Guest Room:** A room which is intended, arranged or designed to be occupied, or which is occupied, by one or more guests paying direct or

indirect compensation therefore, but in which no provision is made for cooking. Dormitories are excluded.

**200.67 Health Department:** The Greenbrier County Health Department or its designated agent or representative.

**200.68 Height:** The vertical distance from the highest point of the roof to the ground level at street grade or front yard setback. Residential chimneys and church steeples are not included in the measurement of the building height.

**200.69 Historical Area:** An area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

**200.70 Home Garden:** A garden in a residential district for the production of vegetables fruits and flowers generally for use and/or consumption by the occupant of the premises.

**200.71 Home Occupation:** An occupation in which one is employed or self employed and performs their duties out of their residence. Such usages are permitted in all districts provided that:

1. a residence is the primary and predominant use of the structure
2. outside storage of material is not permitted
3. compatible with impact and character of residential area.

(a) No person other than other members of the family residing on the premises shall be engaged in such occupations.

(b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by the family; and not more than 25% of the floor area of the dwelling unit, or 2, 000 square feet if conducted in an accessory building, shall be used in the conduct of the home occupation.

(c) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood; and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

(d) No equipment or process shall be used in such home occupation which creates noise, vibrations, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio, phone, or television receivers off the premises.

e) Boardinghouse, rooming houses, bed and breakfasts, tourist homes and private educational institutions shall not be deemed home occupations.

f) The hours of operation shall not exceed 7:00 a.m. to 9:00 p.m.

(g) A restaurant, bar, tavern, or public garage may not be considered a home occupation.

**200.72 Hospital:** An institution rendering medical, surgical, obstetrical, or convalescent care, including any institution licensed as a hospital by the State Hospital Board.

**200.73 Hospital, Special Care:** A special care hospital shall mean an institution rendering care primarily for mental or feeble-minded patients, epileptics, alcoholics or drug addicts.

**200.74 Hotel:** A building in which lodging, or board and room are offered to the public for compensation and in which cooking facilities may be provided or in which lodging facilities are provided primarily for travelers and in which the length of stay is primarily less than one week in duration. The term "hotel" includes the term "motel".

**200.75 House Trailers:** All trailers designed or intended for human occupancy and commonly referred to as mobile homes or house trailers, and shall include fold down camping and travel trailers as these terms are defined in section one, article six, chapter seventeen - a of West Virginia State Code, but only when such camping and travel trailers are located in a factory-built home rental community, as defined in this section, on a continual, non-recreational basis.

**200.76 Inoperable Vehicle:** A vehicle which is not immediately capable of being driven or which lacks valid State of West Virginia inspection sticker.

**200.77 Kennel:** Any location where raising, grooming, caring for or boarding of dogs, cats, or other small animals for commercial purposes is carried on.

**200.78 Land Use Plan:** The Land Use Plan of the County of Greenbrier as amended.

**200.79 Livestock Market:** A commercial establishment wherein livestock is collected for sale and auctioned off.

**200.80 Lot:** A measured portion or parcel of land separated from other portions or parcels by description in a site plan or a recorded plat, or by metes and bounds, which is recorded in the Office of the Clerk of Greenbrier County.

**200.81 Lot, Corner:** A lot abutting upon two (2) or more streets at their intersection.

**200.82 Lot, Depth of:** The average horizontal distance between the front and rear lot lines.

**200.83 Lot, Double Frontage:** An interior lot having frontage on two (2) streets.

**200.84 Lot, Interior:** Any lot other than a corner lot.

**200.85 Lot of Record, Conforming:** A parcel or area of land recorded in the Office of the Clerk of Greenbrier County, which does not contain more than one single family residence; meets the use intensity requirements of

this ordinance; complies with applicable State, Federal or County regulations for drinking water and sewage disposal; if applicable has received variances or special exceptions as described by the ordinance.

**200.86 Lot of Record, pre-existing Nonconforming:** A lot consisting entirely of a tract of land that:

A. Has less than the prescribed minimum lot size, width, or depth, or any combination thereof, for single family dwellings; and

B. Is shown by a recorded plat or deed to have been owned separately and individually when creation of a lot of such size, width, or depth, or any combination thereof, at such location would not have been prohibited by any applicable zoning regulations; and

C. Has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that creation of such lot has been prohibited by the applicable zoning regulations.

**200.87 Lot, Through:** A lot having a frontage on two (2) streets as distinguished from a corner lot.

**200.88 Lot, Width:** The average horizontal distance between side property lot lines or the horizontal distance between side property lines measured at the setback line.

**200.89** Not Used.

**200.90 Main Use:** The primary purpose for which land or a building is used.

**200.91 Manufacture and /or Manufacturing:** The processing and/or converting of raw, unfinished materials, or products, or either of them, into articles or substances of different character, or for use for a different purpose.

**200.92 Manufactured Home Type A:** A structure subject to Federal Regulations which is transportable in one or more sections and is twenty (20) feet or more in width and forty (40) feet or more in length, and has three hundred twenty (320) or more square feet; is designed to be used as a single family dwelling with a permanent foundation and which includes the plumbing, heating, and electrical systems contained in the structure. This definition applies only to structures built after June 15, 1976 to Federal manufactured housing standards.

**200.93 Manufactured Home Type B:** A structure transportable in one or more sections which is eight (8) feet or more in width and forty (40) feet or more in length, which is designed to be used as a dwelling with a permanent foundation when connected to the required utilities and includes the plumbing, heating, and electrical systems.

**200.94 Manufactured Home Park:** Any parcel of land designed to accommodate two or more manufactured homes. Any lot of record designed to accommodate two or more mobile homes for residential use.

**200.95 Manufactured Office Building:** A transportable structure in one or more sections which is 8 feet or more in width and less than 40 feet in length, which is designed to be used as an office.



Such structures shall be permitted only in Commercial Districts, with the following requirement: The perimeter must be enclosed.

**200.96 Mobile Home:** 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. Sec.5401 et seq.), effective on the fifteenth day of June, 1976, and usually built to the voluntary industry standard of the American National Standards Institute (ANSI) - 119.1 Standards for Mobile Homes.

**200.97 Modular Home:** Any 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 is certified as meeting the standards contained in the state fire code encompassed in the legislative rules promulgated by the state fire commission pursuant to section 5-B, article 3, chapter 29 of the West Virginia State Code.

**200.98 Motel:** A building or group of buildings containing six or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied for sleeping purposes by primarily transient guests. Access to at least fifty percent of the guest units shall be by individual entrances from outside the building.

**200.99 Non-Conforming Activity:** the otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

**201.00 Non-Conforming Structure:** A structure existing at the time of enactment or amendment of this ordinance which does not conform to the requirements of this ordinance by reason of height or condition, or by reason of its impingement upon required yard areas.

**201.01 Non-Conforming Use:** A use of land existing at the time of the enactment of this Ordinance, or at the time of a Zoning Amendment, which does not conform with the regulations of the use district in which it is located.

**201.02 Nursing Home:** Rest homes, convalescent homes and homes for the aged devoted primarily to the maintenance and operation of facilities for the treatment and care of any persons suffering from illnesses, diseases, deformities, or injuries, but who do require care in excess of room and board and need medical, convalescent, or chronic care. Institutions primarily for the treatment and care of mental patients, alcoholics, or drug addicts shall not, for the purposes of this Ordinance, be considered "nursing homes."

**201.03 Off-Street parking Area:** Space provided for vehicular parking outside the dedicated street right-of-way.

**201.04 Open Space:** A yard area which is not used for or occupied by a driveway, off-street parking, loading space of refuse storage racks.

**201.05 Parks, Playgrounds, and Outdoor Recreation Areas:** Land publicly or privately owned devoted to recreational pursuits, usually an open area reserved for outdoor activities such as play, hiking, exercise, or competitive sport not requiring structures for habitation.

**201.06 Pennant:** Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to come to a point. (nautical and directional flags)

**201.07 Plat:** The schematic representation of land divided or to be divided.

**201.08 Pre-School:** A child day-care program for children two (2) to five (5) years of age at which children two (2) through (4) years of age do not attend in excess of four (4) hours per day and children five (5) years of age do not attend in excess of six and one-half (6 1/2) hours per day, and such program is operated primarily for the educational development and instruction of two (2) or more children also receiving care, protection and guidance while separated from their parents. This use must meet the necessary State licensing requirements.

**201.09 Professional:** When used in connection with "use" and "occupancy", a use or occupancy by persons generally engaged in rendering personal, executive, sales, or administrative services or activities, including accountants, architects, professional engineers and land surveyors, doctors, lawyers, insurance offices, real estate offices, religious organizations, stock brokers, and administrative agencies considered professional in character. The term does not include repair or sale of tangible personal property stored or located within the structure (or any use which would create any loud noises or noxious odors.

**201.10 Professional Office:** An office for a professional as defined by this ordinance.

**201.11 Public Water and Sewage Disposal:** The water and sewage disposal systems serving three (3) or more families.

**201.12 Public Utilities:** Public service structures such as power plants or substations; water lines, treatment plants or pumping stations, sewage disposal systems and treatment plants; or such similar operations publicly or privately owned furnishing electricity, gas, rail transport, communications, or related services to the general public.

**201.13 Recreational Vehicle:** A vehicle which is (a) built on a single chassis,, (b) 400 square feet or less when measured at the largest horizontal projection, (c) designed to be self-propelled or permanently towable by a light duty truck, and (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

**201.14 Rental Garden Space:** A lot of record or portion thereof which is rented or leased by the owner of the lot to other individuals for agricultural purposes.

**201.15 Required Open Space:** Any space required in any front, side or rear yard.

**201.16 Residential Conversion:** This involves the conversion of a residence to a particular usage limited to the following provisions:

1. Is compatible with residential neighborhoods with regard to traffic flow and parking.
2. Is intended to be in existing structures, expansion of existing structures is limited to 1000 square feet of building.
3. May include all or part of an existing building.
4. Signs are limited to a maximum combined total of ten (10) square feet.
5. The hours of operation may not exceed 7:00 a.m. to 9:00 p.m.
6. A restaurant, bar, tavern, public garage or usages involving material classified as obscene or as adult entertainment are specifically excluded from consideration under this ordinance.

**201.17 Residential Use:** Any place, building, or establishment used in whole or in part as a dwelling or used for the care, protection, or guidance of any persons during any part of the day, including but not limited to, hospitals, schools, single-family and multi-family dwellings, mobile home, child care centers, family day care homes, group homes, homes for adults, colleges, and correctional institutions.

**201.18 Restaurant:** Any building in which, for compensation, food or beverages are dispensed to persons not residing on the premises for consumption on the premises including, among other establishments, cafes, delicatessens, or refreshment stands.

**201.19 Restaurant, Drive-In:** An eating and/or drinking establishment which caters to motor-driven vehicle business where the person being served may consume his food and/or drink while sitting in a motor-driven vehicle, as opposed to a restaurant serving exclusively inside or adjacent to the main building.

**201.20 Retail Stores and Shops:** Buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumber yards), such as the following, which will serve as illustrations: Drug store, newsstand, food store, candy shop, milk dispensary, dry-goods, and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, beauty shop, and barber shop.

**201.21 Right-of-Way:** Access over or across particularly described property for a specific purpose or purposes.

**201.22 Right-of-Way Line:** The dividing line between a lot, tract, or parcel of land and contiguous street, railroad, or public utility right-of-way.

**201.23 Salvage:** Old or scrap copper, brass, rope, rags, batteries, paper, rubber, trash, waste, junked, dismantled or wrecked machinery, machines or motor vehicles, iron, steel and other old or scrap ferrous or nonferrous materials.

**201.24 Salvage Yard:** Any place which is maintained, operated or used for the storing, keeping, buying, selling, or processing of salvage, or for the operation and maintenance of a motor vehicle graveyard, and the term shall also include garbage dumps and sanitary fills.

**201.25 Sawmill:** A machine and its appurtenances for the purpose of processing timber from the property or from its environs without regard to point of origin.

**201.26 Setback:** The minimum distance by which any building structure must be separated from the lot line.

**201.27 201.27 Setback - Combined:** The total area of the distance from the structure to the front, rear, and each side. The combined setback shall not be less than sixty (60) feet.

**201.28 Setback Line:** A line generally parallel with and measured from the lot line, defining the limits of a yard in which no building or structure may be located above ground.

**201.29 Sign:** Any writing (including letter, word, or numeral), pictorial representation (including illustration or decoration), emblem (including device, symbol, or trademark), flag (including banner or pennant), or any other figure of similar character which is:

A. A structure or any part thereof, or attached to, painted on, or in any other manner represented on a building or other structure; and;

B. Used to announce, direct attention to, or advertise; and

C. Visible from outside a building (A sign shall include writing, representations, or other figures of similar character within a building only when illuminated or located in a window); and

D. Accessory to the other uses permitted on the lot.

**201.30 Sign back-to-back:** Two or more internally connected signs facing in opposite directions and separated by not more than five feet.

**201.31 Sign, Changeable:** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable sign for purposes of this ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign.

**201.32 Sign, Free Standing:** A sign supported by one or more uprights, poles, braces, or other support placed permanently and securely in or upon the ground surface and not attached to any building.

**201.33 Sign, identification:** A sign that identifies a business, owner, resident, or street address and which sets forth no other advertisement.

**201.34 Sign, illuminated:** A sign that provides artificial light, directly or through any transparent or translucent material, from a source

of light connected with such a sign, or a sign illuminated by a light so shielded that no direct rays from it are visible from any public right-of-way or from the abutting property.

**201.35 Sign, off-premise:** A sign which contains a message unrelated to a business or profession conducted or to a commodity, service, or entertainment sold or offered upon the premises where such sign is located. An on-premise sign contains a message related to a business or profession conducted or to a commodity, service, or entertainment sold or offered upon the premises where such sign is located.

**201.36 Sign, Portable:** A free-standing sign not permanently anchored or secured to either a building or the ground, such as a sign that is; held down with stakes or "A" frame, "T" shaped, inverted "T" shaped sign structures. A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or surface of the sign.

**201.37 Sign, Projecting:** A sign which projects 12" or greater from and is supported by the wall of a building.

**201.38 Sign, Roof:** A sign erected, constructed, and maintained wholly upon or over the roof of any building with the principal support on the roof structure.

**201.39 Sign, Temporary:** A display or informational sign intended for a limited period of display, including decorative displays for holidays or special events and including banners.

**201.40 Sign, Wall:** A sign which is attached directly to or painted upon a building wall with the exposed face of the sign in a plane parallel to said wall and projects less than 12".

**201.41 Site Plan:** The proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities, and such other information as is required in applicable Sections of this Ordinance.

**201.42 Special Exception:** A use that would not be appropriate generally or without restriction throughout the zoning division or district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning divisions or districts as special exceptions, in accordance with this ordinance.

**201.43 Story:** That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, the space between the floor and the ceiling next above it, is the story.

**201.44 Story, Half:** A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use.

**201.45 Street:** Any public thoroughfare; or any private thoroughfare providing access to two (2) or more lots, but not including driveways.

**201.46 Subdivision:** The partition or subdivision of a parcel of land for the purposes, whether immediate or future, of transfer of ownership or building development, where the act of division creates two (2) or more lots of any size. The term includes condominiums, wherein the purchaser requires both ownership of the condominium unit and ownership of an interest in common elements and the subdivision of lots of record or vacated plats. The term shall apply either to the process of subdivision or the land subdivided, where appropriate.

**201.47 Substantial Improvement:** Any repair, reconstruction, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before start of construction of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed.

**201.48 Townhouse:** A unit separated from adjacent units by a vertical wall with no openings, providing a dwelling for a single family, in which separate access to the outside is provided, and in which the major orientation of the unit is vertical rather than horizontal; or a condominium unit of similar physical character, appearance, and structure.

**201.49 Travel Trailer:** A mobile unit less than twenty-nine (29) feet in length and less than 4,500 pounds in weight which is designed for human habitation.

**201.50 Truck Stops:** A heavy commercial activity located in proximity to major highway routes or interchanges. This business is basically for the refueling and repairing of trucks and the provision of restaurant and sleeping facilities.

**201.51 Unified Shopping Facilities:** Any tract of land upon which two (2) or more retail sales establishments are located and developed as a unit with accessory parking facilities. Unified shopping facilities are distinguished from miscellaneous collections of individual stores developed independently and standing on separate parcels along street frontages or clustered in a contiguous area with or without incidental off-street parking.

**201.52 Use:** Any purpose for which a building or other structure on a tract of land may be maintained or occupied; or any activity, occupation, business, or operation carried on in a building or other structure or on a tract of land.

**201.53 Variance:** A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in the ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning division or district or adjoining zoning divisions or districts.

201.54 **Vehicle-Retail Trade:** A lot arranged, designed, or used for the storage and display for the sale of any operational vehicles.

201.55 **Wayside Stand, Roadside Stand, Wayside Market:** Any structure or land used for the sale of agricultural or horticultural produce, livestock, or merchandise produced by the owner or his family on their farm.

201.56 **Yard:** A space on the same lot with a main building, such space being open, unoccupied, and unobstructed by buildings from ground to sky except where encroachments and accessory buildings are expressly permitted.

201.57 **Yard, Front:** An open, unoccupied space on the same lot with the main building, extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot. On corner lots, the depth of the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

201.58 **Yard, Rear:** An open space on the same lot with the main building, such space being unoccupied except possibly by an accessory building and extending the full width of the lot and the rear line of the main building projected to the side lines of the lot. On all corner lots the rear yard shall be considered as the property owner's preference.

201.59 **Yard, Side:** An open, unoccupied space on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the front boundary of the side yard shall be the front line of the lot and if no rear yard is required, the rear boundary of the side yard shall be the rear line of the lot. On corner lots, the side yard shall be considered as the property owner's preference.

## ARTICLE 300

### INTERPRETATION AND CONFLICTS

#### 300.01 INTERPRETATION OF THE ORDINANCE

#### 300.02 CONFLICTS WITH OTHER LAWS

#### 300.03 AGRICULTURAL USES PERMITTED

#### 300.01 INTERPRETATION OF THE ORDINANCE

In interpreting and applying the provisions of this Ordinance there shall be held to be the minimum requirements for the promotion of the public health, safety, morals, or general welfare.

#### 300.02 CONFLICTS WITH OTHER LAWS

Where the provisions of the Ordinance impose greater restrictions than those of any other Ordinance or regulations, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulations impose greater restrictions than this Ordinance, the provisions of such statute, ordinance or regulation shall be controlling.

#### 300.03 AGRICULTURAL USES PERMITTED

Except for compliance with setback requirements for a building set forth in this Ordinance, nothing in this Ordinance shall prohibit the use of land for agricultural purposes or the construction or use of buildings or structures incidental to the use for agricultural purposes. This provision is consistent with the State Code of West Virginia.



## ARTICLE 400

### CLASSIFICATION OF DISTRICTS

#### 400.01 ZONING MAP

#### 400.02 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

#### 400.03 APPLICATION OF DISTRICT REGULATIONS

#### 400.01 ZONING MAP

The County of Greenbrier is hereby divided into districts as shown on the Official Zoning Map of the Lewisburg and Fort Spring Tax Districts, Greenbrier County, West Virginia which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

No change of any nature shall be made in the Official Zoning map or matter shown thereon except in conformity with the procedures set forth in the Ordinance. Regardless of the existence of copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map which shall be located in the Office of the Greenbrier County Planning Commission shall be the final authority of the current zoning status of land and water areas, buildings, and other structures in the two zoned districts.

#### 400.02 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- C. Boundaries indicated as approximately following Town or Tax District limits shall be construed as following Town or Tax Districts;
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- E. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;
- F. Boundaries indicated as parallel to or extensions of features indicated in Subsections A through E above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- G. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsection A through E above, the Board of Zoning Appeals shall interpret the district boundaries.

#### 400.03 APPLICATION OF DISTRICT REGULATIONS

The regulations set by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

- A. All changes in the use of any land, building or structure; and the erection, construction, reconstruction, movement or structural alteration of any building or structure or part thereof shall hereafter be in conformity with all of the regulations herein specified for the district in which it is located.
- B. No building or other structure shall hereafter be erected or altered;
  1. to exceed the height;
  2. to accommodate or house a greater number of families;
  3. to occupy a greater percentage of lot area;
  4. to have a narrower or smaller rear yard, front yard, side yard, or other open spaces; than herein required; or in any other manner contrary to the provisions of this Ordinance.
- C. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as a part of a yard, open space, or off-street parking or loading space similarly required for any other building.

## ARTICLE 500

### GENERAL PROVISIONS

500.01 GENERAL PROVISIONS

500.02 ADDITION TO NONCONFORMING STRUCTURES PROHIBITED

500.03 ABANDONMENT OF NONCONFORMING USAGE

500.04 REPLACEMENT OF NONCONFORMING USE OR STRUCTURE

500.05 PERMIT AND ORDINANCE CONDITIONS

500.06 REVOCATION OF PERMIT

500.07 FEES

500.08 PARKING

500.09 INFORMATION REQUIRED FOR PERMIT ISSUANCE

500.00 GENERAL PROVISIONS

#### 500.01 GENERAL PROVISIONS

The lawful use of any building, structure, or land existing on the effective date of this Ordinance, or authorized by an improvement location permit issued prior thereto, may be continued, although such use does not conform with the provisions of this Ordinance.

#### 500.02 ADDITIONS TO NONCONFORMING STRUCTURES PROHIBITED

Any addition to any existing buildings or structures for the purpose of carrying on any use prohibited under the zoning regulations applicable to the district shall be prohibited.

#### 500.03 ABANDONMENT OF NONCONFORMING USAGE

If a nonconforming use has been abandoned, for a period of six months, any future use of such land, building or structure shall be in conformity with the provisions of the Ordinance regulating the use in the district in which such land, building or structures may be located; provided, however, that abandonment of any particular agricultural process shall not be construed as abandonment of agricultural use.

#### 500.04 REPLACEMENT OF NONCONFORMING USE OR STRUCTURE

If a nonconforming use or structure is removed or destroyed its replacement must comply with this Ordinance by virtue of the conditions of its placement, or by official action such as variance, special exception or reclassification.

Replacement of factory built housing or manufactured housing shall be considered as new construction and must comply with this ordinance by placement or by official action such as variance, special exception or reclassification.

#### 500.05 PERMIT AND ORDINANCE CONDITIONS

All usages, structures, additions, signs, improvements and development shall comply with the provisions of this Ordinance and any other applicable ordinances.

All usages, structures, additions, signs, improvements and development will be prohibited in the area designated as the flood way on the Flood Hazard Boundary Map.

All usages, structures, additions, signs, improvements and development must comply with all applicable local, State and Federal regulations.

All usages, structures, additions, signs, improvements and development shall comply with the regulations of the Greenbrier County Health Department.

The Greenbrier County Building Permit Officer reserves the right to request information solely at its discretion such as copies of regulatory permits or other documentation or compliance with State, local and Federal laws, as a condition of the approval of the permit or usage. Failure to provide such information in a timely manner will be grounds for denial of the permit, rejection of the variance, special exception or reclassification.

#### 500.06 REVOCATION OF PERMIT

A building permit or other action such as reclassification, special exception variance, or other official action, may be revoked by the agency at any time for the following reasons:

- A. Written documentation from an official agency that a proposed usage or permit does not comply with applicable regulations.
- B. Written documentation that proposed usage, structure, sign or development is in violation of flood plain regulations or provisions of the Flood Plain Ordinance, or any other applicable ordinance.
- C. Documentation that the usage, structure, signs or development is in violation of the provisions of this ordinance.
- D. Written documentation that the usage, structure, sign or development is in violation of the Greenbrier County Health Department regulations.
- E. Evidence of submission of a false application. A false application is an application submitted by an applicant for a usage, structure, sign or development in which the applicant either willfully or inadvertently gave incorrect information, which if corrected would have resulted in a denial of the permit or a potentially adverse effect on the application, such as a public hearing request, a higher building permit fee, etc. The Building Permit Officer reserves the right to conduct field visits when deemed necessary to confirm the conditions related to the approval or denial of a permit or application.

The incorrect identification of the exact or related usage for a parcel proposed for reclassification can result in revocation of that reclassification.

**A revoked permit shall be considered as failure to obtain a permit.**

### 500.07 FEES

No fees are required for a Floodplain Determination, a Building Permit or an Improvement Form in Greenbrier County. A fee schedule exists for the Board of Zoning Appeals and for hearings before the Greenbrier County Planning Commission.

### 500.08 PARKING

Any access way or driveway to a public street shall comply with the regulations of the West Virginia State Highway Department relating thereto.

For commercial usage a parking space shall be defined as an area ten feet wide and twenty feet long, which is paved or graveled to permit efficient ingress and egress to the subject site. The spaces must be clearly delineated for easy identification. No commercial permit shall be approved without a clear delineation and demarcation of parking spaces in accordance with the Ordinance. Commercial usages shall also be requested to submit a plan clearly delineating the size and number of parking spaces for the proposed use, and all additional usages which are currently located on the subject lot or lots of record.

### 500.09 INFORMATION REQUESTED FOR PERMIT ISSUANCE

For single family residential housing (site built) the applicant should provide a drawing or plot plan which shows the parcel of property and the placement of the structure on the lot.

The applicant should also provide sufficient information to document that the structure is the only residence located on the plot of record, as well as information which indicates the total area of the lot.

The applicant should also provide documentation of the ownership of the lot of record.

For factory built housing, the applicant should provide the same information as for a site built home. In addition to this information the application shall also provide sufficient information to document the purchase price and the year of construction of the factory built housing.

If the factory built housing is located in a factory built home rental community, the applicant shall provide the lot # for placement of the home. If the factory built housing is placed in another location other than a factory built home rental community, the applicant must submit sufficient information to document the following:

1. Information delineating the model, year, size and cost of the factory built housing.
2. Documentation that the factory built housing is being placed on a lot of record, and that no other housing units of any type are located on that lot of record.

Factory built housing which, according to the terms and conditions of this Ordinance can comply with the architectural and construction standards as to qualify as a site built home, may only have to meet the requirements for site built housing. The

documentation must be complete to verify that the factory built housing does meet the requirements to qualify as site built housing.

For multi-family, commercial, or industrial usages the applicant shall provide a plot plan drawing and/or blue print which clearly delineates the following:

1. The number of housing units if applicable.
2. Information showing the total size of all structures to be built or placed.
3. Information showing the lot of record complete with ownership and showing the placement of structures on the lot of record.
4. Information showing the total size of all buildings and the number of parking spaces, as defined by this Ordinance, delineated on the plan, blue print or drawing.

The Permit Officer reserves the right to deny the issuance of a building permit without the proper information.

The Permit Officer reserves the right to request additional information that is needed to make a determination with regard to the issuance of a permit. All information provided shall be at the expense of the applicant. In accordance with Article 500.06 The Permit Officer reserves the right to revoke the permit for incorrect or false information.

## ARTICLE 600

### SIGNS

600.01 STATEMENT OF LEGISLATIVE INTENT

600.02 PROCEDURES, PERMITS, AND INSURANCE

600.03 PERMIT EXEMPTIONS

600.04 MEASUREMENT OF SIGN AREA

600.05 PROHIBITED SIGNS

600.06 GENERAL SIGN RESTRICTIONS

600.07 ON-PREMISE SIGN REGULATIONS

600.08 ON-PREMISE SIGNS FOR PARKING AREAS

600.09 ON-PREMISE TEMPORARY SIGNS

600.10 OFF-PREMISE SIGN REGULATIONS

600.11 FEES FOR SIGNS

#### 600.01 STATEMENT OF LEGISLATIVE INTENT

It is recognized that signs are a legitimate business land use and have a right to exist within the zoned area. This article is to regulate signs in such a manner as to provide for the reasonable and orderly display of permitted signs.

The purpose of this section is to regulate all:

1. Exterior signs in Residential, Forest Recreation and Open Space Conservation Districts, and
2. Freestanding signs and signs adjoining residences in Commercial and Industrial Districts

placed for exterior observance so as to protect property values and the character of the zoned area. Any sign regulated by this Ordinance and placed on land or on a building for the purpose of identification or for advertising a use conducted therein or thereon shall be deemed to be accessory and incidental to such land, building or use.

It is the intent of the sign regulations to:

1. Accomplish the objectives of the Greenbrier County Comprehensive Plan by such actions as:

- addressing conflicting land uses,

- enhancing the aesthetics/beautification of the County,

- promoting economic development and growth;

2. Provide for the size, location, construction, and manner of display of permitted signs; and
3. Permit such signs that will not, by reason of their size, location, or manner of display, endanger life or limb, confuse traffic, obstruct vision, or otherwise endanger the public morals, safety, or welfare; and
4. Prevent signs from causing an annoyance or disturbance.

#### 600.02 PROCEDURES, PERMITS, AND INSURANCE

- A. It shall be unlawful for any person to erect, alter, relocate or maintain any sign without first obtaining a permit therefore from the Permit Officer except as provided in Section 600.03, Permit Exemptions.
- B. The applicant shall obtain the Permit Officer's approval as to the conformance with this Ordinance.
- C. The application for the Permit Officer's approval of a sign shall be made upon forms provided by the Permit Office. All applications shall be accompanied by accurate sketches and scaled drawings showing the location of the proposed sign.
- D. The Permit Officer may inspect signs to determine if they are detrimental to the public health, safety and welfare. If they are detrimental they shall be removed or repaired.

#### 600.03 PERMIT EXEMPTIONS

A permit shall not be required for the following items, these items being allowed in addition to the maximum number of square footage of signs as permitted in the other sections of this article.

- A. On-premise wall and window signs within Commercial and Industrial Zoning Districts that do face adjoining or adjacent residence(s).
- B. Servicing, repainting, cleaning, or changing the advertising message of an existing sign, except where such activity requires structural alteration.
- C. House number or nameplate (apartment, or home occupation) identifying the occupant or address of a structure and not exceeding two square feet in area.
- D. Real estate signs advertising the sale, rental, or lease of a structure or parcel of property and not exceeding six square feet in area. Larger real estate signs require a permit and are regulated under Section 600.09, On-Premise Temporary Signs.
- E. Memorial sign or tablet or name of building and date of erection, when cut into any masonry surface or when constructed of bronze or other noncombustible material.
- F. Sign painted on or attached to a motor vehicle when such vehicle is properly licensed and operational.
- G. Flag bearing the official design of the United States, or of the State of West Virginia, however, such a flag shall not have any part lower than nine feet above a sidewalk.



- H. Traffic or other government sign, such as legal notice, railroad crossing, or danger or other emergency sign.
- I. Community special event sign or banner removed within thirty (30) days of placement, and placed only twice or less in a calendar year.
- J. Institutional bulletin boards (for churches, community center, etc.) subject to the area, height, and placement regulations for free-standing or wall signs.
- K. Election signs that are directly related to an election. All signs shall be removed within fourteen (14) days after the election.
- L. Yard sale signs that are posted and removed in a three (3) day period.
- M. Holiday lights and decorations with no commercial message.
- N. Traffic control signs on private property which contain no commercial message of any sort.
- O. Residential subdivision entrance signs.
- P. Time and temperature portions of a sign, up to 33% of the total sign area allowed.
- Q. Public warning signs for trespassing or danger area.

**600.04 MEASUREMENT OF SIGN AREA**

- A. The permitted maximum size of a sign shall apply to the entire area enclosing the extreme limits of writing, representation, emblem or figure, together with any frame or other material or color forming an integral part of the display or used to differentiate a sign from the background against which it is placed. Necessary supports or uprights on which a sign is placed are excluded from the measurement of sign area.
- B. The permitted actual size of a sign shall apply to each facing of a sign structure; however, where signs are double-faced, placed back-to-back, or in a V-type construction, only one side of the sign shall be counted when the V is at a 45 degree angle or less.
- C. If a sign is painted over a wall that had to be painted to eliminate a previous sign or similar problem, even though the color unintentionally seems to make the entire wall a part of the new sign, the entire wall shall not constitute the new sign area.
- D. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any fill, berm, mounding or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public road or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower.

#### 600.05 PROHIBITED SIGNS

The following signs shall be prohibited in all districts, except as otherwise noted herein:

- A. Animated sign which incorporates in any manner flashing or moving lights or any other visible moving or revolving part, except for the time, temperature, or date sign.
- B. Sign which obstructs or impairs the vision of drivers or obstructs or detracts from the visibility of, or resembles, any traffic sign or traffic control device on a public street or road, by reason of size, shape, location, color, or illumination.
- C. Signs which makes use of such words as "STOP", "LOOK", "DANGER", or other similar words, phrases, symbols, or characters in such a manner as to imply the need or requirement of stopping or the existence of danger.
- D. Sign which obstructs free ingress or egress for a door, window, fire escape, or other exit way.
- E. Portable sign, except as permitted in Section 600.09 - On-Premise Temporary Sign.
- F. Sign determined by Permit Officer to contain obscene, indecent, or immoral matter.
- G. Sign now or hereafter existing which no longer advertises a bona fide business, activity, campaign, service or product.
- H. Any sign not in compliance with regulations dealing with West Virginia Department of Transportation standards and specifications.
- I. Any sign located in a right-of-way.
- J. String of lights not permanently mounted to a rigid background, except those which are exempt.
- K. Signs facing adjoining residence(s) shall be located in the least visual area to the residence, but also allowing effective advertising.

#### 600.06 GENERAL SIGN RESTRICTIONS

- A. A sign shall not inhibit vision to cause a traffic safety hazard.
- B. A sign shall comply with the height regulations for structures in the zoning district where the sign is located or otherwise specifically regulated in this article.
- C. A free standing sign support structure shall conform to the set-back requirements and no part of the sign shall be within five feet of a public right-of-way.
- D. No roof sign shall project over a public right-of-way nor extend more than ten (10) feet above the roof or parapet line. In no case shall it exceed the applicable district height limit.

- E. A wall sign shall not extend further than 12 inches above or from the building to which the sign is attached.
- F. An on-premise projecting sign shall not have over 30 percent of the total sign area devoted to purpose other than identification.
- G. A projecting sign shall not extend over more than one-half of a public sidewalk nor be lower than nine feet above ground level.
- H. No sign shall be permitted to be erected unless the back of such structure is shielded from public view by a building, other structure, high planting, or another sign of the same size (where permitted), or unless such back is painted a neutral color or is enclosed in a solid metal backing that is treated or painted against corrosion.
- I. All signs and marquees shall be maintained in good and safe structural condition. The painted portions of signs shall be periodically repainted and kept in good condition.
- J. The general area in the vicinity of a free-standing sign must be kept clear of weeds, debris, trash, and other refuse by the property owner.
- K. The roofs of all marquees shall be properly guttered and connected by downspouts so that the water there from will not drip or flow onto public property.
- L. Wall and window signs shall not cover more than 33% of a side of a building.
- M. The front setback shall apply measured from the face of the sign or supporting structure, whichever is closer to the applicable right-of-way.
- N. Must comply with all State and Federal regulations.

**600.07 ON-PREMISE SIGN REGULATIONS**

A. Residential, Forest Recreation and Open Space Districts: On-Premise signs shall be permitted as follows, except as noted under Section 600.08 - On-Premise signs for Parking Areas;

- 1. One non-illuminated nameplate sign and/or non-commercial message is permitted on either a wall or freestanding, provided the surface area does not exceed five square feet and the sign is set back at least five feet from the front property line. The maximum height of the sign shall be six feet.
- 2. One sign, not to exceed seventy (70) square feet in area, shall be permitted for the following uses where permitted: Church, school, museum, other community facility, other special permit use, planned unit development, group housing development, subdivision, or nonresidential principal use. Such sign shall be solely for the purpose of identifying the use and its services or activities and may be illuminated (no exposed neon). Such sign shall not be closer than ten (10) feet to the curb nor more than ten feet (10) in height. The sign must also be located within an area of the property which is least distracting to neighbors.
- 3. A home occupation maybe identified by one non-illuminated wall sign not exceeding a total area of ten (10) square feet, affixed to the building, and not projecting more than one (1) foot beyond the building.

B. Commercial and Industrial Districts: On-premise signs shall be permitted as follows except as noted under Section 600.08 - On-Premise Signs for Parking Areas.

1. The maximum sign area for projecting, free-standing, and marquee signs shall be regulated in accordance with the standards in this ordinance.

2. The signs shall be regulated as follows in regard to number and type of on-premise signs:

a. Free-standing signs shall be limited to a total of one per place of business.

b. One marquee or projecting sign shall be permitted per place of business.

c. One roof sign shall be permitted per place of business, but no roof sign shall exceed one square foot in area for each foot of building frontage.

d. An identification sign on an awning or canopy shall be considered as a wall sign. feet.

e. Must comply with minimum front yard setback of fifteen (15) feet.

f. One portable illuminated sign per place of business.

3. A sign may advertise or provide information related only to the approved usage by this ordinance or official action. Such sign shall not exceed a total area of seventy (70) square feet or a maximum height of twenty (20) feet, and must comply with the front yard setback requirement.

C. Planned Unit Development District (PUD): On-premise signs shall be reviewed by following, in general, the requirements set out for land uses in this ordinance. A master sign plan shall be reviewed and approved during the PUD review process.

#### 600.08 ON-PREMISE SIGNS FOR PARKING AREAS

On-premise signs shall be regulated as follows for parking areas in all districts:

A. Directional signs and pavement markings shall be used to control vehicular movement in a parking area. Signs shall be limited to five square feet each, and an aggregate total not to exceed twenty (20) square feet.

B. No sign of any kind other than those indicating entrances, exits, name of establishment to which such parking area is accessory, or conditions of use shall be erected. No advertising on such signs shall be permitted.

#### 600.09 ON-PREMISE TEMPORARY SIGNS

An on-premise temporary sign (un-illuminated) shall be permitted in accordance with this ordinance.

#### 600.10 OFF-PREMISE SIGN REGULATIONS

A. Off-premise signs shall be permitted in Commercial and Industrial Districts.

B. Forest Recreation, Open Space Conservation and Residential Districts by Special Exception.

C. The permitted maximum area for an off-premise sign shall be one hundred (100) square feet.

D. Off-premise projecting signs shall be prohibited.

(E) The placement of one panel on top of another panel is prohibited unless such signs are with their backs to a building of equal or greater height.

F. The setbacks for and spacing of off-premise signs shall be as follows:

1. The front setback of fifteen feet shall apply, measured from the face of the sign or supporting structure, whichever is closer to the applicable right-of-way.

2. In accordance with State Law, no off-premise sign shall be permitted within fifty (50) feet of a residential district. Also, no illuminated off-premise sign shall be permitted if the sign affects any dwelling in a residential use in a manner as to substantially increase glare on the dwellings.

3. No off-premise sign shall be permitted in or within five hundred feet of a public recreation facility or park, or church. These five hundred feet shall be measured from the closest part of the sign to the lot on which one of said uses is located.

4. No off-premise free standing or roof sign shall be permitted within fifty (50) feet of a bridge abutment.

5. No off-premise free standing or roof sign shall be permitted within fifty (50) feet of a corner of any street intersection.

6. No off-premise sign structure shall be located within two hundred (200) feet of another off-premise sign.

(7.) Off-premise sign structures may be V-type (90 degree angle or less) to back, and each face shall not exceed a maximum area of seventy (70) square feet in size.

8. A commercial or advertising sign may be placed in a Forest Recreation District by Special Exception provided that the Special Exception is approved by the Board of Zoning Appeals, and the proposed sign;

a. Does not exceed a maximum area of seventy (70) square feet

b. Does not exceed a maximum height of twenty (20) feet

c. Is not illuminated

d. Specifically advertises a business located in Greenbrier County.

#### 600.11 FEES FOR SIGNS

No fee shall be charged for the placement of a sign.

## ARTICLE 700

### HOUSING STANDARDS

#### 700.01 STATEMENT OF INTENT

#### 700.02 HOUSING REGULATIONS

#### 700.03 FACTORY BUILT HOME RENTAL COMMUNITY

#### 700.04 OTHER STANDARDS

#### 700.05 EXCLUSION TO STANDARDS

#### 700.01 STATEMENT OF INTENT

A. It is the intent of the housing standards to stabilize and protect the quality and residential character of the county while promoting a suitable environment for family life.

B. Protect the health and safety of the citizens of Greenbrier County by prohibitions against substandard housing.

C. Require the provision of open space.

D. Ensure the availability of affordable housing while promoting the character and values consistent with the beauty and quality of life in Greenbrier County.

#### 700.02 HOUSING REGULATIONS

All homes, whether site built or factory built, shall meet the following standards:

A. The single-family home shall have minimum width of twenty (20) feet at the narrowest point of its first story for a depth of twenty (20) feet.

B. The owner of the single-family home shall also be the owner of the property that the home is placed on.

C. The single-family home shall be placed on a permanent foundation and Modular or manufactured homes shall be installed pursuant to the manufacturer's installation instructions and in compliance with the rules and regulations of the West Virginia Manufactured Housing construction and Safety board established by West Virginia Code 21-9 and regulations approved there under. All single-family homes are required to have perimeter fascia enclosure constructed of compatible masonry material that enclosed the perimeter of the home.

D. All tow bars, wheels, and axles shall be removed when the dwelling is installed on the residential lot, as a permanent structure which is not suited to relocation.

E. The main structure shall have a pitched roof.

F. The main structure shall have roof surface of wood shakes, asphalt, composition or wood shingles, clay, slate, or built-up gravel materials.

G. The main structure shall have exterior siding material consisting of either wood, masonry, concrete, stucco, Masonite, or vertically or horizontally grooved siding or lap siding or its appearance.

H. Use of flat or corrugated sheet metal for the exterior walls or roof covering is prohibited.

I. The permit officer may approve deviations from one or more of the standards on the basis of written findings that the architectural style proposed provides compensating design features and that the proposed structure will be compatible and harmonious with existing structures in the vicinity. The determination of the permit officer may be appealed to the Board of Zoning Appeals.

J. A mobile home, <sup>Singlewide only</sup> as defined by this Ordinance, shall be prohibited unless it complies with the following regulations:

1. The standards outlined in this section

2. Placement in an approved mobile home park, either pre-existing or non-conforming or as previously approved by the Greenbrier County Health Department or official action by the Greenbrier County Planning Commission prior to May 2003.

K. No home, manufactured or site-built, shall be approved unless it fully complies with the regulations of West Virginia/Greenbrier County Health Department.

L. All homes shall be connected to the appropriate utilities.

M. All homes which meet all of the provisions outlined in this section shall be considered acceptable in the Lewisburg and Fort Spring Tax Districts known as the zoned areas of Greenbrier County, subject to all the other provisions in this Ordinance.

N. Factory built housing or manufactured housing shall not be utilized for commercial or industrial usages unless authorized by special exception of the Greenbrier County Board of Zoning Appeals.

O. All housing shall be placed on a lot of record and shall be the only residence on the lot of record unless the site has been approved for multifamily usage.

P. All housing must comply with all of the other provisions of this ordinance.

Q. The Board of Zoning Appeals is empowered to hear or grant variances to this section of the ordinance.

#### 700.03 FACTORY BUILT HOME RENTAL COMMUNITY

The standards shall comply with the standards of the multi-family standards of this Ordinance; the mobile home park regulations of the West Virginia State Board of Health and the approval by special exception by the Board of Zoning Appeals.

700.4 Not used.

#### 700.05 EXCLUSION TO STANDARDS

A manufactured home may be placed for use as a construction office without special exception provided that this usage has a definite date of placement and removal with less than eighteen (18) months between the dates. A permit shall be required for this usage. The Permit Officer may revoke this exclusion, if necessary, to protect the public health, safety, welfare, morals or convenience.

## ARTICLE 800

### RESIDENTIAL DISTRICTS

800.01 STATEMENT OF LEGISLATIVE INTENT

800.02 PRINCIPAL PERMITTED USES

800.03 PERMITTED ACCESSORY USAGES

800.04 USAGES PERMITTED BY SPECIAL EXCEPTION

800.05 INTENSITY OF USE

#### 800.01 STATEMENT OF LEGISLATIVE INTENT

It is the intent of the Residential District to establish low density residential areas consisting of single family dwellings and compatible uses. This district shall provide for the requirements consistent with community values and needs. Standards consistent with those values and needs and appropriate for a single family residential district shall:

- A. stabilize and protect the district's residential character while promoting a suitable environment for family life.
- B. provide for the access of light and air to windows while providing privacy by controlling the spacing and height of structures,
- C. require the provision of open space and regulate signs to enhance the quality of life, and
- D. require the provision of off-street parking to promote a safe and effective traffic circulation system.

#### 800.02 PRINCIPAL PERMITTED USES

Principal uses shall be limited to the following:

- A. Site-built or factory built dwelling, in accordance with the requirements in Article 700
- B. Historic or monument site
- C. Multi-family dwelling of less than five units (not including factory built home residential community)
- D. Public and private parks, but not including commercial activities.
- E. Church, temple or synagogue
- F. Art Studio



- G. Publicly owned school
- H. All usages must comply with flood plain regulations for Greenbrier County.

#### 800.03 PERMITTED ACCESSORY USAGES

Accessory uses shall be limited to the following:

- A. Citizen Band or amateur radio antennae or supporting structure having a height of sixty (60) feet or less measured from ground level.
- B. Detached garage, carport, storage building, condenser unit, private greenhouse, fallout shelter, or other accessory building, or use customarily accessory to a principal use.
- C. Private recreational facility, such as basketball court or tennis court.
- D. Private swimming pool, provided the pool area is enclosed by a fence or wall with entrances and exits which can be locked while pool is not in use.
- E. Raising of garden crops, vineyard crops, fruits, and plants incidental to the residential use of the land.
- F. Livestock and poultry, keeping of (non-commercial)
  - I. Agriculture
  - J. Home Occupation

#### 800.04 USAGES PERMITTED BY SPECIAL EXCEPTION

The following uses shall be permitted by a Special Exception:

- A. Communication or broadcasting tower and related equipment having a height of more than sixty (60) feet measured from ground level
- B. Golf Course
- C. Group recreational or sports facility, non-commercial
- D. Helipad or heliport for governmental or emergency purposes
- F. Bed and Breakfast Home stay
- G. Bed and Breakfast Inn
- H. Child Care Center
- I. Professional Office, total size under 2,000 sq. ft.
- K. Multi-family dwelling, five (5) units or more
- L. Residential Conversion
- M. Hospital
- N. Nursing Home
- O. Manufactured housing of less than 20' in length or width excluding mobile homes as defined by this ordinance.

800.05 INTENSITY OF USE

The minimum lot size shall meet the following requirements:

1. With availability of public water and sewer service the minimum lot size shall be 20,000 square feet with a minimum width of sixty (60) feet.
2. With public water service and without public sewer service the minimum lot size shall be 30,000 square feet.
3. Without public water or sewer service the minimum lot size shall be 43,560 square feet.
4. All usages are subject to current State/County Health Department regulations.

## ARTICLE 900

### OPEN SPACE CONSERVATION

900.01 STATEMENT OF LEGISLATIVE INTENT

900.02 PRINCIPAL PERMITTED USAGES

900.03 PERMITTED ACCESSORY USAGES

900.04 USAGES PERMITTED BY SPECIAL EXCEPTION

900.05 INTENSITY OF USE

### 900.00 OPEN SPACE CONSERVATION

#### 900.01 STATEMENT OF LEGISLATIVE INTENT

It is the intent of the Open Space Conservation District to permit development which is designed to reflect the rural character and beauty of the area. This district shall provide for requirements consistent with community values and needs. Standards consistent with those values and needs and appropriate for this district shall:

- A. provide for residential development while protecting the rural agricultural nature of the district, and promoting a suitable environment for family life.
- B. require the provision of open space and regulate signs to enhance the quality of life.
- C. encourage development which supports open space by more restrictive intensity requirements than those present.
- D. provide for the access, light and air to window while providing privacy, and controlling the space and height of structures.
- E. require the provision of off-street parking to promote a safe and effective traffic circulation system.

#### 900.02 PRINCIPAL PERMITTED USAGES

Principal usages shall be limited to the following:

- A. Site-built homes persistent with the requirements of Article 700 of this Ordinance.
- B. Site-built multi-family usages (not including factory built home residential community) of four units or less.
- C. Manufactured housing consistent with the requirements of site-built housing as specified in Article 700 of the Ordinance.
- D. Historic of monument sites.
- E. Public and private parks (not including commercial activities)
- F. Agriculture

G. Only one (1) principal residential structure shall be permitted per lot of record.

H. Churches

**900.03 PERMITTED ACCESSORY USAGES**

Accessory uses shall be limited to the following:

- A. Citizen Band or amateur radio antennae or supporting structure having a height of sixty (60) feet or less measured from ground level.
- B. Detached garage, carport, storage building, condenser unit, private greenhouse, fallout shelter, or other accessory building, or use customarily accessory to a principal use.
- C. Keeping of not more than one non-transient roomer or boarder by the resident family.
- D. Private recreational facility, such as a basketball court or tennis court.
- E. Private swimming pool.
- F. Raising of garden crops, vineyard crops, fruits, and plants incidental to the residential use of the land.
- G. Satellite dish antenna located in the rear yard and on the ground.
- H. Livestock and poultry, keeping of (non-commercial)

**900.04 USAGES PERMITTED BY SPECIAL EXCEPTION**

The following uses shall be permitted by a Special Exception:

- A. Child care center
- B. Communication or broadcasting tower and related equipment having a height of more than sixty (60) feet measured from ground level.
- C. Golf course
- D. Group recreational or sports facility, non-commercial
- E. Helipad or heliport for governmental or emergency purposes.
- F. Home occupation
- G. Public library or museum
- H. Bed and Breakfast Home Stay
- I. Multi-family development of five units or more.
- J. Residential Conversion

**900.05 INTENSITY OF USE**

For all areas a minimum lot size of two (2) acres shall be required.

# ARTICLE 1000

## FOREST RECREATION

- 1000.01 STATEMENT OF INTENT
- 1000.02 PRINCIPAL PERMITTED USAGES
- 1000.03 USES PERMITTED BY SPECIAL EXCEPTION
- 1000.04 INTENSITY OF USE
- 1000.00 FOREST RECREATION**

### 1000.01 STATEMENT OF INTENT

It is the intent of the Forest Recreation District to understand and appreciate the natural beauty and characteristics of this district. This designation is primarily designed for individual areas where soil, slope and access are limited. The intent of this district designation is to afford safe, decent and sanitary land usages while also reflecting greater individual freedom due to the lack of congestion in these areas.

Standards consistent with those values and needs and appropriate for the Forest Recreation District shall:

- A. stabilize and protect the district's rural character while promoting a suitable environment for family life.
- B. require the provision of off-street parking to promote a safe and effective traffic circulation system.
- C. provide a reasonable balance between individual freedom and the protection of the public health, safety, welfare, morals and convenience.

### 1000.02 PRINCIPAL PERMITTED USAGES

Principal permitted uses shall be limited to the following:

- A. Site-built dwellings
- B. Manufactured housing consistent with the requirements of site built housing as specified in Article 700 of this ordinance.
- C. Historic or monument site
- D. Public and private parks not including commercial activities
- E. Agriculture
- F. Only one principal residential structure shall be permitted with the exception of multi-family development of five (5) units or less.
- G. Churches

H. Bed and Breakfast home stay

**1000.03 USES PERMITTED BY SPECIAL EXCEPTION**

The following uses will be permitted by a special exception:

- A. Factory built home rental community
- B. Child care center
- C. Public or private school
- D. Golf course
- E. Public library
- F. General or convenience store of less than 8,000 square feet total building area.
- G. Manufactured housing of less than twenty (20) feet in length or width excluding mobile homes as defined by this Ordinance.
- H. Off-premise signs
- I. Hospital
- J. Nursing Home
- K. Beauty Shop or Salon
- L. Residential Conversion
- M. Home Occupation

**1000.04 INTENSITY OF USE**

- A. With public water and sewer service the minimum lot size shall be 12,000 square feet.
- B. With public water but without public sewer service the minimum lot size shall be 20,000 square feet.
- C. Without public water or sewer service the minimum lot size shall be 32,670 square feet (3/4 acre).
- D. No lot shall be less than sixty (60) feet in width.
- E. Must comply with all current State/County Health Department Regulations.

# ARTICLE 1001

## COMMERCIAL

- 1000.01 STATEMENT OF INTENT
- 1000.02 PRINCIPAL PERMITTED USAGES
- 1000.03 USES PERMITTED BY SPECIAL EXCEPTION
- 1000.04 INTENSITY OF USE
- 1001.00 COMMERCIAL**

### 1000.01 STATEMENT OF INTENT

It is the intent of the Commercial District is to provide for a wide range of commercial uses, whose nature of business requires convenient automobile and truck access. Such uses must be accessible to the county as well as the entire region. They must be planned in a way to promote and protect commercial and working areas.

### 1000.02 PRINCIPAL PERMITTED USAGES

Principal uses shall be limited to the following:

- A. Greenhouse (commercial)
- B. Cultural, Entertainment, Assembly, Recreational
  - 1. Art gallery
  - 2. Assembly hall
  - 3. Auction facility
  - 4. Bowling
  - 5. Church, temple, or synagogue
  - 6. Church revival facility
  - 7. Gymnasium or athletic club
  - 8. Historic or monument site
  - 9. Library
  - 10. Miniature golf
  - 11. Movie theater (walk-in), excluding adult movie theater
  - 12. Museum
  - 13. Park

14. Penny arcade
15. Play lot, playground, or athletic field
16. Pool hall
17. Skating rink
18. Swimming pool
19. Tennis Court
20. Theatrical facility

C. Manufacturing

1. Arts or crafts
2. Bakery products
3. Instruments - professional, scientific, or controlling (assembly only)
4. Printing and publishing
5. Sign fabricating or painting
6. Manufacturing or processing facility which is;
  - (a) emission free,
  - (b) employees less than fifty (50) persons at maximum capacity.

D. Residential

1. Multi-family dwelling
2. Rooming house

E. Retail Trade

1. Antiques
2. Apparel
3. Appliances
4. Artists' or craft materials, supplies, or finished products
5. Audiovisual equipment or supplies (excluding adult videotape store)
6. Automobile parts, supplies, or accessories, including tires and batteries
7. Awnings or canopies (may include assembly)



8. Bakery products
9. Books, stationery, (excluding adult book store)
10. Building materials
11. China, glassware, or metal ware
12. Christmas trees (open storage permitted)
13. Cosmetics or perfume
14. Department store
15. Draperies, curtains, or upholstery
16. Drug store
17. Electrical supplies
18. Fabric or dry goods
19. Farm supplies
20. Fire arms
21. Floor coverings
22. Florist
23. Food
24. Furniture or fixtures, including fabrication
25. Garden or lawn supplies (open storage permitted)
26. Gifts, novelties, or souvenirs
27. Glass
28. Hardware and lumber supplies (open storage permitted)
29. Hearing aids
30. Heating, cooling, ventilating, or plumbing equipment
31. Hobby supplies
32. Ice
33. Instruments - professional, scientific, or controlling
34. Jewelry, watches, or clocks
35. Luggage

36. Machinery (no open storage permitted)
37. Mail order house
38. Monuments
39. Musical instruments or supplies
40. Newsstand
41. Office supplies
42. Optical goods
43. Paint or wallpaper
44. Pawn shop
45. Pet shop
46. Photographic equipment
47. Prefabricated, pre-cut, or modular buildings (no open storage permitted)
48. Records, phonograph
49. Restaurant
50. Second-hand merchandise
51. Service station, automobile
52. Sporting goods
53. Stereophonic or high fidelity equipment
54. Tailoring, custom
55. Television or radios
56. Tobacco products
57. Toys
58. Variety store
59. Vending machines

F. Services

1. Animal grooming
2. Animal hospital or clinic

3. Apparel or costume rental
4. Apparel repair or alteration
5. Appliance repair
6. Arts or crafts - instruction or studio
7. Association or organization, including welfare or charitable agencies, labor unions, or professional, civic, social, or fraternal organization (may include incidental sleeping accommodations)
8. Automobile Service Station
9. Automobile washing or polishing (also see "Motor Vehicle")
10. Barber or beauty shop
11. Carpet or rug cleaning or repairing
12. Catering
13. Child care center
14. Clinic - medical, dental, or optical (no limitation on related retail sales)
15. Contractor's establishment - electrical, glazing, heating, painting, paperhanging, plumbing, roofing or ventilation
16. Credit agency
17. Dancing instruction or studio
18. Diesel service station
19. Driving instruction
20. Dry cleaning
21. Duplicating or mailing
22. Employment agency
23. Exterminating or fumigating company
24. Financial institution
25. Funeral home
26. Furniture - upholstering, repairing, or refinishing
27. Glass - cutting, coating, or tinting
28. Health spa
29. Hotel

30. Janitorial services
31. Jewelry, watch, or clock repairing
32. Kennel
33. Laboratory - medical or dental
34. Laundry
35. Locksmith
36. Machine repair - small business or office, or lawn or garden
37. Motel
38. Motor vehicle
  - a. glass or muffler installation
  - b. motor rebuilding
  - c. repairing or general service
  - d. tire recapping
  - e. upholstering (including vinyl or fabric tops)
39. Musical instruction or studio
40. Office - business or professional
41. Photo finishing (developing or processing)
42. Photography studio - commercial or portrait
43. Picture framing
44. Rentals, excluding heavy equipment or machinery
45. School - business, secretarial, industrial, technical, or trade
46. Instruction studio
47. Stenographic service
48. Stereophonic or high fidelity equipment repair
49. Taxidermy
50. Television or radio repair
51. Trading stamp redemption center
52. Travel agency or bureau

53. Warehousing (but not including junkyard)

54. Rental storage building

G. Transportation, Communication, Utilities

1. Broadcasting station

2. Bus garage or terminal

3. Communication or broadcasting tower and related equipment having a height of sixty (60) feet or less measured from ground level

4. Crating or packing

5. Limousine service

6. Parking structure or lot, automobile (commercial)

7. Public utility

8. Rail terminal

9. Taxi service

10. Television or radio studio

11. Truck terminal

H. Wholesale trade

1. Apparel

2. Drugs

3. Electrical supplies

4. Fabric or dry goods

5. Floor coverings

6. Food or related products

7. Furniture or fixtures

8. Glass, bulk

9. Machinery or equipment (limited to lawn and garden, small electric, or business)

10. Motor vehicle parts

I. Uses similar to those listed in subsections (A) through (H) above shall be permitted when the Permit Officer determines that such use is of the same general character as at least one of those listed.

J. Mixed usage located in the same structure shall be permitted, including housing units, without special exception.

**1001.03 USES PERMITTED WITH SPECIAL EXCEPTION**

The following uses shall be permitted with a special exception:

Housing, the regulations for housing shall be identical to those for the residential district.

Factory built or manufactured housing.

**1001.04 INTENSITY OF USE**

There shall be no intensity of use required for non-residential structures constructed in this district. However, the proposed development must clearly demonstrate the availability of adequate parking as defined by this Ordinance. Plot plans or blue prints must clearly show the number of spaces and that each space is the appropriate size.

## ARTICLE 1002

### INDUSTRIAL

1002.01	STATEMENT OF INTENT
1002.02	PRINCIPAL PERMITTED USAGES
1002.03	USES PERMITTED BY SPECIAL EXCEPTION
1002.04	INTENSITY OF USE

#### 1002.01 STATEMENT OF INTENT

These districts shall be designated for the development of industry and strengthening of the economic base of the County and for providing job opportunities for our citizens.

#### 1002.02 PRINCIPAL PERMITTED USAGES

The following usages shall be permitted:

1. Manufacturing or processing of products in compliance with all applicable state and Federal environmental laws and regulations.
2. Emission free manufacturing or processing
3. Research design and development laboratories
4. Wholesale storage and warehousing
5. Commercial breeding farms and agribusiness
6. Office facilities related to the industry.

#### 1002.03 USES PERMITTED BY SPECIAL EXCEPTION

The following uses shall be permitted when authorized by a Special Exception:

Commercial usages consistent with the requirements of Article 1001 of this Ordinance, which will employ the equivalent of fifty (50) or more full time employees. A part time employee shall be considered equal to one half of a full time employee for purposes of this requirement.

Multi-family development of ten (10) units or more

#### 1002.03 INTENSITY OF USE

No minimum lot size shall be required

## ARTICLE 1003

### PLANNED UNIT DEVELOPMENT

- 1003.01 STATEMENT OF INTENT
- 1003.02 PRINCIPAL PERMITTED USAGES
- 1003.03 ALL OTHER USAGES

#### 1003.01 STATEMENT OF INTENT

It is the intent of the PUD Planned Unit Development District to promote innovation and creativity for specifically designed and detailed planned development. It is also the intent to promote the efficient uses of land through well planned development.

#### 1003.02 PRINCIPAL PERMITTED USAGES

The following usages shall be permitted:

1. Agriculture
2. Site-built single family dwelling
21. Bed and Breakfast Home stay
22. Historic or monument site

All proposed usages in the PUD District must comply with the requirements of the State/County Department of Health, and provide written documentation of such compliance.

All usages must comply with the flood plain regulations for Greenbrier County.

#### 1003.03 ALL OTHER USAGES

A use other than those listed under Article 1003.02 shall be subject to the following regulations:

The applicant for the proposed use must file an application, complete with fees, to the Board of Zoning Appeals. That application shall clearly delineate the following information:

1. The size of the structures to be built or utilized on the subject property.
2. The location of the structures to each of the property boundaries, e.g., set backs.
3. A plan showing the number and size of each of the proposed lots, if the property is to be subdivided.



4. Documentation from the State/County Department of Health and State/County Department of Transportation indicating the ability to meet the regulations of those agencies.

If the usage is found by the Permit Officer to be commercial, the applicant shall give a complete and detailed written description of the proposed usages, including the number of parking spaces, the number of employees to be employed on the subject property, both part time and full time, the total cost of the development, and the hours of operation.

If signs are to be utilized, the applicant must submit a detailed plan showing the number, wording, and presence or lack of illumination of the signs. On premise signs shall be reviewed by following, in general, the requirements set out for land uses in this ordinance. A master sign plan shall be reviewed and approved during the PUD review process.

The Permit Officer and the Board of Zoning Appeals reserve the right to request additional information if they deem that additional information is essential to protect the health, safety, morals, welfare and convenience of the citizens.

Upon receipt of the application, the Permit Officer will determine, consistent with its rules, if the application is complete to afford public hearing. If the Permit Officer finds the application to be complete, they shall schedule a public hearing with the Board of Zoning Appeals on the proposed usage in the PUD district, following a Class I legal advertisement.

The hearing may be scheduled at the convenience of the Board of Zoning Appeals, but shall not occur sooner than the fifteenth day after the publication of the legal advertisement, nor later than forty five days following the finding of completeness of the application by the Permit Officer.

#### Public Hearing

The public hearing shall be conducted in accordance with the provisions of the ordinance for public hearings.

#### Findings of the Board of Zoning Appeals

The Board of Zoning Appeals shall render a decision which rejects, amends, or accepts the applicant's plan. The Board of Zoning Appeals shall thereafter recommend its decision, in writing, to the County Commission. The County Commission, at its first meeting following receipt of the Board of Zoning Appeals' written decision, shall proceed to a consideration of said decision and thereafter shall adopt, amend, or reject the same.

Approval of PUD designations shall expire if the approved usage does not begin or substantially operate within twelve months of the approval of the usage. If a usage is approved, and usage begun it shall be continued throughout the effective utilization of the ordinance.

# ARTICLE 1004

## SETBACKS

### 1004.01 AREA AND HEIGHT REGULATIONS FOR ALL DISTRICTS

#### 1004.01 AREA AND HEIGHT REGULATIONS

The following schedules of regulations applying to the area of lots, height of buildings, the yards and other open space to be provided, off-street parking spaces, minimum floor areas and all other matters contained therein, indicated for the various districts established by this Ordinance, are hereby adopted and declared to be a part of this Ordinance.

The following minimums will be observed in all Districts:

Front Yard Setback	35 feet
Side Yard Setback	15 feet
Rear yard Setback	30 feet
Combined Setback shall not be less than 60 feet.	

Maximum building height 60 feet from ground floor level  
(The height requirement shall not apply in Industrial Districts)

#### Accessory buildings (garages, storage buildings, etc.):

Front Yard Setback	35 feet
Side Yard Setback	5 feet
Rear Yard Setback	5 feet

#### **Signs**

Commercial and Industrial Districts 15 feet (front yard)

Open Space, Forest Recreation and Residential Districts 10 feet (front yard)

Off premise signs 15 feet (front yard)

## ARTICLE 1005

### PARKING

1005.01 OFF-STREET PARKING

1005.02 OTHER REQUIREMENTS

#### 1005.01 OFF-STREET PARKING

For the purpose of this ordinance the following parking space requirements shall apply:

<u>TYPE OF USE</u>	<u>PARKING SPACES REQUIRED</u>
Single family dwelling:	2 per each dwelling unit
Multi-family dwelling:	1.5 spaces per unit
Housing for the elderly:	1 space per unit
<b>Commercial type use:</b>	
Hotel, motel, rooming house:	1.5 spaces per guest room
Bed and Breakfast:	1.5 spaces per guest room
Shopping Centers:	5 spaces per each 1,000 square feet of total building area
All other commercial:	1 space for each 300 square feet of total building area
Institutional:	None
Churches:	None
Hospitals:	1 per each bed
Nursing homes or other similar uses:	1 per every 2 beds
Medical, Dental, or professional offices:	1 per each 300 square feet of building area
Libraries, museums:	1 per each 300 square feet of building area
Art studios:	1 per each 300 square feet of building area

#### 1005.02 OTHER REQUIREMENTS

A parking space shall not be smaller than ten (10) feet in width or smaller than twenty (20) feet in length. For multiple usages located in separate buildings the

applicant must show the total square footage for all of the buildings, and must comply with a requirement equal to one space for every 300 square feet of total building area.

Commercial usages and multi-family usages will be required to show a plot plan with each of the spaces designated. All parking spaces for these usages must be either paved or graveled. All spaces must comply with the appropriate environmental regulations pursuant to the applicable State or Federal regulations. A use will be assumed to meet the applicable environmental regulations. Official notification of non-compliance will result in revocation of the building permit.

## ARTICLE 1006

### DISTRICT DIMENSIONS

1006.01	INDUSTRIAL DISTRICTS
1006.02	COMMERCIAL DISTRICTS
1006.03	PUD DISTRICTS
1006.04	OTHER DISTRICTS

#### 1006.01 INDUSTRIAL DISTRICTS

1. The Eastern Greenbrier Industrial Park
2. The Greenbrier Tractor Sales Property as delineated on Tax Map 9 Parcel Lewisburg Tax District
3. Appalachian Electronics Property in Fairlea as delineated on Tax Map 9 Parcel 19.1, Fort Spring District
4. 300 acres previously rezoned by the Planning Commission for R.B.S. in North Caldwell. As recoded in the Office of the Clerk of Greenbrier County in Deed Book 236 Page 311.
5. McDaniel Vault, now known as Greenbrier Vault, as delineated on Tax Map 9, Parcel 27, Fort Spring District.
6. Ambler Construction as delineated on Tax Map 9, Parcel 4.1, Fort Spring District.
7. Rt. 60 West, Daniel Lilly property owner, as delineated on Tax Map 23 Parcel 3, Lewisburg Tax District.

#### 1006.02 COMMERCIAL DISTRICTS

1. 500 feet on each side of US Rt. 219 North and South and Maplewood Avenue. The 500 feet of designation shall begin at the edge of the pavement beginning at the Southern Boundary of the Lewisburg City Limits.
2. 1,500 feet from the edge of US 219 North on property owned by C.A. McHale as described in the Office of the Clerk of Greenbrier County in Deed Book 215 Page 337 in Lewisburg Tax District.
3. Lewisburg District 500 feet on each side of US Rt. 219 beginning at the edge of the pavement. The district shall begin at the Northern Boundary of the City of Lewisburg and shall end at the Southern entrance of Echols Acres.
4. 2.5 acre parcel in Lewisburg District, lots 16 through 20, Greenbrier Heights Subdivision on the corner of RT. 60 and Houfnagle Road.
5. Staten property in Fort Spring District, Teaberry Road, and 3.2 acre parcel as described in the Office of the Clerk of Greenbrier County in Deed Book 336 Page 584 Tax Map 10 Parcel 34.
6. Rt. 60 West and Houfnagle Road, a 3 acre tract owned by Richard L. Skaggs, II as described in the Office of the Clerk of Greenbrier County in Deed Book 244 Page 636.
7. McDaniel Vault, Clyde Fullen property owner, 40 acre tract adjacent to Fair Oaks Trailer Park, Tax map 9, Parcel 27.
8. Fullen Fertilizer, 2.5 acre tract, in Fort Spring Tax District.
9. Edgewood Motors, corner of Stonehouse and Brush Roads.
10. Ambler construction off of Old Powell Road
11. Greenbrier Valley Mall, Fairlea, 750 feet off of US 219.
12. Cathleen Hinkle, Houfnagle Raod .048 acre parcel adjacent to Liberty Baptist Church.

13. O'Brien Inc., US Rt. 219, across from Red Oaks Shopping Center, 1250 feet off of US 219
14. Ron Snedegar, Brush Road, Map 20A Parcel 4.1, Lewisburg Tax District.
15. Jeffrey Riddle, Rt. 60 West Lots 30 & 31 Greenbrier Heights Subdivision, Tax map 23B, parcels 65 & 66.

#### **1006.03 PUD DISTRICTS**

The Greenbrier River Trail - 1000 feet on either side of the Greenbrier River Trail.

Sweet Grass, Rt. 60 West of Lewisburg

#### **1006.04 OTHER DISTRICTS**

##### **Forest Recreation**

Robertson/Hinkle Greenbrier Heights Subdivision with entrances off of Muddy Creek Mountain Road and Houfnagle Road.

##### **Open Space Conservation**

6,273 acres located in the northwest corner of the Lewisburg Tax District.

## ARTICLE 1007

### ADMINISTRATION OF THE ORDINANCE

1007.01	ADMINISTRATION AND ENFORCEMENT
1007.02	REQUIREMENTS OF PERMIT
1007.03	APPLICATION FOR PERMIT
1007.04	ISSUANCE OF PERMITS
1007.05	COMPLIANCE WITH PLAN
1007.06	RENEWAL OF APPROVAL
1007.07	FEES
1007.08	RESPONSIBILITY FOR ADMINISTRATION AND ENFORCEMENT
1007.09	START OF CONSTRUCTION
1007.10	STOP WORK ORDER NOTICE, INSPECTIONS, AND REVOCATIONS
1007.11	APPEALS
1007.12	APPEAL AND REVIEW CRITERIA
1007.13	PENALTIES
1007.14	COUNTY LIABILITY

#### 1007.01 Administration and Enforcement

This ordinance shall be enforced by the County Commission, the Assessor, the Planning Commission, the Board of Zoning Appeals, and the Permit Officer.

The Permit Officer shall administer this Ordinance in accordance with its provisions as directed by the Greenbrier County Commission.

#### 1007.02 Requirements of Permit

A permit shall be required:

1. prior to the erection of any building, structure, sign, or portion thereof,
2. prior to the use or change in use of a building or land, and
3. prior to the change or extension of a non-conforming use.

### **1007.03 Application for Permit**

Applications for permits shall be made to the Permit Officer on such forms as may be furnished by the County. Each application shall contain all information necessary to ascertain whether the proposed erection, alteration, use or change in use complies with the provisions of this Ordinance.

### **1007.04 Issuance of Permit**

No improvement location permit or use permit shall be issued until the Permit Officer has certified that the proposed building or alteration and the proposed use of the property complies with all the provisions of this Ordinance.

### **1007.05 Compliance with Plan**

Following the issuance of a permit for construction and use in accordance with approved plans, no change, deviation, or alteration shall thereafter be permitted except when authorized by the Permit Officer upon the written application for permit. IF the lot or tract for which the development has been approved is sold, the original conditions upon which approval was granted shall be fulfilled by the new owners.

### **1007.06 Renewal of Approval**

If construction of an approved development is not undertaken within 180 days from the time that approval was last granted by the Permit Officer, the application for development must be reviewed and renewal of approval must be obtained.

### **1007.07 Fees**

No fees shall be charged for any permits or floodplain determinations issued according to this ordinance. The Board of Zoning Appeals requires a \$50 application fee. The Planning Commission requires a \$50 fee if a public hearing is required for an action.

The Greenbrier County Commission has the ability to amend the fee schedule at its discretion and such fee schedule change shall not be considered an amendment to the Ordinance.

### **1007.08 Responsibility of Administration and Enforcement**

- A. It shall be the duty of the Permit Officer to administer and enforce the provisions of this ordinance, except as otherwise expressly provided in this ordinance.
- B. It shall be the duty of the Permit Officer to:
  1. Perform zoning reviews of building permit applications as necessary to determine compliance with the provisions of this ordinance.
  2. Maintain permanent and current records of all applications for building permits.
  3. Conduct investigations as necessary to determine compliance with or violation of this ordinance.
  4. Participate in the abatement of violations of this ordinance and aid in the prosecution of such violations.



### 1007.09 Start of Construction

Work on the proposed construction shall begin within six (6) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Permit Officer.

### 1007.10 Stop Work Order Notice, Inspections, and Revocations

#### A. Stop Work Orders

The Permit Officer or the Compliance Officer, upon inspection, shall issue, or cause to be issued, a stop work order, immediately by placing a "Stop Work Order Notice" on the property, for any development found ongoing without having filled out a building permit application to enable the county to make a determination if the work being done or the anticipated end product is in accordance with the Greenbrier County Zoning Regulation for the two zoned districts. If the work is occurring in non-zoned areas, a building permit is still required. The property owner shall be allowed seven (7) days to apply for a building permit or an improvement form in either zoned or unzoned areas. If all work is compliant the stop work order shall be removed. Disregard of a stop work order shall subject the violator to the penalties described in Section 8.3 of this local law.

#### B. Inspections and Revocations

During the construction period, the Permit Officer, the Compliance Officer or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable laws and ordinances. In the event that the Permit Officer or the Compliance Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances or that there has been a false statement or misrepresentation by any applicant, the Permit Officer or the Compliance Officer shall issue a "Stop Work Order Notice" revoke the building permit and report such fact to the Prosecuting Attorney and the Greenbrier County Commission in writing. When a stop work order is issued, the property owner must bring the work into compliance within seven (7) days and request an additional compliance inspection. If the work is not brought into compliance within seven days the building permit may be permanently withdrawn at the discretion of the Permit Officer or the Compliance Officer.

### 1007.11 Appeals

Whenever any person, partnership, business or corporation is aggrieved by a decision of the Permit Officer or the Compliance Officer with respect to the provisions of this ordinance, it is the right of that aggrieved person to appeal to the Greenbrier County Commission, which shall be known as the Appeals Authority.

Such appeal must be filed, in writing, within thirty (30) days after the person, partnership, business or corporation has been notified of the decision.

Upon receipt of such appeal, the Appeals Authority shall set a time and place not less than ten (10) days nor more than sixty (60) days for the purpose of hearing the appeal.

Notice of the time and place of the hearing shall be given to all parties at which time they may appear and be heard.

The determination by the Appeals Authority shall be final in all cases.

#### 1007.12 Appeal and Review Criteria

All appeals contesting provisions of this Ordinance shall adhere to the following criteria:

- A. Affirmative decisions shall only be issued by the Appeals Authority upon
  1. a showing of good and sufficient cause,
  2. a determination that failure to grant the appeal would result in exceptional hardship to the applicant, and
  3. a determination that the granting of an appeal will not result in additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinance.
- B. An affirmative decision shall be issued only upon determination that it is the minimum necessary to afford relief. Financial hardship, as a sole criterion, shall not be considered sufficient justification to grant an appeal.
- C. An affirmative decision may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- D. The Appeals Authority shall notify the applicant in writing over the signature of the President of the County Commission stating the reasons for the decision with reference to the criteria in section A above. Such notifications shall be maintained with a record of all decisions as required in section E of this section; and
- E. The Appeals Authority shall maintain a record of all decisions including justification for the issuance.

#### 1007.13 Penalties

Any person who fails to comply with any or all of the requirements or provisions of this ordinance or direction of the Permit Officer or any other authorized employee of the county shall be guilty of an offense and, upon conviction, shall pay a fine of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00) plus cost of prosecution.

In default of such payment such person shall be imprisoned in the Regional Jail for a period not to exceed 10 days. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance.

The imposition of a fine or penalty for any violation of, or non-compliance with, this Ordinance shall not excuse the violation or non-compliance with this Ordinance or permit it to continue; and all such persons shall be required to correct or remedy such violations or non-compliances within thirty (30) days.

Any structure constructed, reconstructed, enlarged, altered or relocated in non-compliance with this Ordinance may be declared by the Greenbrier County Commission to be a public nuisance and abatable as such.

**1007.14 County Liability**

The granting of a permit or approval of a subdivision or development plan shall not constitute a representation, guarantee, or warranty of any kind by Greenbrier County or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon Greenbrier County or by any official or employee thereof.

## ARTICLE 1008

### POWERS OF THE COUNTY COMMISSION

1008.01 POWERS OF THE COUNTY COMMISSION

### 1008.00 POWERS OF THE COUNTY COMMISSION

#### 1008.01 POWERS OF THE COUNTY COMMISSION

The Greenbrier County Commission is the legal governmental body whose powers specifically delegated by the State Code of West Virginia with regard to planning and zoning are as follows:

1. Appointment of the members of the Board of Zoning Appeals consistent with the requirements of the State Code.
2. Appointment of the members of the Planning Commission pursuant to the requirements set forth by the State Code.
3. The County Commission may also approve or reject a recommendation for rezoning which has been presented to them by the Planning Commission in accordance with the State Code and this Ordinance.
4. The County Commission shall, in accordance with the State Code and this Ordinance and following recommendation of the Planning Commission, amend, revise, or repeal the provisions or sections of the Ordinance.

## ARTICLE 1009

### AMENDMENT PROCEDURES

1009.01	INITIATION OF AMENDMENT
1009.02	RECLASSIFICATION FILING PROCEDURES
1009.03	FOREST RECREATION, OPEN SPACE, OR RESIDENTIAL REZONING
1009.04	COMMERCIAL REZONING
1009.05	INDUSTRIAL REZONING
1009.06	PUD REZONING
1009.07	CONDITIONAL ZONING

#### 1009.01 INITIATION OF AMENDMENT

An amendment, supplement, modification, or change in the text of this Ordinance or the Official Zoning Map may be initiated by:

- A. A petition approved by the County Planning Commission.
- B. A petition duly signed by real property owners of 50 percent or more of the property involved in the petition

Any proposed amendment, supplement, or change shall first be submitted to the County Planning Commission for public hearing, recommendation, and report.

#### 1009.02 RECLASSIFICATION FILING PROCEDURES

An application to reclassify or change the district designation of a given property must meet the following requirements:

1. The applicant for the reclassification must submit an application to the Planning Commission. The Planning Commission will determine if the application is complete to afford a public hearing. If an application is found to be incomplete, it must be re-filed and will be considered a new application with new fees. The decision on the completeness of an application shall be in accordance with the rules and regulations adopted by the Planning Commission for rezoning.

#### 1009.03 FOREST RECREATION, OPEN SPACE CONSERVATION, OR RESIDENTIAL REZONING

For rezoning to a designation of Forest Recreation, Open Space Conservation or Residential, the following requirements must be met:

1. The parcel considered for rezoning must be at least 87,120 square feet.

2. An application with fees fully paid shall be submitted to the Planning Commission. That application shall be notarized and attest to the accuracy of the statements contained within the application, under penalty of law.

3. The application must clearly designate the subject property and all properties which directly adjoin the subject property to be rezoned. A road or right-of-way shall not be construed as breaking up the adjoining property.

4. The Greenbrier County Planning Commission shall hold a public hearing on application that it deems to be complete in accordance with its regulations. There shall be notification by a Class I Legal Advertisement published in the newspaper of general circulation.

#### 1009.04 COMMERCIAL REZONING

For Commercial rezoning the subject property for rezoning must meet one the following requirements:

1. Adjoin a parcel of property zoned in an identical manner or utilized by a non-conforming usage which began prior to October 1, 1973.
2. Be five (5) acres or more in size.

The application must clearly and specifically identify the proposed usage.

The applicant must complete an application packet developed by the Greenbrier County Planning Commission.

The applicant must post a notice of the proposed rezoning on the subject property. This notice will be provided by the County Planning Commission and shall be posted at least fifteen (15) days prior to the public hearing and for forty five (45) days following the public hearing for applications which were approved.

The application must clearly and specifically delineate the proposed commercial usage for the property and show at minimum the following:

1. The size of the structures to be built or utilized on the subject property.
2. The nature or the type of commercial enterprise to be conducted on the subject property.
3. The number of parking spaces to be located on the property.
4. The total number of employees to be employed on the subject property both part time and full time.
23. The total cost of the development.
6. The specific type of business or usage planned for the site.

The applicant must receive approval by the planning commission for any changes in the plan submitted for consideration either before or after zoning approval. Failure to do so will constitute the return of the property to its original classification as a zoning district under this Ordinance.

All commercial development must begin within twenty four (24) months of the approval. Failure to do so will result in the subject property reverting back to its original zoning classification under this Ordinance.

#### 1009.05 INDUSTRIAL REZONING

The Greenbrier County Planning Commission desires to encourage the further economic development of Greenbrier County to promote the enhancement of job and economic opportunities for the citizens of Greenbrier County.

For industrial rezoning, a parcel should adjoin a commercial or industrial usage to meet the contiguous requirement. A boundary survey shall be required. For industrial applications only, a completeness hearing may be waived and the determination of completeness made by the staff of the Greenbrier County Planning Commission, provided that the proposed industrial rezoning has written documentation of need from an economic development organization. This written documentation is limited to the Greenbrier Valley Economic Development Corporation of the State of West Virginia. If this recommendation is not present, the process shall involve both a completeness hearing and a public hearing.

The applicant shall be responsible for notifying the adjoining property owners, identified in the boundary survey, within fifteen (15) days of either the completeness or public hearing, whichever is applicable.

#### 1009.06 PUD REZONING

The application must clearly and specifically explain the unique character of the particular property and why it should be designated as a PUD.

The applicant must specifically address and explain the reason for the request and the general concept behind the request.

The applicant must present a detailed plan to be Planning Commission showing how the proposed usage will impact upon the public health, safety, welfare, morals and convenience.

To be classified as a PUD, a property owner must present an application with fees paid consistent with this Ordinance.

A PUD reclassification hearing may not be held in order to solely avoid the requirements of another classification.

The application must show the effects on the subject property pursuant to this Ordinance.

#### 1009.07 CONDITIONAL ZONING

To be rezoned as a Conditional Use District, an application with fee paid shall be presented to the Planning Commission. The application must meet the eligibility requirements of the Ordinance, specifically to be a parcel of two acres or larger or be in an existing structure.

The process to be considered a conditional use is a two part process. The first part is a public hearing to discuss the following issues:

- A. The eligibility of the application for conditional use
- B. The completeness of the application
- C. The rezoning or logic behind the applicant's request for Conditional Zoning, e.g. what characteristics are necessary to require or lead the applicant to request this designation instead of other designations.

In order to be eligible to be considered as a conditional use district, an applicant must be able to meet all other requirements of the Ordinance with the exception of usage, specifically, but not limited to, setbacks, signs, parking, flood plain, etc. An application which does not meet these requirements will not be considered.



## ARTICLE 1010

### CONDITIONAL USE DISTRICT

- 1010.01 Statement of Intent
- 1010.02 Principal Permitted Usages
- 1010.03 Development Standards

#### 1010.0 CONDITIONAL USE DISTRICT

##### 1010.01 STATEMENT OF INTENT

- A. Zoning districts, in general, contain many permitted uses, some of which are not appropriate in a specific location or building while other permitted uses in the same zoning district are more appropriate in a specific location or building.
- B. This district is established to provide that an area shall be used only for a designated purpose in a specific location or building, subject to the condition of reverting to the prior zoning classification if the approved use is ceased in that location or building.
- C. The district and the proposed use shall be considered on an individual case basis and will be of such location, size, and character that, generally, it will be in harmony with the appropriate and orderly development of the existing and surrounding zone in which this zoning district is proposed and will not be detrimental to the public health, safety, or general welfare of the community.
- D. The Conditional Use District is established to allow the approval of a specific use with additional standards as deemed appropriate and necessary by this Planning Commission and the County Commission.
- E. The Conditional Use District is also subject to annual review by the Planning Commission and/or the County Commission to insure that the approved conditional use is continuing to be operated in accordance with the standard and conditions established by the County Commission at their approval and reclassification of the property.

##### 1010.02 PRINCIPAL PERMITTED USAGES

It is important to note that this is not intended to be a speculative designation and is limited only to the specific usages approved by the County Commission following the recommendation of the Planning Commission.

##### 1010.03 DEVELOPMENT STANDARDS

In order to be eligible to be considered for reclassification as a Conditional Use District, it must meet the following standards:

- A. Be two acres or more in size
- B. If less than two acres, be conducted in an existing structure. For projects eligible only by utilization of an existing structure, existing structure may not be enlarged or modified by more than 30% of the existing building size.

C. The proposed Conditional Use must be able to comply with the standards of the Ordinance with regard to parking, setbacks, signs, and other general conditions. A Conditional District designation offers the applicant flexibility only for the usage requirements in specific cases for specific usages on an individual case basis in which the change of the usage will not be detrimental to the public health, safety, morals, comfort, general convenience and welfare of the community. The County Commission shall be empowered to accept, reject, amend, or place other conditions upon a project proposed for conditional use zoning.

## ARTICLE 1011

### BOARD OF ZONING APPEALS

1011.01 POWERS OF THE BOARD OF ZONING APPEALS

1011.02 HEARINGS

#### 1010.01 POWERS OF THE BOARD OF ZONING APPEALS

The Greenbrier County Board of Zoning Appeals is an appellant body whose members are appointed in accordance with West Virginia Code 8-24-55. The members are appointed by the Greenbrier County Commission and shall not be members of the Planning Commission or elected officials. The powers of the Board of Zoning Appeals shall be as follows:

1. Hear and determine appeals from and review any order, requirement, decision or determination made by an administrative official or board charged with the enforcement of any ordinance or rule and regulation adopted pursuant to sections thirty-nine through forty-nine of this article;
2. Permit and authorize exception to the district rules and regulations only in the classes of cases or in particular situations, as specified in the ordinance;
3. Hear and decide special exceptions to the terms of the ordinance upon which the board is required to act under the ordinance; and
4. Authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

In exercising its powers and authority, the board of zoning appeals may reverse or affirm, in whole or in part, or may modify the order, requirement, decision or determination appealed from, as in its opinion ought to be done in the premises, and to this end shall have all the power and authority of the official or board from whom or which the appeal is taken.

#### 1011.02 HEARINGS

The Board of Zoning Appeals shall meet on the first Tuesday of each month in which a hearing has been scheduled and advertised at least fifteen (15) days prior to the date of the hearing.

The Board shall consist of five (5) members. The County Commission shall appoint members when vacancies occur. The Board may meet and approve or deny a citizen request as long as a quorum is present. Three members of the Board shall constitute a quorum.

No request may be approved or denied without a vote of at least three (3) members of the Board in majority. If a request fails to obtain a vote by a quorum, that request will be considered a new hearing and all provisions related to hearings shall apply.

Consistent with the State Code of West Virginia, the Board of Zoning Appeals may grant variances to the following provisions:

1. A reduction in the lot size, set back, parking, and sign requirements.

The Board is not empowered by the State Code of West Virginia or this Ordinance to authorize any special exception not clearly specified in this Ordinance as subject to consideration.

The regular scheduled meeting for the Board of Zoning Appeals shall be on the first Monday of each month. The Board of Zoning Appeals reserves the right to reschedule or hold meetings at its convenience, provided that the Public Hearing Notice requirements of the ordinance are met.

## ARTICLE 1012

### STANDARD FOR REVIEW BY THE BOARD OF ZONING APPEALS

#### 1012.01 STANDARD FOR REVIEW

##### 1012.01 STANDARD FOR REVIEW

In any instance where the Board of Zoning Appeals is required to consider a request for a special exception or variance, in accordance with the provisions of this Ordinance, the Board shall;

1. Give full consideration to the size, scope, extent and character of the exception desired and assure itself that such request is consistent with the Comprehensive Plan and will promote the harmonious and orderly development of the district in which it is located.
2. Consider the suitability of the property for the use desired.
3. Take into consideration the character and type of development in the area surrounding the location for which the request is made and determine that the proposed change or modification, as permitted, will constitute an appropriate use in the area and will not substantially injure or detract from the use of surrounding property or from the character of the neighborhood. Consider, among other things, the zoning classification of the area affected; the effect, if any, on other properties in the area; the number, extent and scope of nonconforming uses in the area; and the presence or the absence in the neighborhood of conditions or uses which are the same or similar in character to the condition or use for which the applicant seeks approval.
4. Consider the suitability of the proposed location of a use with respect to traffic and streets in the area, and insure that adequate access and off-street parking arrangements are provided in order to protect major streets from undue congestion and hazard. Guide the development of major street frontage insofar as possible so as to limit the total number of access points and encourage the frontage of buildings on parallel marginal roads or on roads perpendicular to the major street.
5. Make certain that the proposed change is reasonable in terms of the logical, efficient, and economical extension of public services and facilities, such as public water, sewers, police, fire protection, and public schools, and assure adequate arrangements for sanitation in specific instances.
6. Impose such conditions, in addition to those required, as necessary to insure that the general purpose and intent of this Ordinance is complied with and that the use of the property adjacent to the area included in the proposed change or modification is adequately safeguarded, which conditions may relate to, but are not limited to harmonious design of buildings, aesthetics, planting and its maintenance as a sign or sound screen, landscaping, hours of operation, lighting, numbers of persons involved, allied activities, ventilation, noise, sanitation, safety, smoke and fumes control and the minimizing of noxious, offensive or hazardous elements.

7. Determine that the proposed change will serve the best interest of the County, the convenience of the community and the public health, safety, morals and general welfare.

In exercising its powers, the Board of Zoning Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from as in its opinion, ought to be done in the premises, and to that end shall have all the powers of the officer or board from whom the appeal is taken.

## ARTICLE 1013

### PUBLIC HEARINGS

1013.00 PUBLIC HEARINGS

#### 1013.00 PUBLIC HEARINGS

The following rules shall apply for all public hearings held by either the Greenbrier County Board of Zoning Appeals or the Greenbrier County Planning Commission:

The applicant shall be given fifteen (15) minutes to make a presentation.

Proponents shall be given five (5) minutes each to speak.

Opponents shall be given five (5) minutes each to speak.

If either party needs more time, they must submit a written or verbal request prior to the start of their remarks. The Planning Commission may grant or deny such request.

Written comments will be read into the record and must be individually signed to be considered. Petitions with multiple signatures will not be accepted unless notarized.

The Planning Commission hearings are legislative in nature, the Board of Zoning Appeals hearings are appellant in nature.

Proponents, opponents, and the applicant will not be allowed to question or rebut each others remarks. Either party may ask questions of the Planning Commission or Board of Zoning Appeals.

All remarks should address the issues and information contained in the complete application.

Attorneys, consultants or other representatives are permitted, court reporters are also permitted at the expense of the party who secured their services.

Minutes of the meeting will be kept and made available upon written request **at no cost**. The minutes shall not be considered official until ten days following the next meeting of the appropriate body.

The Board of Zoning Appeals shall charge a fee for applications consistent with the fee schedule which it adopted. The Planning Commission shall charge a fee consistent with this ordinance or a change to this ordinance if a Public Hearing is required.

An applicant who has been required to have another public hearing due to the lack of a majority decision by the Board of Zoning Appeals will not be required to pay an additional fee.

## ARTICLE 1014

### CITIZEN APPEALS

1014.01	APPEAL PROCEDURES
1014.02	DISPOSITION OF THE APPEAL
1014.03	FILING AN APPEAL FROM ADMINISTRATIVE DECISION
1014.04	FILING DEADLINE
1014.05	FEES
1014.06	APPEAL FROM DECISION OF BOARD
1014.07	STAY OF WORK

#### 1014.01 APPEAL PROCEDURES

A citizen shall have the right to request an appeal of the issuance of a permit or administrative decision by the Greenbrier County Commission, Planning Commission, Board of Zoning Appeals or Permit Officer.

All citizen appeals must be presented in writing to the Greenbrier County Commission.

The appeal must occur within thirty (30) days of the date of the action that is being appealed.

#### 1014.02 DISPOSITION OF THE APPEAL

If the proposed appeal clearly demonstrates by written documentation a violation of the provisions of the ordinance, the Permit Officer shall take immediate action to revoke the permit or take corrective action pursuant to the requirement.

If the appeal is with regard to a decision by the Permit Officer or does not involve the conditions stated above, the Greenbrier County Commission through the Planning Commission shall conduct an informal review at its next meeting.

If a citizen is not satisfied with the results of these determinations, they may appeal to the Board of Zoning Appeals within thirty (30) days of official notification of the results of the informal hearing by the Planning Commission.

The Board of Zoning Appeals may, at its discretion, grant an appeal hearing or deny the appeal request. The applicant shall then appeal these determinations to the Circuit Court of Greenbrier County.

If an applicant shall file an appeal to the Board of Zoning Appeals, they shall pay a fee consistent with any hearing held by the Board of Zoning Appeals.



Citizens who wish to appeal a formal action of the Planning Commission pursuant to reclassification of zoning ordinance amendment, must do so through the Circuit Court of Greenbrier County.

The permit applicant whose permit or zoning action is being appealed by the citizens shall be advised in writing of such appeal.

**1014.03 FILING AN APPEAL FROM ADMINISTRATIVE DECISION**

An appeal taken from any order, requirement, decision, or determination made by an administrative official or body charged with the enforcement of this ordinance shall be filed with the Board of Zoning Appeals. The appeal shall specify the grounds thereof and shall be filed in such form as may be prescribed by the Board and within thirty (30) days of the action in question unless otherwise prescribed by the Board by general rule and regulation.

**1014.04 FILING DEADLINE**

In order that the advertising time requirement for a public hearing is met, any application to the Board shall be filed in the office of the Greenbrier County Commission or the Planning Commission at least 21 days prior to the day of the hearing.

**1014.05 APPEAL FROM DECISION OF BOARD**

- A. Any decision or order of the Board shall be subject to review by certiorari.
- B. Any person or persons jointly or severally aggrieved by a any decision or order of the Board may present to the Circuit Court of Greenbrier County a petition duly verified, setting forth that such decision or order is illegal in whole or in part, and specifying the grounds of the alleged illegality. The petition shall be presented to the Court within thirty (30) days after the date of the decision or the order of the Board complained of.

**1014.06 STAY OF WORK**

When an appeal has been taken and filed with the Board, all proceedings and work on the premises in question shall be stayed (by written notice of the Board secretary sent to the property owner by certified mail) unless the Permit Officer, official or County Planning Commission from whom or which the appeal was taken shall certify to the board that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. If such certificate be filed, proceedings or work on the premises shall not be stayed except by a restraining order which may be granted by the Circuit Court of Greenbrier County upon application thereof, on notice to Permit Officer, the official or County Planning Commission from whom or which the appeal was taken and the owners of the premises affected and on due cause shown.

