

# City of Weston Study and Report on Zoning



**March 2019**

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## Section 1: Introduction

### Legal Requirements for Study and Report on Zoning

W. Va. Code § 8A-7-4 requires that the Weston Planning Commission and City Council:

- (a) After adoption of a comprehensive plan and before enacting a zoning ordinance . . . study the land within [their] jurisdiction. The study may include:
  - (1) Evaluating the existing conditions, the character of the buildings, the most desirable use for the land and the conservation of property values in relation to the adopted comprehensive plan; and*
  - (2) Holding public hearings and meetings with notice to receive public input.**
- (b) The planning commission must use the information from the study and the comprehensive plan and prepare a report on zoning. The report shall include the proposed zoning ordinance, with explanatory maps showing the recommended boundaries of each district, and the rules, regulations and restrictions for each district.*
- (c) No zoning ordinance may be enacted without a study and report.*

The City of Weston City Council and the Planning Commission have studied the land within their jurisdiction and prepared a report that is based off both a study of the land and the City's comprehensive plan, recently updated in 2014. It is the intent of City Council, based off of this *Study and Report on Zoning*, pursuant to W. Va. Code § 8A-7-4, to adopt a zoning ordinance.

### Enactment of the Zoning Ordinance

The West Virginia Legislature has provided the City of Weston the authority to enact a zoning ordinance through W. Va. Code § 8A-7-1, which states "The governing body of the municipality . . . may regulate land uses within its jurisdiction by: (1) Adopting a comprehensive plan; (2) Working with the planning commission and the public to develop a zoning ordinance; and (3) Enacting a zoning ordinance." W. Va. Code § 8A-7-2 provides a list of requirements and optional considerations for the City of Weston to include when enacting a zoning ordinance.

After completing this *Study and Report on Zoning*, the City Council must hold at least two public hearings and give public notice before enacting the proposed zoning ordinance. At least one public hearing must be held during the day, and at least one public hearing must be held during the evening. W. Va. Code § 8A-7-5. After proper notice and public hearings are held, the City Council may enact the zoning ordinance or hold an election to have the qualified voters residing in the affected area approve the zoning ordinance. After the enactment of the zoning ordinance, the City Council must file the enacted zoning ordinance in the Office of the Lewis County Clerk. W. Va. Code § 8A-7-6.

## Section 2: Study of the Land

### Evaluating the Existing Conditions

The existing conditions in Weston have been studied, analyzed, and discussed extensively by the City Council, the Planning Commission, and interested citizens during the drafting processes for the comprehensive plan and proposed zoning ordinance. The Land Use and Sustainable Development Law Clinic at West Virginia University College of Law assisted the City of Weston with the update of its comprehensive plan in 2014. As part of the process of updating the comprehensive plan, the City, with the help of the Land Use Clinic, identified current conditions regarding preservation of historic character; encouraging economic development; and improving housing, transportation, infrastructure, recreation, public services, governance, and several other components of the community.

The City of Weston has a prized historic downtown area and a number of key businesses actively supporting the community. However, Weston's population has progressively decreased with the decline of some of these key businesses over the years. Weston expects continued population decline and an increase in population age, creating distinct needs for the community.

The City of Weston included considerable community input in the development of its 2011 Comprehensive Plan and update in the 2014 Comprehensive Plan. As part of the 2011 Comprehensive Plan development, the City held eight public meetings in each of the four wards. The City held two additional meeting for the update in 2014, as well as a final public open house, stakeholder interviews, and an online survey to prioritize issues. Appendix 1 to the comprehensive plan compiles the results of the public meetings held in developing the plan. Notable input related to land use and zoning includes the following:

- Strengths and Opportunities: historic homes and character; more art galleries and studios, special events, recreation, rental properties, museums, and parks
- Challenges and Threats: dilapidated housing, few rental homes, few jobs, need for community center, commercialization of downtown causing loss of charm, noisy neighborhoods
- Mapping: various vacant or dilapidated structures and reuse/rehabilitation opportunities
- High Priority Station: enforcing ordinances, improve downtown

The following actions related to or impacted by zoning were prioritized by some stakeholders during the interview process:

- Increasing enforcement of codes
- Sponsor events to bring people to the city
- Annex lands to increase commercial development
- Install murals at key locations
- Develop a zoning ordinance

Weston does not currently have zoning regulations. The 2014 Comprehensive Plan recommends as an “immediate” action step “Develop a zoning ordinance to implement the Comprehensive Plan” under the plan’s “Goal 4: Encourage new development in the City, while protecting the character and environment of Weston.” The plan identifies the difficulty imposed by a lack of regulations pertaining to the type, intensity, and location of development. The plan also identifies the role land use regulations have in protecting historic qualities, a concern heavily emphasized by the public, as well as the importance of land use planning in encouraging economic development, particularly in annexing new lands as the City is contemplating. Land use planning through zoning also aids in addressing identified needs such as increasing recreational opportunities, addressing parking concerns, and developing a community center.

## **Current and Proposed Districting**

The City developed an existing land use map for inclusion in the 2014 Comprehensive Plan based off of a study of land use patterns and development over the years. The plan also includes mapping of historic resources and development restraints, such as steep slopes, flood plain boundaries, and roadways. Later in the comprehensive plan process, the City also developed a future land use map to reflect the desires of the community for how development should occur in the future. All of these land use maps, reflecting a careful and recent study of the land, were frequently referred to and studied by City Council and the Planning Commission in setting new district boundaries for the proposed zoning ordinance.

Currently, the majority of land use in the City of Weston is used for residential purposes, primarily single-family housing. Much of the City of Weston has cherished historic qualities. The Weston Downtown Historical District, Downtown Residential Historic Area, and several buildings are listed by the National Park Service under the National Register of Historic Places. The proposed zoning ordinance creates two historic overlays with design guidelines aimed at preserving historic character in existing structures and future development. The overlay largely coincides with the Weston Downtown Historical District and Downtown Residential Historic Area. Zoning regulations within the overlays establish design standards for new construction, architectural restoration, and storefronts.



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The City has two distinct commercial areas, general commercial development along main corridors and a downtown business district. The City is mostly built out, with little area remaining for development. Most opportunities for growth and development are infill development and annexation. The future land use map divides desired growth into residential, park, downtown business, and general commercial land uses.

Moving forward, the zoning ordinance divides the community into seven proposed zoning districts, in addition to an overlay: Single-family, Multi-family, Manufactured Home Neighborhood, Parks, Mixed Use, Neighborhood Commercial, General Commercial, and HO1 and HO2, both historic overlays.

## **Character of the Buildings and Lots**

As part of the comprehensive plan process, both the character and condition of buildings were identified and analyzed. The City looked at the age of housing and whether housing is vacant. Most of the development in Weston is residential. Weston has a higher than average rate of vacancy, compared to the state, and a number of dilapidated structures. Over 35% of homes in the City of Weston were built in 1939 or earlier, and the vast majority of homes are older than 40 years old. Between age, upkeep, and demand for housing, Weston's average housing value of \$76,900 is about \$20,000 less than the state average, with almost 30% of houses having a value of less than \$50,000. Very few vacant lots exist within the city, as the city is mostly built out.

In general, the City of Weston is a relatively densely populated community. Weston centers on several major roadways, Interstate 79 and U.S. Routes 19, 33, and 119, making it a well-traveled community with commercial development concentrated along these roadways.

Weston is home to two of the county schools in Lewis County, in addition to a private Catholic grade school. Weston currently has a hospital, public library, two museums, and a senior center. With Weston's economic decline, some buildings have become abandoned and may or may not have been repurposed. One such example is the repurposed Trans-Allegheny Lunatic Asylum, a rather large facility. Other examples of larger facilities, which are abandoned due in part to economic decline, include the Former Department of Health and Human Services building, and the Columbia Club (also a former church).

Weston has significant historic character in many of its buildings and various neighborhoods. Only a small percentage of Weston is used for agriculture, industrial, mixed use, mining, and multi-family purposes.

The City Council and Planning Commission studied the information gathered during the comprehensive plan process and incorporated it into various zoning recommendations. The information proved helpful in instances such as setting district boundaries; establishing lot, yard, and height requirements; and developing regulations specific to historic buildings and signage.

## **Desirable Use for the Land**

The 2014 Comprehensive Plan identifies the need to increase housing and amenities needed and desired by an aging population. The plan also identifies an increased need for recreational opportunities, specifically a park in each of the four wards. Recreational opportunities also include developing certain lots for community gardens, trails, or a dog park. The City of Weston does not contain lands for conservation purposes.

The plan suggests putting murals around the city to improve aesthetics. Façade improvements, particularly to downtown, are needed. According to the plan, historic areas and qualities should be preserved, vacant and dilapidated structures need addressed, and improvements to parking and signage are needed.

In drafting the proposed zoning ordinance, the City found the existing and future land use maps especially helpful in determining the community's desired use of land. The future land use map shows where development is desired and where land uses might be encouraged moving forward. In the proposed zoning ordinance, the City compared the existing and future land use maps to develop a comprehensive list of uses that may occur in each of the proposed districts. Comparing the maps also enabled the City to district uses in a way that minimizes nonconforming uses and reflects the community's desired pattern of development. The City also identified areas for annexation and other growth in the future land use map. Lastly, mapping of development constraints and historic resources aided the city in zoning uses; establishing lot, yard, and setback requirements; and creating the boundaries for the HO1 and HO2, the two historic overlays.

## **Section 3: Report on Zoning**

### **Review of the Study of the Land and 2014 Comprehensive Plan**

The Planning Commission has prepared this *Study and Report on Zoning* based on its study of the land, as explained in "Section 2: Study of the Land," and the 2014 Comprehensive Plan. Many of the issues identified in the 2014 Comprehensive Plan relate to zoning and therefore have been considered or addressed in the proposed zoning ordinance.

2014 Comprehensive Plan's Goal 1: "Create a vibrant downtown that retains historic character while allowing for a mixture of residential and commercial development."

Several action steps related to zoning support the objectives of Goal 1 aimed at encouraging beautification and revitalization and promoting the historic character of the City: Action Step 5, "Continue to sponsor events to bring people into the downtown" is addressed in the proposed zoning ordinance by provisions related to temporary uses and signage. The murals called for in Action Step 6 are addressed by the proposed zoning ordinances wall sign provisions and design guidelines. Action Step 9 generally calls for signs that highlight

# Study and Report on Zoning

historical resources in the city, and these signs would also be subject to well-contemplated sign regulations in the proposed zoning ordinance.

2014 Comprehensive Plan's Goal 2: "Encourage housing improvements throughout the City to attract and retain residents."

Objective 2, "Enforce ordinances with homeowners," Action Step 4, calling for increased enforcement of codes is addressed in the proposed zoning ordinance by provisions that should be clear and easily enforced. The proposed zoning ordinance also include enforcement specific provisions to clearly delineate responsibilities and processes and guide decision-making.

2014 Comprehensive Plan's Goal 3: "Develop an atmosphere that encourages and invites economic development."

Adopting a zoning ordinance generally makes a community more enticing to business development because zoning gives businesses a sense for the standards for and location of development in the future. As such, the adopting of the proposed zoning ordinance would support Objective 3, "Actively recruit business opportunities."

2014 Comprehensive Plan's Goal 4: "Encourage new development in the City, while protecting the character and environment of Weston."

This goal under Critical Issue 4: Land Use Issues, is most pertinent to zoning, particularly Objective 1, "Enact land use regulations that are vital to sustain future growth and development" and Objective 2, "Identify areas for future growth and revenue." Under these objectives, the following Action Steps are addressed by the proposed zoning ordinance.

Action Step 1 indicates a need to "Develop a zoning ordinance to implement the comprehensive plan." Specifically, Action Step 1 states a need to classify land in residential, general commercial, downtown business, and parks uses. The future land use map indicates the comprehensive plan's desired pattern of development between these land use classifications. The regulations do not include rural areas, as the city does not currently include any rural areas. The regulations should be flexible and allow for affordable housing options, housing for disabled persons, and the adaptive reuse of buildings.

The proposed zoning ordinance map largely follows the future land use map included in the comprehensive plan. A more thorough review of land use patterns in the zoning ordinance drafting process revealed a need to divide the residential uses into three districts: Single-family, Multi-family, and Manufactured Home Neighborhood, in order to accommodate each type of housing's distinct land use considerations. For similar reasons, the commercial uses have been divided in the proposed zoning ordinance into two distinct commercial areas: Neighborhood Commercial and General Commercial. A parks districts was included, consistent with the park areas desired in the future land use map. Lastly, the comprehensive



plan includes a Mixed Use district to address those areas within the city where residential and commercial uses converge and can peaceably coexist in close proximity. A few blocks in the West Second Street area and downtown were contemplated as residential on the future land use map in the comprehensive plan; however, when the planning commission more thoroughly contemplated the appropriate land uses for these areas during the process of drafting a zoning ordinance and map, given the current land uses and existing structures, the appropriate land uses for these areas were better reflected in those assigned to the Mixed Use District and the Neighborhood Commercial District, both of which encourage residential uses, consistent with the future land use map, but also allow low intensity commercial uses to enable reasonable use of the existing structures. In order to appease the many concerns expressed about the importance of preserving Weston's historic properties, two historic overlays were included in the proposed zoning ordinance to address various aspects of development and improvements to these properties.

The proposed zoning ordinance map is color coded to indicate district boundaries and, specifically, the location of the historic overlays. The map is designed to be easily read. Similarly, the proposed zoning ordinance provisions are drafted to be user friendly, with internal consistency and cross-references for ease in interpretation. The proposed zoning ordinance strives for consistency with the comprehensive plan by integrating its various recommendations in the ways enumerated in this Study and Report on Zoning.

Action Step 2, "Annex lands to provide opportunities for additional commercial development" is necessary because most of Weston is built out, with development opportunities largely limited to adaptive reuse and a few opportunities for infill development. Areas suggested for annexation include areas surrounding US Routes 33/119 and the I-79 Interchange. The proposed zoning ordinance includes procedures for incorporating annexed areas into the zoning ordinance through amendment so that annexation and land use expectations remain clear and occur seamlessly during the annexation process.

Action Step 5, "Develop community gardens in vacant lots" is addressed in the proposed zoning ordinance in the urban agriculture section that establishes provisions regulating community gardens within the city.

2014 Comprehensive Plan's Goal 5: "Encourage a recreational family-friendly community atmosphere."

Action Step 1, "Develop a park in each of the four wards" is supported by the proposed zoning ordinance's creation of a park district that permits by right uses such as amphitheatres, parks, farmer's markets, and public recreation.

Action Step 2, indicating a need for dog parks for the community, is addressed in the proposed zoning ordinance by detailed provisions for dog parks in the supplemental regulations. These provisions establish requirements for size, fencing, accessibility, hours of operation, and nature of the use.

Action Step 3, indicating a need for a community center is supported by the proposed zoning ordinance insofar as it permits the use by right in the Mixed Use, Neighborhood Commercial, and General Commercial Districts. This expansive zoning of the use should enable ample opportunity for the City to establish a community center in support of the comprehensive plan.

2014 Comprehensive Plan's Goal 6: "Provide a multi-modal transportation network that is coordinated with new development."

Under the transportation goals of the comprehensive plan, the need for adequate and more clearly marked parking was identified under Action Step 2. The proposed zoning ordinance details parking requirements per use. The section indicates how parking requirements may be met by the combined use of lots.

The proposed zoning ordinance has been meticulously reviewed for internal consistency within its text, as well as between the text, the proposed zoning map, the proposed use table, and the rest of the City's ordinances. Chapter 8A has been carefully reviewed throughout the process of drafting the proposed zoning ordinance. Lastly, the proposed zoning ordinance includes a detailed and color-coded zoning map for a user-friendly representation of district boundaries and the overlay.

## **Summary of Proposed Zoning Ordinance**

The proposed zoning ordinance has been written to be consistent with the 2014 Comprehensive Plan and this *Study and Report on Zoning*. The proposed zoning ordinance is also consistent with current statutory enabling authority, state and federal case law, federal and state regulations, and commonly accepted best practices for land use and zoning. The proposed zoning ordinance is broken down into several different articles:

- ◆ Article 101: Purpose, Interpretation, Enactment
- ◆ Article 201: Zoning Officer and Zoning Permit
- ◆ Article 203: Planning Commission
- ◆ Article 205: Board of Zoning Appeals
- ◆ Article 209: Definitions
- ◆ Article 301: Districts Established; Classification of Districts
- ◆ Article 303: SF, Single Family District
- ◆ Article 305: R-2, Multi-Family District
- ◆ Article 307: MH, Manufactured Home Neighborhood District
- ◆ Article 309: P, Parks District
- ◆ Article 311: MU, Mixed Use District
- ◆ Article 313: NC, Neighborhood Commercial District
- ◆ Article 315: C-1, General Commercial District
- ◆ Article 317: HO1 and HO2, Historic Overlays
- ◆ Article 403: Supplemental Provisions
- ◆ Article 503: General Provisions
- ◆ Article 505: Sign Regulations

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A notable aspect of the proposed zoning ordinance is the expansive list of definitions. The proposed zoning ordinance defines all uses permitted by right, conditional uses, and key zoning terminology. The thorough districting and defining of uses serve to adequately accommodate a variety of businesses within the City of Weston. The historic qualities of the City of Weston are protected by two historic overlays. In addition, both the sign regulations and parking regulations have been improved to address citizen concerns and issues identified in the comprehensive plan with regard to the need to improve signage and increase parking availability. General and supplemental regulations in the proposed zoning ordinance are comprehensive and address various concerns identified while reviewing the comprehensive plan and related public input.

## **Conclusion**

The *Study and Report on Zoning* was completed by City Council and the Planning Commission in compliance with W. Va. Code § 8A-7-4. The intended result of this *Study and Report on Zoning* is that the City Council will consider the study and report and the proposed zoning ordinance, including any maps, and hold the required public hearings on the proposed zoning ordinance pursuant to W. Va. Code § 8A-7-5.

The City Council must complete the study of the land and report on zoning and hold the two public hearings required under W. Va. Code § 8A-7-5 before a zoning ordinance may be adopted. The zoning ordinance must be filed with the Office of the Clerk of Lewis County.

See Appendix A for the Proposed Zoning Ordinance  
See Appendix B for the Proposed Zoning Map

**APPENDIX A:  
PROPOSED  
ZONING ORDINANCE**



# City of Weston Zoning Ordinance

Lewis County, West Virginia







# City of Weston Zoning Ordinance

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# City of Weston Zoning Ordinance

## CHAPTER 1: PURPOSE; INTERPRETATION; ENACTMENT

### Article 101: Purpose; Interpretation; Enactment

#### Section 101.01 Purpose.

This ordinance shall be known as the Zoning Ordinance of the City of Weston, West Virginia, hereinafter referred to as "this code."

The zoning ordinance is consistent with the City of Weston Comprehensive Plan and was developed to promote the health, safety, and general welfare of the public. Other purposes of the ordinance include:

- To plan so that adequate light, air, convenience of access and safety from fire, flood, and other danger is secured;
- To ensure attractiveness and convenience is promoted;
- To lessen congestion;
- To preserve historic landmarks, sites, districts, and buildings; and
- To promote the orderly development of land.

#### Section 101.03 Authority.

Whereas, by act of the West Virginia State Legislature, as recorded in West Virginia Code, the governing body of any county or municipality may, by ordinance, classify the territory under its jurisdiction into districts of such number, shape, and size as it may deem best suited to carry out the purpose of zoning.

#### Section 101.05 Scope and Jurisdiction.

The provisions of this code shall apply to the construction, addition, alteration, moving, repair, and use of any building, structure, parcel of land, or sign within the City of Weston, except work located primarily on a public way or road, or on public utility towers and poles, and public utilities unless specifically mentioned in this code.

The provisions of this code are intended to benefit the public as a whole and not any specific person or class of persons. Although the implementation, administration, and enforcement of this code may entail a mix of advantages and disadvantages for specific individuals in the use and enjoyment of their properties, such is an unavoidable byproduct of the several benefits, especially a higher quality of life, that it is the purpose and goal of this code to provide to the City of Weston overall. Therefore, unintentional breaches of the obligations of administration and enforcement imposed on the City of Weston hereby shall not be enforceable in tort.

#### Section 101.07 Interpretation, Conflict, and Severability.

In their interpretation and application, the regulations set forth in the provisions of this zoning ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare of the people of the City of Weston.



# City of Weston Zoning Ordinance

The provisions of this zoning ordinance are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provisions of law. Where the conditions imposed by, or pursuant to, these regulations are different from those imposed by any other provision of these regulations or any other ordinance rule or regulation, statute or other provision of law, the provisions which are more restrictive and which impose the higher or greater standards shall control. If any portion of this code is held invalid for any reason, the remaining herein shall not be affected.

## **Section 101.09 Non-exclusionary Intent.**

It is not the intent of this code to exclude any economic, racial, religious, or ethnic group from enjoyment of residence, land ownership, or tenancy within Weston; nor is it the intent of this code to use public powers in any way to promote the separation within Weston of economic, racial, religious, or ethnic groups, except as may be an incidental result of meeting the purposes outlined in this article.

## **Section 101.11 Official Zoning Map.**

The Weston Zoning Ordinance shall include the ordinance and the accompanying zoning map, included in Appendix 1, which shall be considered an integral part of the zoning ordinance. The Official Zoning Map shall be the map certified by the Clerk of the City Council of Weston. All subsequent amendments (i.e., rezoning) of the Official Zoning Map also shall be certified by the Clerk of the City Council of Weston.

## **Section 101.13 Enactment.**

Therefore, be it ordained by the City Council of Weston, West Virginia, for the purpose of accomplishing the objectives set out in the West Virginia Code, and Section 101.01, that the following be enacted as the Zoning Ordinance of the City of Weston, West Virginia.

## **Section 101.15 Effective Date.**

This act shall take effect [effective date here].

## **CHAPTER 2: ZONING ADMINISTRATION**

### **Article 201: Zoning Officer and Zoning Permit**

#### **Section 201.01 Purpose.**

The purpose of this chapter is to ensure that the processes by which this zoning ordinance are effectuated have been clearly identified and delineated. This chapter shall outline the duties and powers of the Planning Commission, Board of Zoning Appeals, Zoning Officer, the zoning permit process, the appeals process, and other enforcement related provisions.

# City of Weston Zoning Ordinance

## **Section 201.03 Powers and Duties of Zoning Officer.**

Council shall appoint a Zoning Officer, who shall have the authority to administer and enforce this code. This includes but is not limited to the following:

- (a) Keep a record of applications for zoning permits and all zoning permits and accompanying plans issued with notations as to special conditions. All records shall be open for public inspection.
- (b) Review permit applications and notifications as necessary to determine compliance with the provisions of this ordinance. No permit shall be issued unless it conforms to all applicable ordinances, statues, and regulations.
- (c) All questions or interpretation and enforcement shall be initially presented and determined by the Zoning Officer, except where otherwise specified. Subsequent recourse shall be, in order, to the board of zoning appeals and the courts.
- (d) Upon finding that provisions of this ordinance have been violated, notify the person or party in writing responsible for the violation(s), order the action necessary to correct the violation, and if correction is not completed within the time specified in the notice of violation, begin legal actions necessary to compel correction of the violation.
- (e) Maintain official zoning maps.
- (f) Provide information on planning and zoning upon request by citizens and public agencies.
- (g) Submit, at least annually, a written report on all permits issued and notice and orders issued.
- (h) Perform additional tasks and duties as may be prescribed by the Weston City Council.

## **Section 201.05 Zoning Permit.**

- (a) No building or structure shall be constructed, erected, expanded, enlarged, or otherwise structurally altered until a zoning permit has been issued by the Zoning Officer.
- (b) Applications for a zoning permit shall be made available at city hall.
- (c) All applications for zoning permits shall be made in writing by the owner of the property or lot or the owner's authorized agent and shall be filed with the Zoning Officer. The application shall:
  1. Include a statement as to the proposed use of the structure or land.
  2. Be accompanied by a plan, drawn to scale, showing the dimensions of the lot to be built upon or otherwise affected, the exact size and location of the building to be constructed or otherwise affected upon the lot, accessory buildings to be erected or otherwise affected upon the lot, and such other information as may be deemed necessary by the Zoning Officer in determining and providing for the enforcement of this code.
- (d) If the zoning permit application is approved by the Zoning Officer, then an appropriate placard issued by the City and containing the approval of the Zoning Officer shall be returned together with the zoning permit to the applicant, following payment of the appropriate fee. The placard shall be posted by the applicant in a conspicuous place upon the building or construction site prior to the commencement of any construction and shall remain upon the building or construction site during all construction operations.
- (e) A zoning permit does not alleviate the necessity to obtain a building permit as required by the City of Weston Municipal Code.

# City of Weston Zoning Ordinance

## Article 203: Planning Commission

### Section 203.01 Powers and Duties of the Planning Commission.

For the purpose of this ordinance, the Planning Commission has the following duties:

- (a) Initiate proposed amendments to this Ordinance; and
- (b) Review all proposed amendments to this Ordinance and make recommendations to City Council.

### Section 203.03 Amendments to Zoning Ordinance.

- (a) The Weston City Council may amend this Zoning Ordinance. Before amending this Zoning Ordinance, the City Council with the advice of the Planning Commission, must find that the amendment is consistent with the adopted comprehensive plan. If the amendment is inconsistent, then the governing body with the advice of the Planning Commission, must find that there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area.
- (b) The City Council may amend this Zoning Ordinance without holding an election, or otherwise by holding an election on the proposed amendment, or by holding an election on the proposed amendment pursuant to a petition.

## Article 205: Board of Zoning Appeals

### Section 205.01 Board of Zoning Appeals (BZA) Created.

There is hereby created a board of zoning appeals to hear appeals on zoning issues, to hear conditional use permit applications and variance applications, and to review nonconforming uses, to be known as the City of Weston Board of Zoning Appeals.

### Section 205.03 BZA Membership; Eligibility Requirements.

- (a) The City of Weston Board of Zoning Appeals shall have five (5) members to be appointed by the governing body. Each member of the City of Weston Board of Zoning Appeals shall be a resident of the City of Weston for at least three (3) years preceding his or her appointment. A member cannot be a member of the Planning Commission and cannot hold any other elective or appointive office in the City of Weston.
- (b) The members shall be appointed for the following terms: One (1) for a term of one (1) year; two (2) for a term of two (2) years; and two (2) for a term of three (3) years. The terms shall expire on the first day of January of the first, second, and third years, respectively, following appointment. Thereafter, members shall serve three (3) year terms. If a vacancy occurs, the governing body shall appoint a member for the unexpired term.
- (c) The governing body may appoint up to one (1) additional member to serve as an alternate member of the City of Weston Board of Zoning Appeals. The alternate member must meet the same eligibility requirements as set out in subsection (a) of this section. The term for an alternate member is three (3) years.

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- (d) An alternate member shall serve on the Board when one (1) of the regular members is unable to serve. The alternate member shall serve until a final determination is made in the matter to which the alternate member was initially called on to serve during the alternate member's term.
- (e) The City of Weston Board of Zoning Appeals shall establish written rules and procedures for designating an alternate member. An alternate member shall have the same powers and duties of a regular board member.
- (f) The members and alternate members of the City of Weston Board of Zoning Appeals shall serve without compensation but shall be entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their official duties.

## **Section 205.05 Meeting of the Board of Zoning Appeals.**

- (a) The City of Weston Board of Zoning Appeals shall meet at least quarterly and may meet more frequently at the written request of the chairperson or by two (2) or more members.
- (b) Notice for a special meeting must be in writing, include the date, time, and place of the special meeting, and be sent to all members at least two (2) days before the special meeting.
- (c) Written notice of a special meeting is not required if the date, time, and place of the special meeting were set in a regular meeting.
- (d) The City of Weston Board of Zoning Appeals must have a quorum to conduct a meeting. A majority of the members of the Board shall constitute a quorum. No action of the Board is official unless it is authorized by a majority of the members present at a regular or properly called special meeting.
- (e) At its first regular meeting of each year, the City of Weston Board of Zoning Appeals shall elect a chairperson and vice chairperson from its membership. The vice chairperson shall have the power and authority to act as chairperson during the absence or disability of the chairperson.

## **Section 205.07 Powers and Duties of the Board of Zoning Appeals.**

The City of Weston Board of Zoning Appeals shall have the following powers and duties:

- (a) Hear, review, and determine appeals from an order, requirement, decision, or determination made by an administrative official charged with the enforcement of this Zoning Ordinance or rule and regulation adopted pursuant thereto.
- (b) Authorize exceptions to the district rules and regulations only in the classes of cases or in particular situations as specified in this Zoning Ordinance.
- (c) Hear and decide conditional uses of this Zoning Ordinance upon which the board is required to act under this Zoning Ordinance.
- (d) Authorize, upon appeal in specific cases only as provided in this Zoning Ordinance, a variance to this Zoning Ordinance.
- (e) Reverse, affirm, or modify the order, requirement, decision, or determination appealed from so long as the action of the Board taken on appeal is consistent with the rules, regulations, and requirements of this Zoning Ordinance.
- (f) Authorize, upon appeal, the substitution of one legal nonconforming use existing at the effective date of this Zoning Ordinance for another similar nonconforming use. Provided

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further that upon substitution all applicable landscaping requirements of this code shall be satisfied.

- (g) Promulgate and adopt written rules and regulations concerning:
  - 1. The filing of appeals, including the process and forms for appeal;
  - 2. Application for variances and conditional uses;
  - 3. The giving of notice; and
  - 4. The conduct of hearings necessary to carry out the Board's duties under the terms of this article.
- (h) Keep minutes of the Board's proceedings.
- (i) Keep an accurate and complete audio record of all the Board's proceedings and official actions and keep the audio record in a safe manner, which audio record is accessible within twenty-four (24) hours of demand, for three (3) years.
- (j) Record the vote on all actions taken.
- (k) Take responsibility for the custody and preservation of all papers and documents of the Board. All minutes and records shall be filed in the office of the Board and shall be public records.
- (l) With consent of the governing body, hire employees necessary to carry out the duties and responsibilities of the Board, provided that the governing body sets the salaries.
- (m) Supervise the fiscal affairs and responsibilities of the Board.

## **Section 205.09 Variances.**

- (a) A variance is a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a parcel of land.
- (b) The board of zoning appeals shall grant a variance to the zoning ordinance if it finds that the variance:
  - 1. Will not adversely affect the public health, safety, or welfare, or the rights of adjacent property owners or residents;
  - 2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
  - 3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
  - 4. Will allow the intent of the zoning ordinance to be observed and substantial justice done.
- (c) The board of zoning appeals shall not grant a variance to allow the establishment of a use in a zoning district when such use is prohibited by the provisions of this code.

## **Section 205.11 Conditional Uses.**

The conditional use permit procedure is intended to provide the Board of Zoning Appeals with review of requests to establish uses that may be appropriate in a zoning district, but that may have the potential for negative impacts on the health, safety, and welfare of the public. The conditional use standards provided in this section are intended to avoid, minimize, or mitigate adverse impacts conditional uses may have on the health, safety, and welfare of the public.



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- (a) All applications for a conditional use permit shall demonstrate that:
1. The use is consistent with the policies and intent of the corresponding purpose for the zoning district in which it lies and the City's comprehensive plan;
  2. The use is physically and operationally compatible with the surrounding neighborhood and surrounding existing uses;
  3. The use will be designed, constructed, operated, and maintained so that it does not cause substantial injury to adjoining property;
  4. The use will be adequately served by public facilities and services which include but are not limited to water, sewer, electric, schools, streets, fire and police protection, storm drainage, public transit, and public parks and trails;
  5. Adequate off-street parking will be provided on the same property as the proposed conditional use as well as adequate ingress and egress to the property in compliance with the standards set forth in this code;
  6. Any storage of hazardous material will comply with all state, federal, and local regulations, and all such material will be listed and made known to the Chief of the City of Weston Fire Department;
  7. The use will not endanger public health, safety, or welfare or constitute a public nuisance; and
  8. The use will not conduct operations in connection with the use that are offensive, dangerous, or destructive of the environment.
- (b) Conditions may be imposed on a proposed conditional use to ensure that potential significant adverse impacts on surrounding uses will be reduced to the maximum extent feasible, including but not limited to conditions or measures addressing:
1. Location on a site of activities that generate potential adverse impacts such as noise and glare;
  2. Hours of operation and deliveries;
  3. Location of loading space and delivery zones;
  4. Light intensity and hours of full illumination;
  5. Placement of outdoor vending machines;
  6. Loitering;
  7. Litter control;
  8. Placement of trash receptacles;
  9. On-site parking configuration and facilities;
  10. On-site circulation; and
  11. Privacy concerns of adjacent uses.
- (c) Conditional use permit decisions are made by the Board of Zoning Appeals (BZA). In considering the proposed conditional use, the BZA must determine whether the applicable standards and requirements under this section have been met. The BZA may impose additional conditions and safeguards deemed necessary.
- (d) The breach of any condition, safeguard, or requirement shall be considered a violation of the conditional use permit approval. If the applicant fails to comply with any of the applicable requirements of this Zoning Ordinance, the BZA shall have the authority to revoke any conditional use permit after providing notice to the property owner and after public hearing is held in the same manner as the original approval.
- (e) *Validity of approval.* Any conditional use approved by the Board of Zoning Appeals under which the premises are not used, work is not started within six (6) months, or the

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use or work has been abandoned for a period of one (1) year, shall lapse and cease to be in effect. The BZA may permit one (1) six (6) month extension if the extension is applied for in writing by the applicant prior to the expiration of the approval, provided that the BZA finds that the extension is warranted due to circumstances beyond the control of the applicant.

- (f) No application which has been denied wholly or in part by the Board of Zoning Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, unless permitted by the BZA after demonstration by the applicant of a change of circumstances from the previous application.

## **Section 205.13 Nonconformities.**

(a) *Purpose and applicability.* The purpose of this section is to regulate and limit the continued existence of uses, structures, and lots established prior to the effective date of this Zoning Ordinance or any amendment thereto that do not conform to this code.

(b) *General provisions.*

1. Nonconforming lots, structures, or uses may continue to exist, be bought or sold, altered, restored, or extended only in accordance with the provisions of this code.
2. Nothing in this code shall prevent the strengthening or restoring to a safe condition any portion of a nonconforming structure declared unsafe by a proper authority.
3. Nothing in this Zoning Ordinance shall be interpreted as authorization for or approval of the continuance of the illegal use of a structure or premises in violation of zoning controls in existence at the time of the effective date of legal enactment of this code.
4. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall apply to any nonconformities existing therein.
5. Nothing in this section prohibits alterations or additions to or replacement of buildings or structures owned by any farm, industry, or manufacturer, or the use of land presently owned by any farm, industry, or manufacturer but not used for agricultural, industrial, or manufacturing purposes, or the use or acquisition of additional land which may be required for the protection, continuing development, or expansion of any agricultural, industrial, or manufacturing operation of any present or future satellite agricultural, industrial, or manufacturing use.

(c) *Nonconforming uses.*

1. If a nonconforming use has ceased for one (1) year, abandonment shall be presumed and the nonconforming use shall not resume. Any future use of the land or structures shall conform to and be in accordance with this Zoning Ordinance. Abandonment of a nonconforming use shall be presumed if one (1) or more of the following conditions exists, indicating intent on the part of the property owner to abandon the nonconforming use:
  - i. When the intent of the owner to discontinue the use is apparent;
  - ii. Utilities, such as water, gas, and electricity, to the property have been disconnected;
  - iii. The property, buildings, and grounds have fallen into disrepair as evidenced by proper code violation documentation;
  - iv. When the nonconforming use has been replaced by a conforming use;

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- v. When the nonconforming use has been changed to a use permitted or conditional use by the City of Weston; or
  - vi. The business license issued by the City of Weston has expired.
  2. Once a nonconforming use has been changed or converted to a conforming use, it shall not thereafter be used for any nonconforming use.
  3. Upon authorization by the Board of Zoning Appeals, a nonconforming use may be changed to another equal or less intense nonconforming use.
- (f) *Nonconforming buildings or structures.*
1. A lawful nonconforming structure, which is damaged the extent of fifty percent (50%) or more of its reconstruction cost exclusive of foundations, shall not be restored unless it is in full conformance with this code.
  2. A lawful nonconforming structure which is damaged, by neither malfeasance nor wanton disregard by an interested party, to the extent of less than fifty percent (50%) of reconstruction costs exclusive of foundations, if such reconstruction is undertaken within twelve (12) months of when the damage occurred, may be reconstructed, provided that:
    - i. The reconstructed structure shall not exceed the height, area, or volume of the original structure; and
    - ii. Reconstruction shall be commenced within one (1) year from the date the structure was destroyed or condemned and shall be carried on without interruption.
    - iii. An application to the Board of Zoning Appeals for permission to undertake to reconstruct the structure must be filed prior to undertaking the repairs after the use has been destroyed or damaged, otherwise any structure shall conform to and be in accordance with all applicable rules, regulations, and requirements of the particular district as provided in the Zoning Ordinance.
  3. The extension of a lawful use to any portion of a nonconforming structure shall not be deemed the extension of a nonconforming use.
- (g) *Nonconforming lot.*
1. Except as provided in this section, a nonconforming vacant lot existing and of official record as of the effective date of this Zoning Ordinance may be developed for any of the uses permitted by these regulations in the zoning district in which it is located, provided that the use meets all applicable yard, setback, and minimum square footage requirements for the zoning district in which the lot is located.
  2. A nonconforming vacant lot shall not be developed if it could be combined with an adjoining lot owned by the same person on or after the effective date of these regulations in order to create a single lot. Where an owner owns adjoining property, construction may occur across the lot lines if that is the only way the yard requirements may be met without a variance. If said combination, however, results in the creation of a single lot that is more than one and one-half (1.5) times the minimum lot width or area required in the zoning district, then the single lot may be divided into two (2) lots of equal width and area without being further classified as nonconforming. For the purposes of this section, "adjoining" shall be deemed to mean the sharing of one or more common lot lines and access to both lots can be provided by the same street without crossing that street.

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- (h) *Nonconforming accessory uses and structures.* Nonconforming accessory uses or structures shall not become or replace any terminated principal nonconforming use or structure.
- (i) *Enlargement or extension of a nonconforming use.*
1. Nonconforming structures used for a permitted use may be enlarged, provided that the enlargement shall not create any additional nonconformity or increase the degree of the existing nonconformity of such structure.
  2. Nonconforming structures and uses may enlarge principal structures by adding decks or porches provided structural nonconformities are not increased and that all requirements of this code are met, including but not limited to setback and yard requirements.
  3. Nonconforming uses existing at the time this ordinance was passed, or at the time a subsequent amendment creates the nonconforming use, may extend within the building which housed the nonconforming use at the time this ordinance was passed, or at the time a subsequent amendment creates the nonconforming use, provided that the area to which the nonconforming use extends was manifestly designed or arranged to accommodate such use, and that no structural alterations are made within the building in order to allow the use to extend, except those that may be required by the Building Code.
  4. Where the nonconforming setback of a building or structure exists, the nonconforming setback may be extended along the same building line as the existing nonconforming setback, provided that in so doing, the setback itself is not further reduced.
  5. Nonconforming uses existing at the time this ordinance was passed, or at the time a subsequent amendment creates the nonconforming use, may enlarge the building which housed the nonconforming use at the time this ordinance was passed, or at the time a subsequent amendment creates the nonconforming use, and extend within such enlargement, provided that:
    - i. The enlargement becomes an attached part of the main structure and does not utilize additional or adjoining land area other than the original parcel;
    - ii. The enlargement meets all requirements of this code, including but not limited to setback and yard requirements;
    - iii. The enlargement is for the purpose of expanding the area housing the use which existed at the time this ordinance was passed, or at the time a subsequent amendment creates the nonconforming use;
    - iv. The enlargement and extension does not:
      1. Adversely affect the health, safety, and welfare of persons residing or working in the district;
      2. Cause a depreciation of the value of other property and uses permitted in the district;
      3. Significantly increase traffic congestion;
      4. Adversely affect the privacy of persons residing in the immediate vicinity;
      5. Increase the hazard in the area of fire, offensive noise, smoke, dust, debris, or other objectionable influences;

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6. Adversely affect any recreational, institutional, or other authorized use;
  7. Inhibit the desirability, feasibility, or likelihood of future residential or commercial development or expansion in the immediate vicinity; or
  8. Occur in a residential zoned district.
- v. The enlargement or expansion brings all off-street parking requirements into conformity.
6. Enlargement or extension approval shall be void if construction work does not begin within one (1) year from the date of approval, or if work is suspended or abandoned for a period of ninety (90) days at any time after the work is commenced.
  7. All enlargement or extension of a nonconforming use must comply with the applicable floodplain management requirements.

## **Section 205.15 Appeals to the Board of Zoning Appeals.**

An appeal from any order, requirement, decision, or determination made by an administrative official or board charged with the enforcement of a zoning ordinance, or rule and regulation adopted pursuant to a zoning ordinance, shall be filed with the Board of Zoning Appeals. The appeal shall:

- (a) Specify the grounds of the appeal;
- (b) Be filed within thirty days of the original order, requirement, decision, or determination made by an administrative official or board charged with the enforcement of a zoning ordinance; and
- (c) Be on a form prescribed by the board.
- (d) Upon request of the board of zoning appeals, the administrative official or board shall transmit all documents, plans, and papers constituting the record of the action from which the appeal was taken.

## **Section 205.17 Notice and Hearing of Appeal.**

- (a) Within ten (10) days of receipt of the appeal by the Board of Zoning Appeals, the Board shall set a time for the hearing of the appeal and give notice. The hearing on the appeal must be held within forty-five (45) days of receipt of the appeal by the board.
- (b) At least fifteen (15) days prior to the date set for the hearing on the appeal, the Board of Zoning Appeals shall publish a notice of the date, time, and place of the hearing on the appeal as a Class I legal advertisement in compliance with the provisions of the West Virginia Code and written notice shall be given to the interested parties. The publication area shall be the area covered in the appeal.
- (c) The Board of Zoning Appeals may require the party taking the appeal to pay for the cost of public notice and written notice to interested parties.
- (d) At the hearing, any party may appear in person, by agent, or by an attorney licensed to practice in this state.
- (e) Every decision by the Board must be in writing and state findings of fact and conclusions of law on which the board based its decision. If the Board fails to provide findings of fact and conclusions of law adequate for decision by the circuit court and as a result of the failure, the circuit court returns an appealed matter to the Board and dismisses jurisdiction over an applicant's appeal without deciding the matter, whether the court

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returns the matter with or without restrictions, the Board shall pay any additional costs for court filing fees, service of process and reasonable attorneys' fees required to permit the person appealing the Board's decision to return the matter to the circuit court for completion of the appeal.

- (f) The written decision by the Board shall be rendered within thirty (30) days after the hearing. If the board fails to render a written decision within thirty (30) days after the hearing, then any party may pursue additional legal remedies to obtain a decision, including, but not limited to, seeking a writ of mandamus.
- (g) When an appeal has been filed with the Board of Zoning Appeals, all proceedings and work on the premises in question shall be stayed, except as provided below:
  - 1. If the official or board from where the appeal was taken certifies in writing to the Board of Zoning Appeals that a stay would cause imminent peril to life or property;
  - 2. Upon further administrative proceedings, including, but not limited to, submissions to and reviews by the staff or any administrative body; or
  - 3. Upon engineering or architectural work that does not disturb the real estate beyond what is necessary to complete engineering, survey work, or other tests.
- (h) Nothing in this section prevents a party from obtaining a restraining order.

## **Section 205.19            Violations and Penalties.**

- (a) Any person who violates any provision of this chapter is guilty of a misdemeanor and upon conviction, shall be punished for each offense by a fine not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00). Each day the violation continues shall be considered a separate offense. Work carried on in violation of the cancellation of any permit issued under this chapter shall also be deemed a violation punishable in the same manner.
- (b) Any buildings erected, raised, or converted, or land or premises used in violation of any provision of this code is declared a common nuisance and the owner of the building, land, or premises shall be liable for maintaining a common nuisance.

## **Section 205.21            Injunction.**

- (a) The Planning Commission, Board of Zoning Appeals, or any designated enforcement official may seek an injunction in the Circuit Court of Lewis County, West Virginia, to restrain the owner, tenant, occupant, other persons or persons responsible, or unit of government from violating the provision of this code or any rule, regulation, or requirement adopted or established hereunder.
- (b) The Planning Commission, Board of Zoning Appeals, or any designated enforcement official may also seek a mandatory injunction in the Circuit Court of Lewis County, West Virginia, directing the owner, tenant, occupant, other persons or persons responsible, or unit of government to remove a structure erected in violation of the provisions of this code or rule, regulation, or requirement adopted or established hereunder.
- (c) If the Planning Commission, Board of Zoning Appeals, or any designated enforcement official is successful in any suit brought under this section, the respondent shall bear the costs of the action.

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## Article 209: Definitions

### Section 209.01 Interpretation of Words.

For the purpose of this code certain terms and words used herein shall be interpreted as follows:

- (a) Words used in the present tense include the future tense.
- (b) Words used in the singular number shall include the plural, and words used in the plural number shall include the singular.
- (c) The word “person” shall include a firm, association, organization, limited liability company, limited partnership, corporation, trust, company, as well as a natural individual.
- (d) The word “City” shall mean the City of Weston.
- (e) The word “shall” and “must” are used to indicate mandatory directives.
- (f) The word “structure” shall include the word “building.”
- (g) The word “Map” or “Zoning Map” or “Zoning Map, City of Weston, West Virginia” or “Official Zoning Map” shall mean the map that geographically illustrates all zoning district boundaries within the City of Weston, West Virginia, pursuant to the requirements of Chapter 8A of the West Virginia Code.
- (h) The term “governing body” and “city council” shall both mean the City Council for the City of Weston, Lewis County, West Virginia pursuant to the Charter of the City of Weston.
- (i) The term “Planning Commission” shall mean the Planning Commission for the City of Weston, Lewis County, West Virginia, pursuant to Chapter 8A of the West Virginia Code.
- (j) “Districts” or “Zoning Districts” shall mean administrative tracts designating the uses to which land can legally be utilized. Boundaries of the districts are shown on the Official Zoning Map, which is a part of this code.

### Section 209.03 Use Definitions.

Unless otherwise expressly stated, the following words shall, for the purpose of this Zoning Ordinance, be defined as follows:

1. “Adult Business” means an adult bookstore, movie theater, or movie house or other adult entertainment, as defined herein.
  - i. “Adult Bookstore” means any commercial establishment in which is offered for sale as a substantial or significant portion of its stock-in-trade videocassettes, movies, books, magazines or other periodicals, or other media which are distinguished or characterized by their emphasis on nudity or sexual conduct or on activities which, if presented in live presentation, would constitute adult entertainment.
  - ii. “Adult Entertainment” means an establishment providing, either as a sole use or in conjunction with or in addition to other uses, entertainment consisting of the use of nudity or of live dancing, posing, displaying, acting, or other live presentation or use of persons whose actions are distinguished or characterized by emphasis on use of the human body in a manner intended to or resulting in arousal of sexual excitation or sexual titillation or a prurient interest or intended to or resulting in producing lustful emotions.

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- iii. “Adult Movie Theater” or “Movie House” (including Adult Mini-Theaters) means any movie theater which on a regular, continuing basis shows films rated X by the Motion Picture Coding Association of America or any movie theater which presents for public viewing on a regular, continuing basis so-called adult films constituting adult entertainment, as defined by this code.
2. “Amphitheater” means an outdoor gathering space typically for entertainment which is often constructed with tiers of seats or sloping surfaces that gradually rise outward from a central open space or stage. An amphitheater may include a bandshell-type structure to provide weather protection to a stage.
3. “Amusement and Recreation Center” means a business establishment, generally intended for use by all ages, that provides recreation or entertainment, including but not limited to swimming pools, dance halls, bowling alleys, skating rinks, billiard and pool halls, video and other coin-operated electronic games, miniature golf courses, indoor archery ranges, table games, trampolines, ball pits, and similar recreational diversions.
4. “Animal Hospital” or “Veterinary Office” means an establishment for temporary occupation by sick or injured animals for the purpose of medical diagnosis and treatment, but excluding the treatment or other care of humans.
5. “Automobile Car Wash” means the use of a site for washing and cleaning of automobiles, recreational vehicles, or other light duty equipment.
6. “Bakery” means an establishment primarily engaged in the retail sale of baked goods for consumption off-site.
7. “Bank/Financial Institution” means a bank, savings and loan, credit union, or other institution that provides retail banking services to individuals and businesses.
8. “Bed and Breakfast Inn” means a private residence in which overnight accommodations are provided for not more than twelve (12) transient paying guests, along with ancillary services such as providing breakfast, private parties, and evening and lunch meals to guests; holding outdoor events such as weddings, fundraising or civic events for local clubs, and special dinners or meals; and operating gift shops.
9. “Boat and Marine Sales/Service” means the sales, service, and repair of new and used boats, boat trailers, marine hardware, and related products
10. “Boat Storage” means an enclosed, partially enclosed, or open facility utilized for the wet or dry storage of boats.
11. “Brewery Pub” means a place of manufacture of nonintoxicating beer or nonintoxicating craft beer owned by a resident brewer as defined by the West Virginia Code, subject to federal and state regulations and guidelines, a portion of which premises may be designated for retail sales for consumption on the premises of nonintoxicating beer or nonintoxicating craft beer by the resident brewer owning the brewpub.
12. “Broadcasting Studio,” radio or television, means a structure housing the operation of the over-the-air distribution of audio or video signals to a large number of recipients (“listeners” or “viewers”) within the technical reach of the signals.
13. “Building Material Facility” means an establishment that sells home, lawn, and garden supplies and tools and construction materials, such as brick, lumber, hardware, and other similar materials. Construction goods may be located in outdoor storage.
14. “Bus and Transit Facilities” means a facility operated as a bus or rail passenger station or transfer center that may have a covered structure. Typical facilities may include station



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- platforms, bus bays, off-street parking, private access roads, and other passenger amenities.
15. “Bus and Transit Shelter” means a covered structure, located near a street and designed primarily for protection against the weather for bus or other transit passengers.
  16. “Catering Business” means the preparation and delivery of food and beverages for off-site consumption for a fee.
  17. “Cemetery/Mausoleum” means land used or intended to be used for the disposition of human remains and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries and funeral homes when operated with and within the boundary of such cemetery.
  18. “Child Day Care Facility” is divided into four (4) classes:
    - i. “Child Day Care Facility, Class 1” means a facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private, for the care of thirteen (13) or more children for child care services in any setting, if the facility is open for more than thirty (30) days per year per child.
    - ii. “Child Day Care Facility, Class 2” means a facility which is used to provide child care services for compensation for seven (7) to twelve (12) children, including children who are living in the household, who are under six (6) years of age. No more than four (4) of the total number of children may be under twenty-four (24) months of age. A facility may be in a provider's residence or a separate building.
    - iii. “Child Day Care Facility, Class 3” means a facility which is used to provide child care services for compensation in a provider's residence. The provider may care for no more than six (6) children at one time including children who are living in the household, who are under six (6) years of age. No more than two (2) of the total number of children may be under twenty-four (24) months of age.
    - iv. “Child Day Care Facility, Class 4” means residential child care services for compensation for three (3) or fewer children, including children who are living in the household, who are under six (6) years of age. Care is given in the provider's own home to at least one (1) child who is not related to the caregiver.
  19. “Clinic” means an establishment providing medical, dental, chiropractic, psychiatric, substance abuse treatment, or surgical services exclusively on an outpatient basis, including emergency treatment and diagnostic services.
  20. “Community Facility” means a nonprofit facility, whether publicly or privately owned, with the primary goal is to provide a community service.
  21. “Continuing Care Facility” means one (1) or more of the following types of facilities:
    - i. “Adult Assisted Living” means any facility, residence, or place of accommodation available for four (4) or more residents for the purpose of having personal assistance or supervision, or both, provided to any residents therein who are dependent upon the services of others by reason of physical or mental impairment and who may also require nursing care at a level that is not greater than limited and intermittent nursing care.
    - ii. “Nursing Home” means any institution, residence, or place, or any part or unit thereof, however named, which is advertised, offered, maintained, or operated by the ownership or management, whether for consideration or not, for the express or implied purpose of providing accommodations and care, for a period of more than

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twenty-four (24) hours, for four (4) or more persons who are ill or otherwise incapacitated and in need of extensive, ongoing nursing care due to physical or mental impairment or which provides services for the rehabilitation of persons who are convalescing from illness or incapacitation.

- iii. “Skilled Nursing Facility” means an institution, or a distinct part of an institution, that primarily provides inpatient skilled nursing care and related services, or rehabilitation services, to injured, disabled, or sick persons.
22. “Convenience Store” means a business establishment that offers convenience goods for sale, such as pre-packaged or limited prepared food items, tobacco, and periodicals, but not displaying merchandise or products outdoors, except where such display is required to sell the merchandise. The use does not include the sale of gasoline unless combined with the gas station use.
23. “Conversion of Old Schools/Churches” means the adaptive reuse of a former school or church for residential or commercial purposes not affiliated with the prior use.
24. “Cultural Service” means a site used for the collection, display, or preservation of objects of community or cultural interests, such as a library, museum, or similar facility.
25. “Distillery” means, as defined by West Virginia statutes, an establishment where alcoholic liquor other than wine or beer is manufactured or in any way prepared.
26. “Distribution Facility” means any premises or part thereof, which provides logistical support for business, such as freight management, inventory control, storage, packaging, and consolidation of goods for distribution.
27. “Dog Day Care” means an organized, controlled, and monitored environment for a group of dogs to interact and play throughout the day. The purpose is to provide stimulation, exercise, and socialization for dogs, and ancillary services. Overnight stays are not permitted in dog day care facilities unless the use is combined with a kennel.
28. “Drive-through Facility” means the use of land, buildings, or structures, or parts thereof, to provide or dispense products or services, either wholly or in part, through an attendant, window, or automated machine, to persons remaining in motorized vehicles that are in a designated lane or parking spot. A drive-through facility may be combined with other uses such as a laundry shop, dry cleaning shop, dry cleaner's distributing station, branch of a bank or financial institution, restaurant, retail store, automotive service station, or restaurant. Despite the above, a drive-through facility does not include a car washing establishment, automobile service station, or a gas station.
29. “Dwelling, Apartment” means a building containing several and separate dwelling units, having common corridors and stairways and having shared exit and entrance facilities.
30. “Dwelling, Condominium” means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Yard requirements apply to structures only and not individual ownership units.
31. “Dwelling, Conversion Apartment” means the remodeling of a single-family dwelling unit into two (2) or more separate living units, each having a minimum of five hundred (500) square feet of gross floor area and having separate and private sanitary, cooking, and dining facilities.

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32. “Dwelling, Garage Conversion” means conversion of an existing garage to habitable space for domestic use no smaller than five hundred (500) square feet of gross living space.
33. “Dwelling, Garden Home Apartments” means a freestanding building containing two (2) or three (3) dwelling units, each of which has direct access to the outside.
34. “Dwelling, Mixed-Use” means a building containing a residence with commercial or office uses on the ground floor in the front of the building facing the primary street frontage. Residential units may be on the ground floor, provided they are behind commercial uses and cannot be accessed from any portion of the building that faces the primary street.
35. “Dwelling, Single-Family” means a detached, permanent structure designed for or occupied exclusively as a residence for only one family.
36. “Dwelling, Townhouse” or “Rowhouse” means a one (1) family dwelling unit, with private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation.
37. “Dwelling, Two Family” means a freestanding building containing two (2) dwelling units, each of which has direct access to the outside.
38. “Educational Institution” means a college or university giving general academic instruction. Included within this term are areas or structures used for administration, housing of students and faculty, dining halls, and social or athletic activities when located on the institution's land that is not detached from where classroom facilities are maintained.
39. “Equipment Rental/Repair” means an establishment involved in renting or repairing small tools and equipment, including janitorial equipment.
40. “Essential Utilities and Equipment” means underground or overhead electrical, gas, communications not regulated by the federal communications commission, water and sewage systems, including pole structures, towers, wires, lines, mains, drains, sewers, conduits, cables, fire alarm boxes, public telephone structures, police call boxes, traffic signals, hydrants, regulating and measuring devices and the structures in which they are housed, and other similar equipment accessories in connection therewith.
41. “Extractive Industry” means a heavy industry use that involves the extraction of minerals for sale or other commercial purpose, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity.
42. “Factory-Built Home” means manufactured and mobile.
  - i. “Manufactured Home” means a home that meets the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U. S. C. §5401, et seq.), effective on the fifteenth (15th) day of June, one thousand nine hundred seventy-six (1976), and the federal manufactured home construction and safety standards and regulations promulgated by the secretary of the United States department of housing and urban development.
  - ii. “Mobile Home” means a transportable structure that is wholly, or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for

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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. §5401, et seq.), effective on the fifteenth (15th) day of June, one thousand nine hundred seventy-six (1976), and usually built to the voluntary industry standard of the American national standards institute (ANSI)--A119.1 standards for mobile homes.

43. "Factory-Built Home Rental Community" means a parcel of land under single or common ownership upon which two (2) or more factory-built homes are located on a continual, nonrecreational 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 or premises occupied solely by a landowner and members of their family.
44. "Farm/Construction Equipment and Supply Sales" means an establishment engaged in the on-premises lease, rental, or retail sale of new or used construction or farm equipment, with or without incidental service for minor repairs and maintenance.
45. "Farmer's Market" means the offering for sale of agricultural products directly to the consumer at an open-air market designated as a community activity.
46. "Flea Market" means an outdoor or enclosed commercial activity, open to the general public that offers goods for sale, trade, or barter, regardless of whether they are new, used, antique, or homemade.
47. "Funeral Home/Mortuary" means a building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of human remains for burial or disposition of human remains, including cremation; (b) the performance of autopsies and other surgical procedures related to the processing of human remains; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles; and (e) facilities for cremation.
48. "Garage, Private" means an accessory structure either attached to or detached from a residential dwelling which is situated on the same property or adjoining property and used for storing personal property by the resident of the dwelling and not to be used as a business.
49. "Garden Center" means an establishment primarily engaged in selling containerized trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools, and other garden supplies to the general public and where no trees, shrubs, or plants are grown on the premises.
50. "Gas Station" means a building, place of business, land area, or other premises, or portion thereof, used or intended to be used for the retail dispensing of gasoline, oil and grease, and other vehicle fuels, and including, as an accessory use, the sale and installation of batteries, tires, lubricants, and other automobile accessories and retail items. Minor repair service may also be rendered. May also offer convenience goods for sale, such as pre-packaged or limited prepared food items, tobacco, and periodicals, except that the term does not include display of merchandise or products outdoors except where such display is required to sell the merchandise.
51. "Governmental Operations" include emergency services; federal, state, or municipal buildings; and post offices. Emergency services include areas utilized for the

## City of Weston Zoning Ordinance

- maintenance, fueling, storage, receiving and dispatching calls or transmissions, or parking of vehicles or equipment providing rescue or ambulatory services.
52. “Greenhouse, Non-commercial” means a building or structure under one hundred and fifty (150) square feet constructed chiefly of glass, glasslike or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers or other weather-sensitive plants.
53. “Greenhouse, Commercial” means a building used for the growing of plants, all or part of which are sold at retail or wholesale.
54. “Group Residential Facility” means a facility which is owned, leased, or operated by a behavioral health service provider and which (a) provides residential services and supervision for individuals who are developmentally disabled or behaviorally disabled; (b) is occupied as a residence by not more than eight (8) individuals who are developmentally disabled and not more than three (3) supervisors or is occupied as a residence by not more than twelve (12) individuals who are behaviorally disabled and not more than three (3) supervisors; (c) is licensed by the Department of Health and Human Resources; and (d) complies with the State Fire Commission for residential facilities.
55. “Group Residential Home” means a building owned or leased by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence. This includes a place for transitional group living arrangements for persons discharged from hospitals, correctional facilities, or in lieu of hospitalization, characterized by the presence of such live-in staff, emphasizing the development of skills necessary for more independent living. The facility shall be licensed and operated in accordance with all applicable laws.
56. “Health Care Medical Cannabis Organization” means a vertically integrated health system approved by the West Virginia Bureau for Public Health to dispense medical cannabis or grow and process medical cannabis, or both, in accordance with a research study under the Code of the State of West Virginia, Chapter 16A, as amended.
57. “Health Club” means a building or portion of a building designed and equipped for sports, exercise, or other customary and usual recreational activities, operated for profit. The sale of sports nutrition products, non-alcoholic beverages, packaged health foods, exercise clothing, and sports videos and magazines is permitted as an accessory use to such facilities.
58. “Home-based Business (Low Impact)” means an accessory use intended to allow commercial enterprises that generate limited numbers of customer visits or merchandise deliveries to a residential dwelling. Use involves limited customer, client, or patient traffic, whether vehicular or pedestrian, pickup, delivery, or removal functions to or from the premises, in excess of those normally associated with the use of a dwelling.
59. “Home-based Business (No Impact)” means an accessory use intended to allow businesses that rely solely on electronic or off-premise transactions to perform such operations from a residence. The use involves no customer, client, or patient traffic, whether vehicular or pedestrian, pickup, delivery, or removal functions, to or from the premises, in excess of those normally associated with residential use.
60. “Hospital” means an institution designed for the diagnosis, treatment, and care of human illness or infirmity and providing health services, primarily for inpatients, and including related facilities, laboratories, outpatient departments, training facilities, and staff offices.

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61. “Hotel/Motel” means a building or group of buildings in which lodging is provided and offered for compensation. The building may also include dining rooms, kitchens, serving rooms, ballrooms, and other facilities and services intended primarily for the accommodation of its patrons.
62. “Industrial Park” means an area of land arranged or constructed in accordance with a plan for a group of business purposes, having separate building sites designed and arranged on streets and having utility services, setbacks, side yards, and covenants or other such regulations controlling or restricting uses.
63. “Kennel” means any establishment wherein cats and dogs are kept or boarded, registered under West Virginia Code § 19-20-3. Business may be conducted in conjunction with a dog day care or veterinary clinic, where both combined uses are both permitted within a district.
64. “Liquor Store” means an establishment operated under the authority of the West Virginia Code, Chapter 60, Article 3A, and primarily engaged in the retail sale of packaged alcoholic beverages such as ale, beer, wine, or whiskey, for off-premises consumption.
65. “Lumberyard” means an establishment where processed wood timbers and products are stored for bulk and retail sale.
66. “Manufacturing (Light)” means the manufacturing, compounding, processing, assembling, packaging, printing, or testing of goods or equipment, including but not limited to newspaper printing and distribution and research activities conducted entirely within an enclosed structure, with no outside storage, serviced by a modest volume of trucks or vans, and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust, or pollutants.
67. “Medical Adult Day Care Center” means an ambulatory health care facility which provides an organized day program of therapeutic, social, and health maintenance and restorative services and whose general goal is to provide an alternative to twenty-four (24)-hour long-term institutional care to elderly or disabled adults who are in need of such services by virtue of physical and mental impairment.
68. “Medical Cannabis Organization” means a dispensary, grower, or processor. The term does not include a health care medical cannabis organization as defined in the Code of the State of West Virginia, Chapter 16A, as amended.
69. “Medical Cannabis Dispensary” means a place where processed medical cannabis products are permitted to be sold to qualifying consumers, as provided for in the West Virginia Code, Chapter 16A, as amended. This term does not include a health care medical cannabis organization as defined in the Code of the State of West Virginia, Chapter 16A, as amended.
70. “Medical Cannabis Growing Facility” means a place where medical cannabis is permitted to be grown, as provided for in the West Virginia Code, Chapter 16A, as amended. This term does not include a health care medical cannabis organization as defined in the West Virginia Code, Chapter 16A, as amended.
71. “Medical Cannabis Processing Facility” means a place where medical cannabis is permitted to be processed, refined, or otherwise converted into a legally permitted state, as provided for in the West Virginia Code, Chapter 16A, as amended. This term does not include a health care medical cannabis organization as defined in the West Virginia Code, Chapter 16A, as amended.

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72. “Night Club” means an establishment for evening entertainment, generally open until the early morning that serves liquor and usually food and offers patrons music, comedy acts, a floor show, or dancing but is not characterized as a forum for sexually oriented material.
73. “Office Supply Establishment” means a place of business where stationery, furniture, and other supplies typically used in offices are the main items offered for sale.
74. “Parcel Delivery Facility” means an establishment engaged in the delivery, receipt, and transmittal of documents, packages, and parcels.
75. “Park” means land set aside for open space and recreational purposes.
76. “Parking Lot” means an off-street surfaced area used for parking two (2) or more vehicles which is served by an entrance and possibly an access way connecting the parking lot and a public or private road, but does not include parking for a single-family or two (2)-family dwelling.
77. “Parking Structure” means a building with multiple stories of off-street parking spaces where vehicles are temporarily stored with or without a nominal fee, in association with occupational, retail, entertainment, recreational, municipal, educational, or residential uses.
78. “Personal Service” means a business providing services to a person, their apparel or personal effects commonly carried on or about their person, including, but not limited to, shoe repair, tailoring, watch repair, beauty shops, barbershops, tanning and nail salons, laundromats, and dry cleaning.
79. “Pet Shop” means an establishment where animals are bought, sold, exchanged, or offered for sale or exchange to the general public.
80. “Pharmacy” means an establishment in which prescription or nonprescription drugs or devices are compounded, dispensed, or distributed. Ancillary retail items also may be sold.
81. “Photographic Studio” means a retail establishment for the purpose of photographing subjects and processing photographs for commercial purposes, but not including photography requiring professional models.
82. “Places of Worship/Religious Institution” means a building wherein persons regularly assemble for acts of religious devotion and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes a church, synagogue, temple, mosque, or other such place for worship and religious activities. Customary accessory uses include a wide range of religious activities, including a caretaker’s residence; fellowship halls, parish halls, and similar buildings; rooms used for meetings, religious education, and similar functions; a gymnasium; a playground; the sale of items associated with the practice of religion; and faith-based social services such as homeless shelters, group homes, and soup kitchens.
83. “Private Club” means any corporation or unincorporated association meeting the definition of private club in West Virginia Code § 60-7-2(a), and licensed and in compliance with West Virginia Code, Chapter 60, Article 7, to sell liquor, beer, and wine.
84. “Professional Services” means any office of recognized professions, other than medical, such as lawyers, architects, engineers, real estate brokers, insurance agents, and others who are qualified to perform services of a professional nature and other offices used



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- primarily for accounting, corresponding, research, editing, or other administrative functions, but not including banks or other financial institutions and personal services.
85. “Recreation, Private” means an enterprise operated by an individual or non-profit association or corporation, other than a public entity, for the pursuit of sports and recreational activities, including but not limited to such establishments as country clubs, golf courses, sports clubs, golf practice facilities, playing fields, tennis or racquet clubs, swimming pools, canoe liveries, and similar facilities.
86. “Recreation, Public” means an enterprise owned and operated by a public entity, available to the general public, whether or not an admission fee is charged, including either indoor or outdoor facilities for the pursuit of sports, recreation, or leisure activities, including but not limited to parks, playgrounds, playing fields, fishing access, golf courses, golf or batting practice facilities, tennis courts, swimming pools, and similar facilities.
87. “Research and Development” means investigative activities a business conducts to improve existing products or services or to lead to the creation of new products and procedures that do not involve the mass manufacture, fabrication, processing, sale of products; or a structure or complex of structures designed or used primarily for research development functions related to industry and similar fields of endeavor.
88. “Restaurant” means a commercial establishment with an equipped kitchen where food and beverages are prepared and served, and where food sales constitute more than sixty percent (60%) of the gross sales receipts.
89. “Retail Store” means a business having as its primary function the supply of merchandise or wares to the end consumer. Such sales constitute the “primary function” of the business when such sales equal at least eighty percent (80%) of the gross sales of the business. Divided into three classes of retail stores based on gross floor area:
- i. Retail Store/Small <7,000 feet of gross floor area.
  - ii. Retail Store/Large >7,000 feet of gross floor area.
90. “Roadside Stand” means a stand offering for sale agricultural products grown on the premises.
91. “Roadside Vendor Stand” means location, trailers, truck beds, or similar facilities offering products for sale that are not produced on the immediate premise.
92. “School, Commercial” means an educational establishment to provide for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to educational establishments that are owned and operated privately for profit.
93. “School, Pre-school to 12” means an educational establishment offering educational instruction between pre-school through twelfth (12th) grade. Schools can be public or private, licensed in accordance with the West Virginia Code.
94. “Self-Storage Facility” means a building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time.
95. “Senior Independent Housing” means a single-family or multi-family development intended for, operated for, and designed to accommodate residents fifty-five (55) years of age or older. Senior independent housing communities are designed for seniors who are able to live independently or need assistance with daily care.
96. “Shopping Center” means a group of retail and other commercial establishments that is planned, owned, and managed as a single property.

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97. “Solar Energy System” means an energy conversion system, including appurtenances, which converts solar energy to a usable form of energy to meet all or part of the energy or heating requirements of the on-site user, or which is to be sold to a utility company to be used by others, or sold directly to other users. A Solar Energy System may be ground mounted (i.e., placed on top of the ground surface) or roof mounted (i.e., placed on or as an integral part of a building).
  - i. “Small solar energy system” means solar energy systems installed for personal use in residences, commercial properties, and institutions.
  - ii. “Large solar energy system” means solar energy systems installed on large parcels of land for the purpose of generating revenue or utility-scale systems installed to benefit the community.
98. “Sports Arena” means a central stage, ring, area, or the like, used for sports and surrounded by seats for spectators.
99. “Studio, Dancing, Music, or Art” means a facility used for the rehearsal or performance of performing arts, such as music, dance, or theatre; teaching classes in creative arts, such as painting, drawing, sculpting, potting, beading, or otherwise creating art; or for the display or sale of art in general or during special events. Food and alcoholic beverages may be served and fees charged as accessory uses during special events.
100. “Tattoo Parlor/Body Piercing Studio” means an establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or both of the following: (a) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (b) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.
101. “Tavern/Drinking Establishment/Bar” means an establishment engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises and which may offer food for consumption on premises as an ancillary use.
102. “Telecommunications, Class I” means facilities that include but are not limited to such facilities as television antennas, ham radio antennas, am/fm reception. No Class I facility may be utilized for cellular phone reception.
103. “Telecommunications, Class II” means facilities that include but are not limited to such facilities as antennas and associated electronic equipment designed expressly for use by cellular phone companies, as regulated under the Federal Telecommunication Act of 1996, that are not intended to be supported by or attached to a new telecommunications tower, as defined. They may be attached to existing, permitted tower structures, or to existing structures not originally intended to support telecommunications facilities, as provided for in this code.
104. “Telecommunications, Class III” means facilities that include but are not limited to such facilities as antennas and associated electronic equipment that is supported by or attached to a new telecommunications tower, as defined herein, and is designed expressly for use by cell phone companies, as regulated under the Federal Telecommunications Act of 1996.
105. “Temporary Structure” means a structure or part thereof, operated on a non-profit basis to temporarily house families or individuals who are victims of disaster, who are affected through action on the part of or on behalf of the municipality other than routine,

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redevelopment-related relocation activities, or who have bona fide state or federal emergency housing needs.

106. "Theater" means a building or part of a building devoted to presenting motion pictures or live performances.
107. "Theater, Drive-in" means an open space with an outdoor movie screen, or comparable flat surface, where people may view motion pictures primarily from parked personal automobiles. The use may include outdoor picnic tables, playgrounds, and concessions.
108. "Tourist Home" or "Boarding House" or "Rooming House" means a dwelling, other than hotel, motel, or restaurant, advertised as supplying overnight lodging wherein one or more persons are sheltered and/or fed for profit. No cooking or dining facilities are provided in individual rooms. The accommodations are rented on a daily or weekly basis and are not occupied by the owner or manager at the time of rental.
109. "Truck Terminal" means a facility where freight is unloaded from interstate trucks or intermodal trailers and containers carried on the railroad and loaded onto local delivery trucks.
110. "Vehicle Repair/Service/Sales/Rental" means any building, structure, improvements, or land used for the repair or maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler or upholstery work, oil change and lubrication, painting, tire service and sales, or installation of citizens band (CB) radios, car alarms, stereo equipment, or cellular telephones.
111. "Video Gaming or Lottery Establishment" means an establishment at which any form of gambling of chance is permitted or played, including "video lottery" machines licensed by the West Virginia Lottery Commission pursuant to the West Virginia Code, but excluding establishments that only sell lottery tickets.
112. "Warehouse" means a facility characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and odors, but not involved in manufacturing or production.
113. "Water Treatment Plant" means facilities that treat water and produce potable water for public consumption.
114. "Wholesale Establishment" means the sale of commodities to retailers or jobbers, including the sale of commodities for the purpose of carrying on any trade or business even if the said trade or business is the consumer or end user of the commodity.
115. "Wind Energy System" means any electric generation facility whose main purpose is to convert and store wind energy into usable forms of energy which includes the wind turbine(s), structural supports, electrical infrastructure, and other appurtenant structures and facilities. Consisting of a maximum of one (1) wind turbine per lot.
116. "Winery" means an establishment where wine is manufactured or in any way prepared in accordance with the West Virginia Code.

## **Section 209.05            General Definitions.**

Unless otherwise expressly stated, the following words shall, for the purpose of this code, be defined as follows:

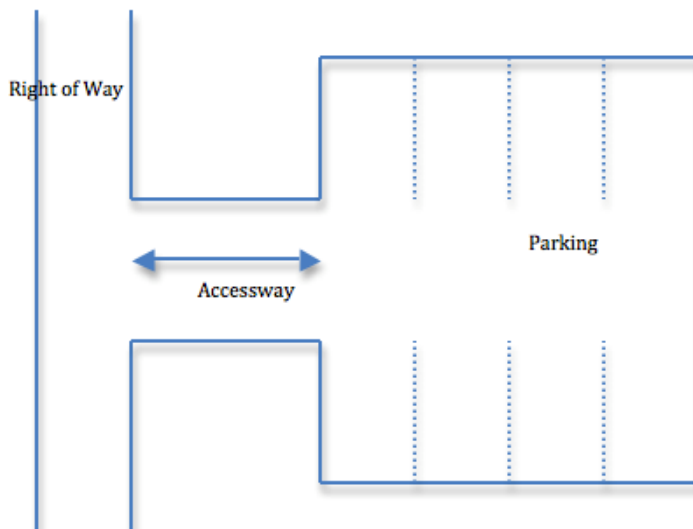
1. "Abandoned motor vehicle" means any motor vehicle, or major part thereof, which is inoperative and which has been abandoned on public property for any period over five (5) days, other than in an enclosed building or in a licensed salvage yard or at the

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business establishment of a demolisher; or any motor vehicle, or major part thereof, which has remained on private property without consent of the owner or person in control of the property for any period over five (5) days; or any motor vehicle, or major part thereof, which is unattended, discarded, deserted and unlicensed and is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher: Provided, that a motor vehicle, or major part thereof, is not an abandoned motor vehicle if: (a) the owner of the motor vehicle is storing the motor vehicle on the owner's property; (b) the motor vehicle is being stored for the purpose of using its parts on other motor vehicles owned by the owner; (c) the owner owns other motor vehicles similar to the motor vehicle being stored; and (d) the owner is a business licensed to do business in the State of West Virginia and not in the primary business of offering motor vehicles or parts thereof for sale.

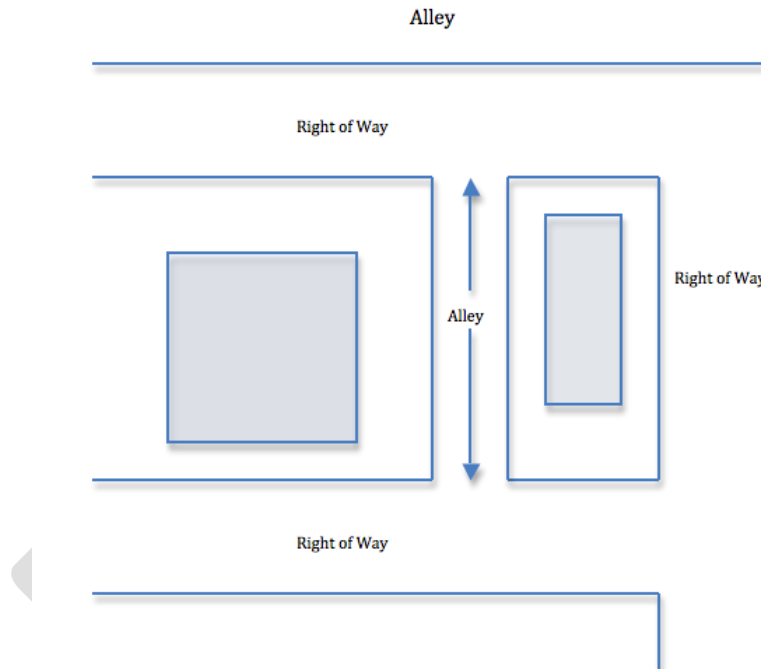
2. "Abandonment" means the relinquishment of property or a cessation of the use of the property by the owner or lessee without any intention of transferring rights to the property to another owner or without any intention to resume a nonconforming use of the property for a period of one (1) year.
3. "Accessory Structure" or "Accessory Building" means a structure or building on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure, including but not limited to swimming pools, piers and other water-related structures, parking, fences, gazebos, satellite dishes, doghouses and dog-related structures, noncommercial greenhouses, sheds, and private garages.
4. "Accessory Use" means a use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use, including but not limited to urban agriculture and home-based businesses.
5. "Accessway" means a private vehicular facility for townhomes, multi-family dwellings, and condominiums, serving more than four (4) dwelling units, and commercial developments that extends from the curb-line of a public or private road to the parking lot.

Accessway



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6. “Advertising” means any words, symbol, color, or design used for commercial speech.
7. “Aggrieved or Aggrieved Person” means a person who (a) is denied by the planning commission, board of subdivision and land development appeals, or the board of zoning appeals, in whole or in part, the relief sought in any application or appeal; or (b) has demonstrated that he or she will suffer a peculiar injury, prejudice, or inconvenience beyond that which other residents of the municipality may suffer.
8. “Alley” means a service roadway less than twenty (20) feet long providing a secondary means of access to abutting property and not intended for general traffic circulation.

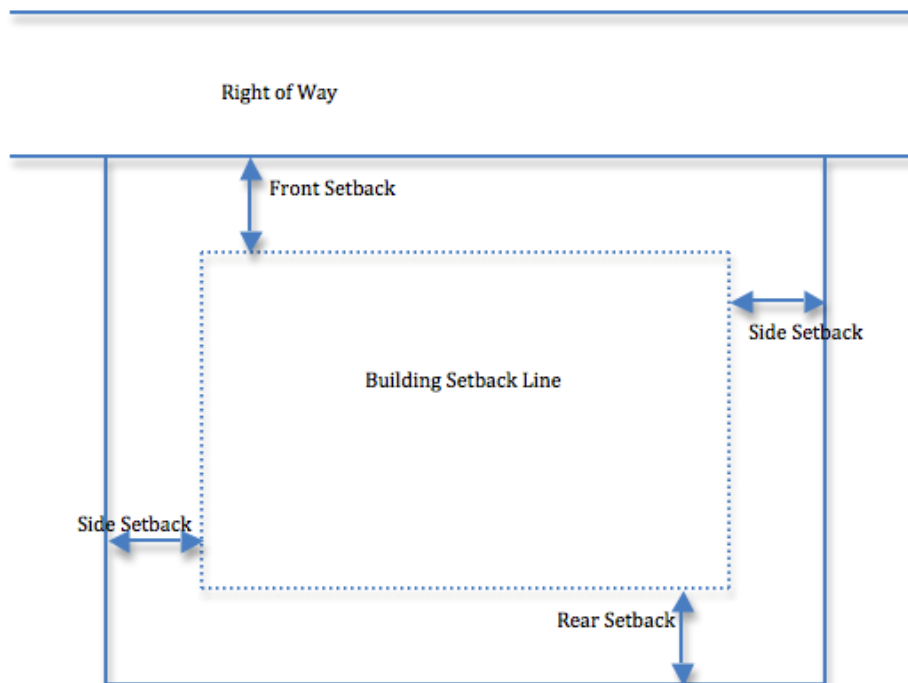


9. “Alteration” means any change or expansion in the size, configuration, exterior features, or location of a structure; or any change or expansion in the use of a structure or lot from a previously approved or legally existing size, configuration, location, or use.
10. “Antenna Support Structure” means any building or structure other than a tower which can be used for location of telecommunications facilities.
11. “Automobile” means a road vehicle, typically with four (4) wheels, able to carry a small number of people.
12. “Basement” means a story having one half (0.5) or more of its clear height below grade.
13. “Board” or “Board of Zoning Appeals” means the officially constituted body appointed to carry out duties and responsibilities in accordance with the West Virginia Code, Chapter 8A, Article 8, *et seq.*, as amended.
14. “Bollard” means a short, vertical, and permanent post, usually ornamental in nature, used to inhibit trespass by persons or vehicles, or to prevent encroachment onto private property or other defined space.
15. “Building” means any structure having enclosing walls and roofs and requiring a permanent location on the land.

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- i. “Principal Building” means a building in which is conducted the principal use of the site or lot on which it is situated. In all residential districts, a dwelling is the principal building on the lot on which it is located.
  - ii. “Building Frontage” means the length of the main wall of a building which physically encloses usable interior space and which is the architecturally designed wall that contains the main entrance for use by the general public. Said frontage is measured at a height of ten (10) feet above grade.
  - iii. “Building, Height of” means 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.
16. “Building Setback Line” means a line establishing the minimum allowable distance between the nearest part of any principal building, including decks, patios, covered porches, steps, and landings exceeding twenty-four (24) square feet, but excluding eaves, overhangs, bay windows, sills, belt courses, cornices, and ornamental features not exceeding two (2) feet in width, to the nearest edge of a street right-of-way, property line, or easement line, when measured perpendicular thereto.

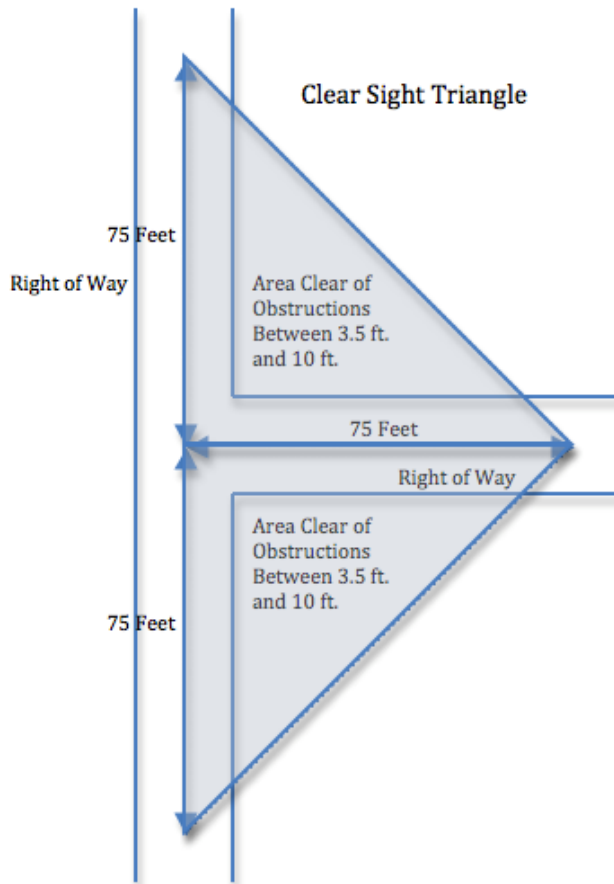
### Building Setback Line



17. “Centerline” means an imaginary line running parallel to street or easement right-of-way lines and equidistant from the lines on each side of the street or easement, or a line following the center of a physical feature such as a stream.

## City of Weston Zoning Ordinance

18. “Clear Sight Triangle” means the triangular area formed by intersecting street, alley, or other public right-of-way centerlines and a line interconnecting points established on each centerline, seventy-five (75) feet from the point of intersection and the plane established three and one-half (3.5) feet in elevation to a height of ten (10) feet from grade level at the intersection of the street, alley, or other public right of way centerline.

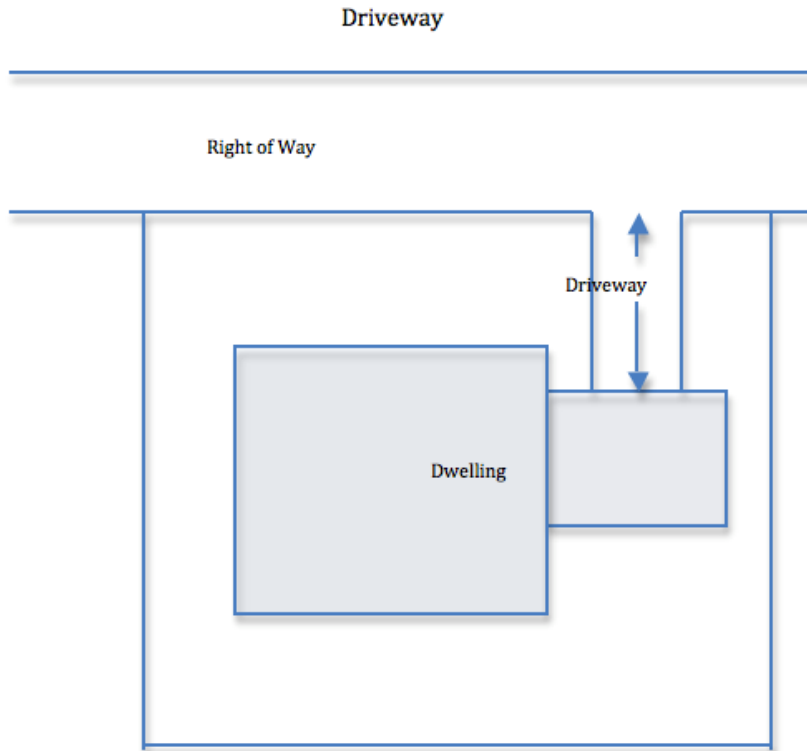


19. “Compact Parking Stall” an off-street space available for parking of one (1) automobile and having an area not less than seven (7) feet in width by sixteen (16) feet in depth and an area exclusive of passageways, accessways, and driveways appurtenant thereto, and having a means to direct access to a street or road.
20. “Comprehensive Plan” means the comprehensive plan for the City of Weston.
21. “Conditional Use” means a use which because of special requirements or characteristics may be permitted in a particular zoning district only after review by the board of zoning appeals and upon issuance of a conditional use permit, and subject to the limitations and conditions specified in this code.
22. “Council” means the Council of the City of Weston.
23. “County” means Lewis County, West Virginia.



# City of Weston Zoning Ordinance

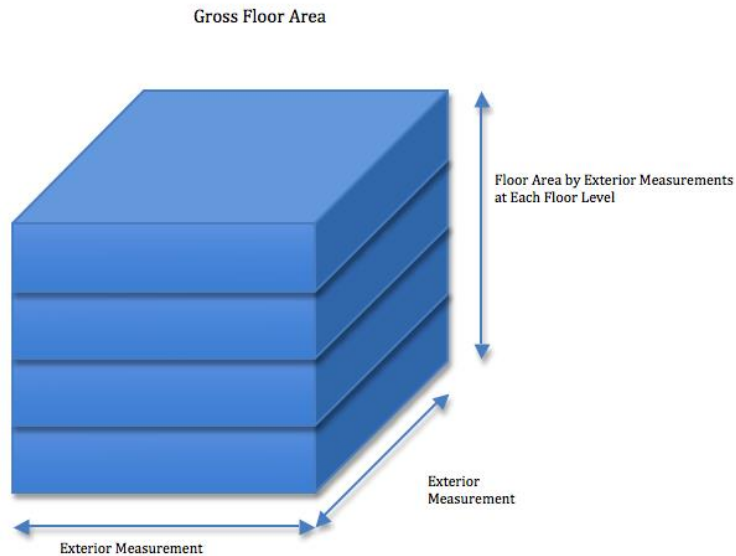
24. “Driveway” means privately owned vehicular access from a street to properties abutting the street and serving no more than four dwelling units.



25. “Dwelling” means a house, apartment building, or other building designed or used primarily for human habitation, but not including boarding houses, rooming houses, tourist homes, motels, hotels, or other structures designed for transient residence.
26. “Dwelling Unit” means any dwelling or portion thereof used or intended to be used by one family and providing complete housekeeping facilities.
27. “Existing Use” means use of land, buildings or activity permitted or in existence prior to the adoption of a zoning map or ordinances by the county or municipality. If the use is nonconforming to local ordinance and lawfully existed prior to the adoption of the ordinance, the use may continue to exist as a nonconforming use until abandoned for a period of one year, provided that in the case of natural resources, the absence of natural resources extraction or harvesting is not abandonment of the use.
28. “Family” means an individual or two (2) or more persons related by blood, marriage, adoption, or foster relationship, or no more than three (3) unrelated individuals and individuals related by blood, marriage, adoption, or foster relationship to any of those three (3) unrelated individuals, living together as a single housekeeping unit and sharing common living, dining, and kitchen areas, subject to the requirements of the Building Code.
29. “Fence” means an artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate an area.

# City of Weston Zoning Ordinance

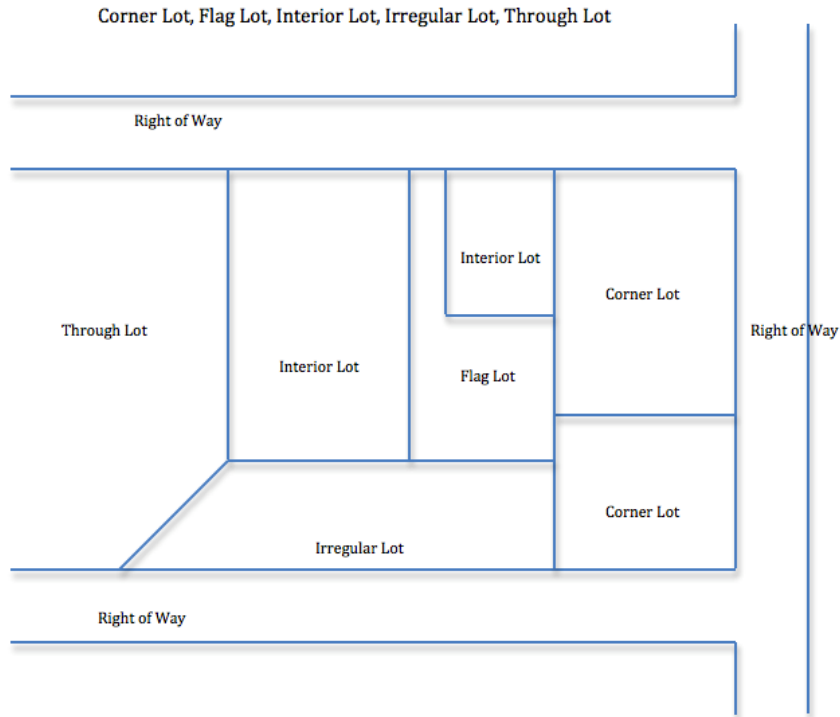
30. “Floor Area, Gross” means the total area of a building measured by taking the outside dimensions of the building at each floor level.



31. “Front Building Line” means a line parallel to the front lot line, at a distance measured perpendicular therefrom as prescribed in this code for a required yard. Where there is no required yard, the lot line is the front building line.
32. “Garage Sale” means the sale of personal property owned or maintained by occupants of the premises in, at, or upon any residentially zoned or residentially occupied property. Garage sales include, but are not limited to, any yard sale, multi-family sale, home sale, patio sale, or any other sale similarly conducted on any residentially zoned or residentially occupied property.
33. “Historic District” means a geographically definable area, designated as historic on a national, state, or local register, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.
34. “Historic Landmark” means a site, building, structure, or object designated as historic on a national, state, or local register.
35. “Historic Site” means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure and designated as historic on a national, state, or local register.
36. “Landscaping” means the bringing of the soil surface to a smooth finished grade, installing trees, shrubs, ground cover, grass, and similar vegetation to soften building lines, provide shade, and generally produce a pleasing visual effect of the premises.
37. “Loading Space” means an area or berth available for the loading or unloading of goods from commercial vehicles.

# City of Weston Zoning Ordinance

38. “Lot” means a parcel of land with boundaries established by some legal instrument, such as a recorded deed or a recorded map, and which is recognized as a separate legal entity for purposes of transfer of title, together with the customary accessories and open spaces belonging to the same.

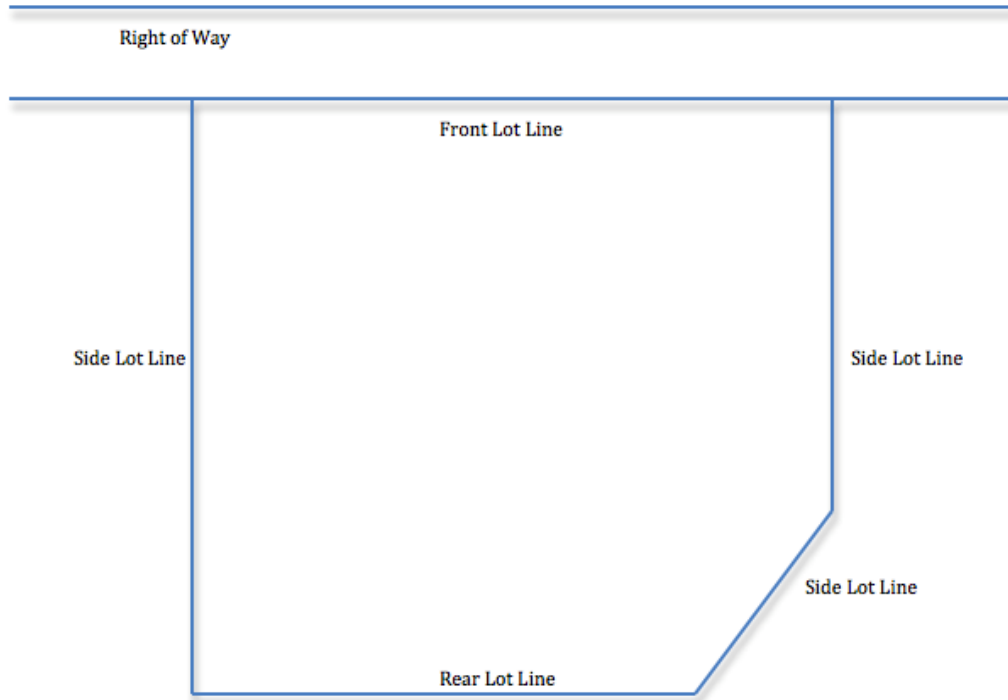


39. “Lot, Corner” means a lot at the junction of and abutting two (2) or more intersecting streets.
40. “Lot, Interior” means a lot other than a corner lot with only one (1) frontage on a street.
41. “Lot, Flag” means a lot not meeting minimum frontage requirements and where access to the public road is by a narrow, private right-of-way or driveway, or “handle.”
42. “Lot, Irregular” means a lot of such shape or configuration that technically meets the area, frontage, and width-to-depth requirements of the ordinance but has unusual elongations, angles, and curvilinear lines.

## City of Weston Zoning Ordinance

43. “Lot Line” means property boundary line of any lot held in single or joint ownership that divides one (1) lot from another or from a street or any other public or private space.
- i. “Front Lot Line” means, in the case of an interior lot, a line separating the lot from the street or public right of way; and in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street.
  - ii. “Rear Lot Line” means a lot line that is opposite and more distant from the front lot line, except corner lots have no rear lot line. In the case of an irregular lot, a line ten (10) feet in length within the lot and parallel to and at the maximum distance from the front lot line.
  - iii. “Side Lot Line” means any lot line other than a front or rear lot line.

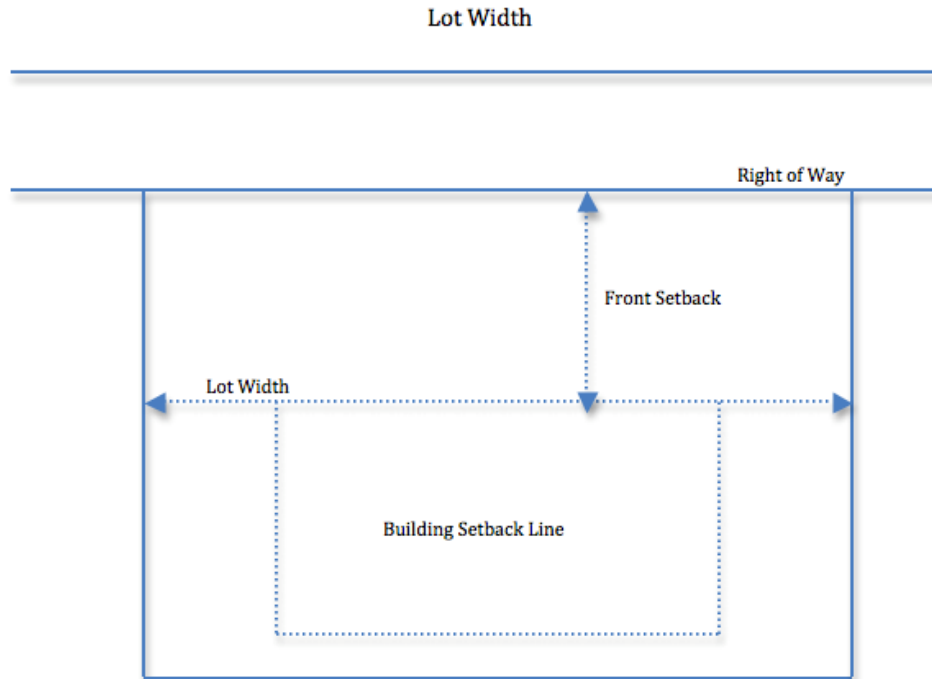
Front Lot Line, Rear Lot Line, and Side Lot Line



44. “Lot, Through” or “Double Frontage” or “Reverse Frontage” means a lot other than a corner lot facing on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.

## City of Weston Zoning Ordinance

45. “Lot Width” means the distance measured between side lot lines, at the required building setback line. In a case where there is only one side lot line, lot width is measured between such side lot line and the opposite rear lot lines or street line.



46. “Nonconforming Building or Structure” means a building or structure lawfully constructed and not otherwise abandoned, existing on the effective date of this code, on the effective date of any amendment thereto, or prior to annexation, which renders such building or structure illegal within a district, or not complying in any fashion with any of the rules, requirements, and regulations of this code or any amendments thereto.
47. “Nonconforming Lot” means a lot or parcel of land that was of record and lawfully established and maintained but which, because of the enactment of this code or any amendment thereto, or prior to annexation, no longer conforms to the land use standards or use regulations of the district in which it is located.
48. “Nonconforming Sign” means any sign which was lawfully erected, maintained, and existing on the effective date of this code, on the effective date of any amendment thereto, or prior to annexation, which renders such existing sign illegal within a district, or not complying in any fashion with any of the rules, requirements, and regulations of this code or any amendments thereto, or any sign which is accessory to a nonconforming use.
49. “Nonconforming Use” means any actual and active use lawfully being made of any land, building, or structure not otherwise abandoned, existing on the effective date of this code, on the effective date of any amendment thereto, or prior to annexation, which renders such existing use illegal within a district, or not complying in any fashion with any of the rules, requirements, and regulations of this code or any amendments thereto.

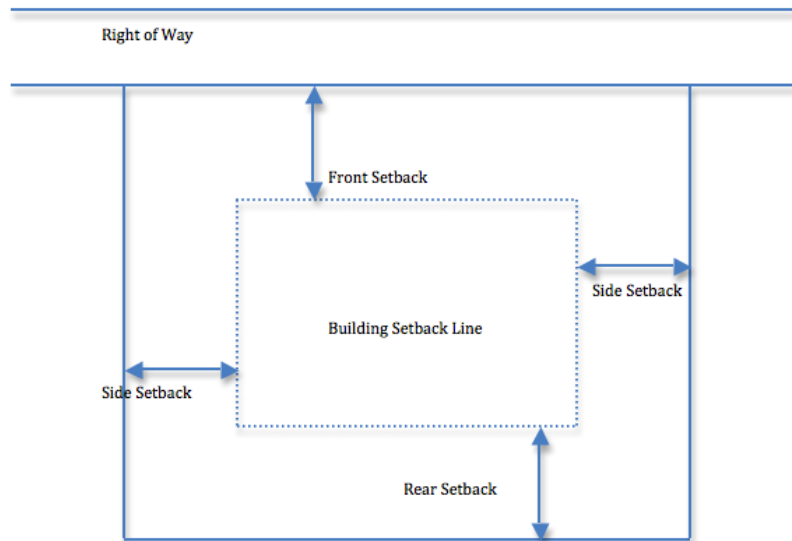
## City of Weston Zoning Ordinance

50. “Nonintoxicating Beer” means all natural cereal malt beverages or products of the brewing industry commonly referred to as beer, lager beer, ale, and all other mixtures and preparations produced by the brewing industry, including malt coolers and nonintoxicating craft beers with no caffeine infusion or any additives masking or altering the alcohol effect, containing at least one half of one percent (0.5%) alcohol by volume, but not more than nine and six-tenths (9.6) of alcohol by weight, or twelve percent (12%) by volume, whichever is greater.
51. “Open Space” means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.
52. “Owner” means any individual, firm, association, syndicate, estate, corporation, trust, or any other legal entity having proprietary interest in the land.
53. “Parallel Parking Stall” means an off-street space available for parking of one (1) automobile and having an area not less than eight (8) feet by twenty (20) feet and an area exclusive of passageways, accessways, and driveways appurtenant thereto, and having a means to direct access to a street or road.
54. “Parking Stall” means an off-street space available for parking one (1) automobile and having an area not less than nine (9) feet by eighteen (18) feet and an area exclusive of passageways, accessways, and driveways appurtenant thereto, and having a means to direct access to a street or road.
55. “Patio” means an area consisting of natural or man-made material constructed at or near grade level, intended for use as an outdoor living area, and not enclosed by a permanent roof or awning.
56. “Porch” means a covered but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes.
57. “Permitted Use (Use Permitted by Right)” means any use requiring no special action by any governmental body, agency, or staff member before the zoning permit is granted by the Zoning Officer, subject to all other applicable provisions of this code.
58. “Public Area” means any public place, public right-of-way, any parking area or right-of-way open to use by the general public, or any navigable body of water.
59. “Right-of-way (R-O-W)” means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another similar use.
60. “Satellite Signal Receiving Station” means devices commonly parabolic in shape, mounted at a fixed point on a structure or on rooftops, for the purpose of capturing electronic television or internet signals transmitted via satellite communication facilities and serving the same or similar function as the common television antenna. Such devices are accessory structures.
61. “Screening” means the use of plant materials, fencing, or earthen berms to aid in the concealment of such features as parking areas and vehicles within them, and to provide privacy between two (2) or more different adjoining land uses.

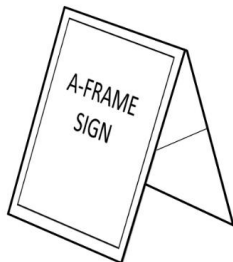
# City of Weston Zoning Ordinance

62. “Setback” means the minimum distance by which any building or structure must be separated from a street right-of-way or lot line.
- i. “Front Setback” means the shortest distance between the building setback line and the front lot line.
  - ii. “Rear Setback” means the shortest distance between the building setback line and the rear lot line.
  - iii. “Side Setback” means the shortest distance between the building setback line and the side lot line.

Front Setback, Rear Setback, and Side Setback

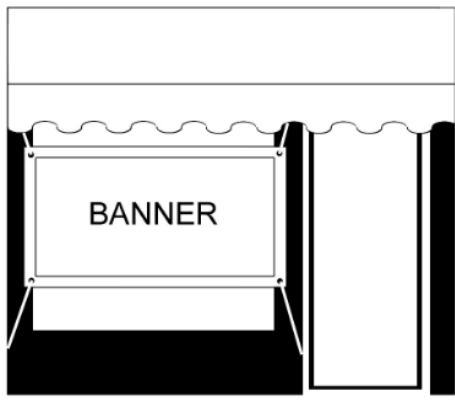


63. “Sign” means any device (writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag, banner or pennant, or any other device, figure or character, or delineation) with the essential purpose to communicate, designed to communicate, or where context results in communication, and such communication is aimed at persons in a public right-of-way.
- i. “A-Frame Sign” means a two (2)-faced sign with supports that are connected at the top and separated at the base with an internal angle between the two (2) faces of no more than a forty-five (45) degree angle, forming an “A” shape not more than four (4) feet high. These are also referred to as “sandwich board” signs and are included in the term “portable sign.”



## City of Weston Zoning Ordinance

- ii. “Animated Sign” or “Moving Sign” means a sign or part of a sign that is designed to rotate, move, or appear to rotate or move. Such a sign is sometimes referred to as a “moving sign.” Animated signs include signs with moving graphic features such as scrolling text or images that appear to move; moving sign change features such as fly-in, wipe-off, fading, dissolving, traveling, or expanding displays or any other full message sign change taking longer than 0.3 seconds; and static electronic message displays displayed less than seven (7) seconds. Animated signs also include signs propelled by vehicle, watercraft, or aircraft where the primary purpose of the vehicle, watercraft, or aircraft at the time of sign display is to propel the sign.
- iii. “Awning Sign” or “Canopy Sign” means a sign placed directly on the surface of an awning or canopy, which is a roof-like structure either projecting from a building façade and open on three (3) sides, or standing alone and open on four (4) sides, and used for the purpose of protecting pedestrians and motorists from weather related elements.
- iv. “Banner” means a sign of flexible material affixed to a framework or flat surface. Banners are not flags for purposes of this code.

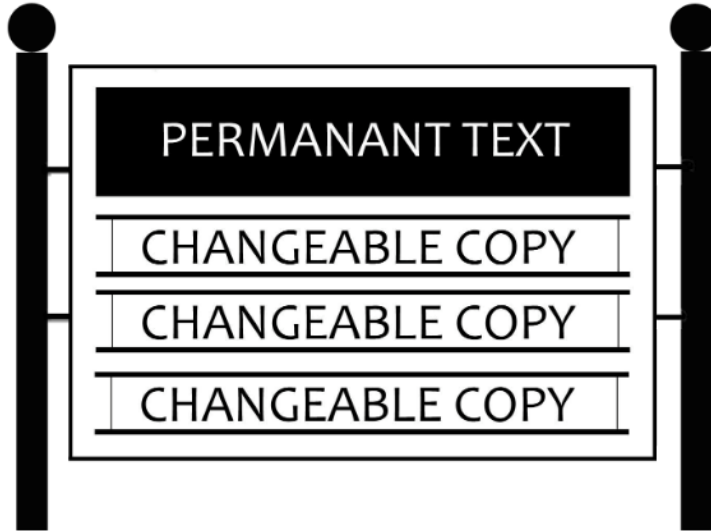


- v. "Beacon" means any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source or any light with one (1) or more beams that rotate or move.
- vi. “Chalkboard Sign” means a single-faced, framed slate, or chalkboard that can be written on with chalk or similar markers.



## City of Weston Zoning Ordinance

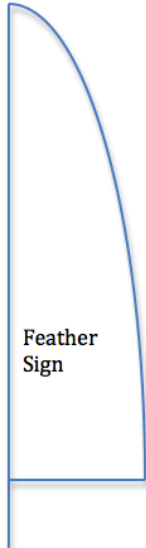
- vii. “Changeable Copy Sign” means a sign or part of a sign that is designed so that characters, letters, or illustrations can be manually or physically changed or rearranged without altering the face or surface of the sign.



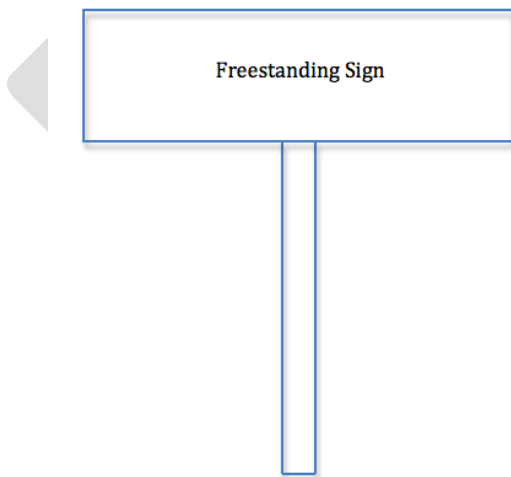
- viii. “Electronic message display” means a sign that is either light emitting or light reflective and that is capable of changing the displayed message through electronic programming. Electronic message displays are divided into four (4) categories:
- a. “Static electronic message display” means an electronic message display that is not an animated sign.
  - b. “Static electronic message display with transition features” means an electronic message display that remains static except for no more than a two (2) second transition feature such as fading, dissolving or a single instance of fly-in, wipe-off, expansion, or traveling that occurs no more often than every seven (7) seconds.
  - c. “Electronic message display, partially animated” means an electronic message display with animated or moving text or graphics.
  - d. “Electronic message display, fully animated” means an electronic message display with full animation features.

## City of Weston Zoning Ordinance

- ix. “Feather Sign/Feather Flag/Teardrop Flag/Wind Flag” means a lightweight, portable flag made of cloth, plastic, or similar material mounted along one (1) edge on a single, vertical, flexible pole, the physical structure of which may resemble a sail, bow, or teardrop.



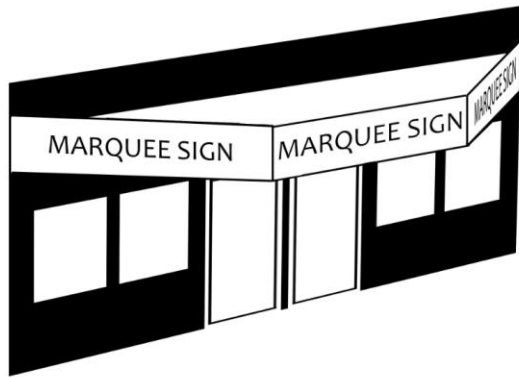
- x. “Flag” means a piece of cloth or similar material, typically oblong or square, attachable by one (1) edge to a pole or rope and used as a symbol or decoration.
- xi. “Flashing Sign” means a sign that includes lights that flash, blink, turn on and off intermittently, or otherwise vary light intensity during the display of a message.
- xii. “Freestanding Sign” or “Ground-mounted Sign” or “Pole Sign” means any non-portable sign supported by a fence, retaining wall, or by pole, upright structural members, or braces on or in the ground and not attached to a building.



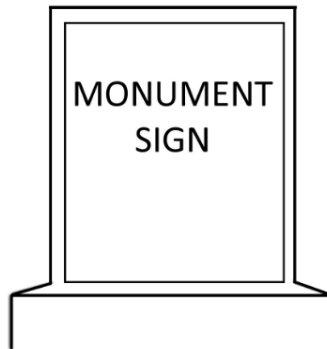
- xiii. “Geological signs” are signs made of or that appear to be made of geological formations, including but not limited to standalone rocks or mountainsides, and convey a message that is etched, carved, painted, or similarly incorporated into the sign’s material.

## City of Weston Zoning Ordinance

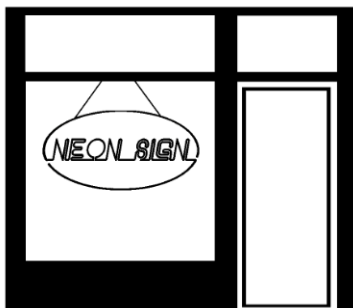
- xiv. “Illegal sign” means any sign erected without obtaining a required permit or which otherwise does not comply with any provision of this code.
- xv. “Inflatable/tethered signs” are signs which are filled with a gaseous substance to convey a message or to draw attention to a message or location.
- xvi. “Marquee Sign” means a sign attached to and made a part of a marquee or any similar projections from a building, with changeable, fixed, or both types of lettering in use.



- xvii. “Minor Sign” means sign not exceeding two (2) square foot in area, not exceeding four (4) feet in height, and not illuminated.
- xviii. “Monument Sign” means a sign affixed to a structure built on grade in which the sign and the structure are an integral part of one another; not a pole sign.

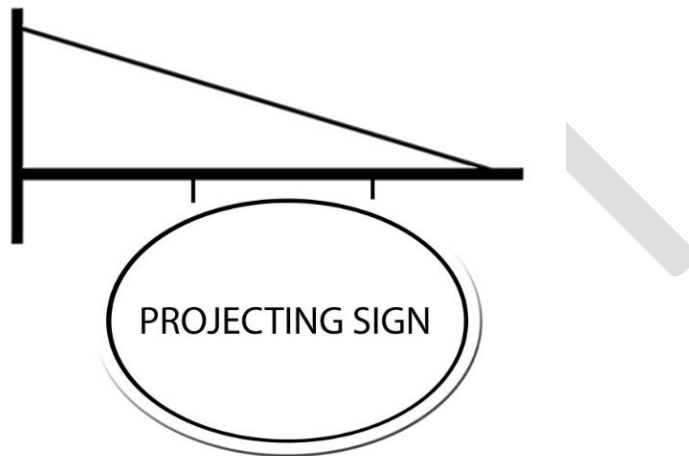


- xix. “Neon Sign” means a sign containing exposed tubes filled with light-emitting gas.



## City of Weston Zoning Ordinance

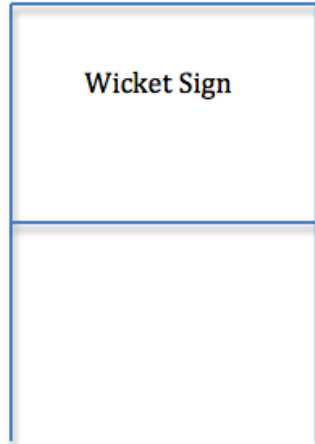
- xx. “Off-premises sign” means a commercial sign not accessory to or associated with the principal use on a lot, or that is the principal use of a lot.
- xxi. “Pennant” means a geometric shaped flag made of flexible materials, suspended from one (1) or two (2) corners fastened to a string, which is secured or tethered so as to allow movement and used as an attention-getting form of media.
- xxii. “Person-assisted sign” means a sign that includes an individual who holds, moves, wears, or otherwise directs attention to a commercial sign.
- xxiii. “Projecting Sign” means a sign attached to and projecting more than twelve (12) inches from the face of a wall or building, but does not project above the parapet or eave line of the building and is a minimum of eight (8) feet above any walking surface or twenty (20) feet above any driving surface.



- xxiv. “Roof Sign” means a sign erected or constructed, in whole or in part, upon or above the highest point of a building with a flat roof, or the lowest portion of a roof for any building with a pitched roof.
- xxv. “Temporary Sign” means any sign intended to be displayed for a limited period of time not to exceed sixty (60) days.
- xxvi. “Vehicle or Trailer Sign” means any sign attached to or displayed on a vehicle, if the vehicle or trailer is used for the primary purpose of commercial speech and fails to display current license plates, inspection sticker, or municipal decal; if the vehicle is inoperable; if evidence of paid-to-date local taxes cannot be made available; or if the sign alters the standard design of such vehicle or trailer.
- xxvii. “Wall Sign” means any sign, inscription, artwork, figure, marking, or design that is attached, painted, drawn, marked, etched, or scratched onto a wall or against a flat vertical exterior surface of a structure, including portions of doors which do not contain windows.

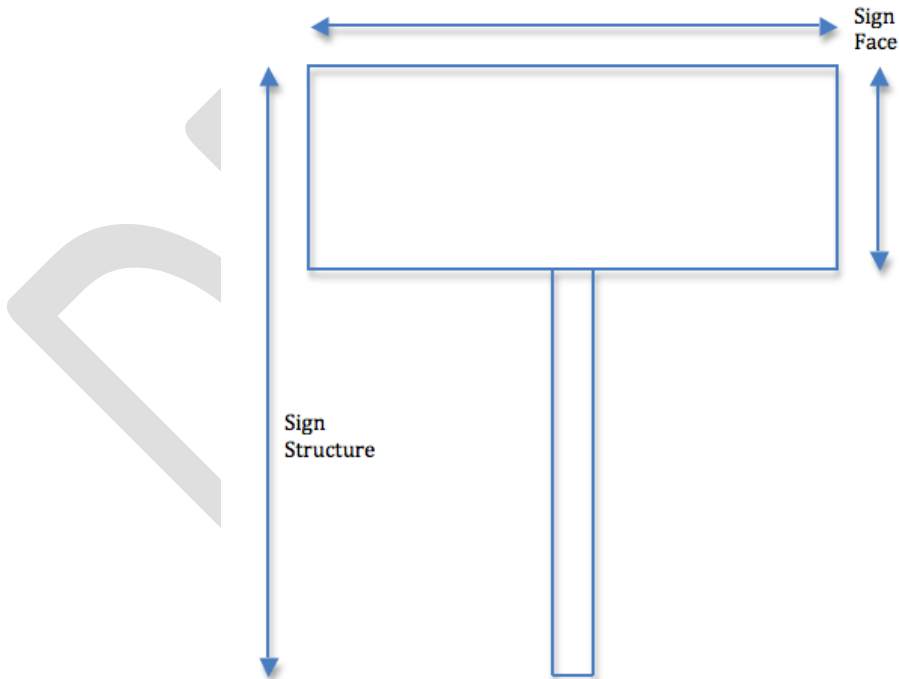
# City of Weston Zoning Ordinance

xxviii. “Wicket Sign” means a sign with an H- or U-shaped frame that is put into the ground or placed above the ground.



xxix. “Window Sign” means any sign visible outside the window and attached to or within eighteen (18) inches in front of or behind the surface of a window or door.

64. “Sign Face” means the portion of a sign structure bearing the message.



65. “Sign Structure” means any structure bearing a sign face.

66. “Special Flood Hazard Area” means the area that will be inundated by the flood event having a one percent (1%) chance of being equaled or exceeded in any given year. The

## City of Weston Zoning Ordinance

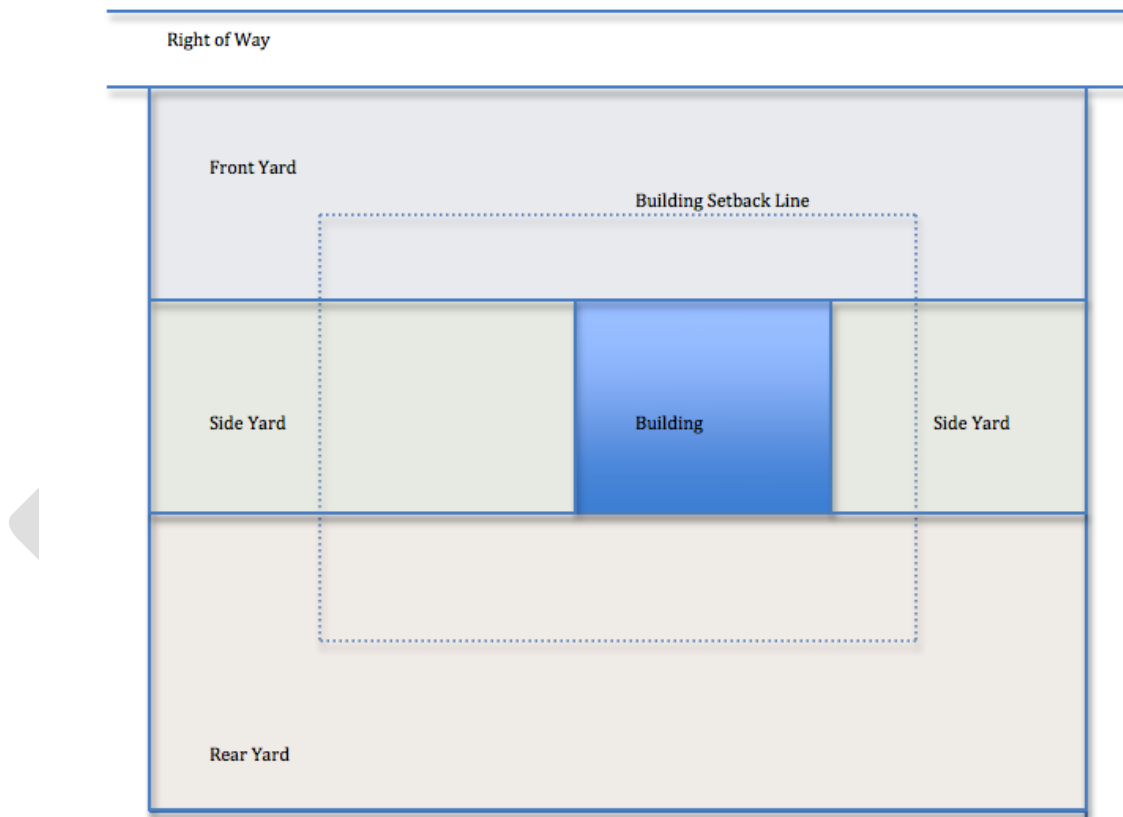
one percent (1%) annual chance flood is also referred to as the base flood or one hundred (100)-year flood.

67. "Specified Anatomical Areas" or "nudity" means less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state, even if completely and opaquely covered.
68. "Stealth, Technology" means telecommunications facilities which are designed to be compatible with the surroundings and which camouflage or partially conceal the presence of telecommunications towers and facilities, including telecommunication facilities erected on alternative structures such as ball field light poles, electric utility poles, water towers, and similar existing structures.
69. "Street" means a dedicated and accepted public right-of-way for vehicular and pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land place, or however otherwise designated.
70. "Telecommunications Tower" means any structure that is designated and constructed primarily for the purpose of supporting one or more telecommunication antennas. This includes guyed towers, lattice towers, monopoles, and towers taller than fifteen (15) feet constructed on the top of another building, along with any separate building on the lot used to house any supporting electronic equipment.
71. "Trailer, Camping and Recreational Equipment" means travel trailers, pickup coaches, motorized homes, recreational vehicles, and equipment as follows:
  - i. "Travel Trailer" means a portable structure built on a chassis, designed to be towed and used as a temporary dwelling for travel, recreational, and vacation purposes, and permanently identified as a travel trailer by the manufacturer of the trailer.
  - ii. "Pickup Coach" means a structure designed primarily to be mounted on a pickup or other truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational, and vacation purposes.
  - iii. "Motorized Home" means a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
  - iv. "Boat" means a vessel designed to travel on water.
  - v. "Boat Trailer" means a trailer designed to haul a boat.
72. "Urban Agriculture" means land used for community gardens, keeping of rabbits, and other small-scale agricultural activities.
73. "Use" means any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied, or any activity, occupation, business, or operation performed in a building or other structure, or on a tract of land.
74. "Variance" means a deviation from the minimum standards of this code, but not permitting land uses that are otherwise prohibited in the zoning district or changing the zoning classifications of a parcel of land.
75. "Vehicle" means any device in, upon, or by which any person or property is or may be transported or drawn upon a street, including automobiles, and excepting tractors, agricultural machinery, devices moved by human power or used upon stationary rails or tracks.

# City of Weston Zoning Ordinance

76. “Vertically Integrated Health System” means a health delivery system in which the complete spectrum of care, including primary and specialty care, hospitalization and pharmaceutical care, is provided within a single organization.
77. “Yard” means open space that lays between the principal building or structure and the nearest lot line. Any lot, building, or structure with characteristics that require an individual determination of yard location will be resolved at the discretion of the Zoning Officer. Yards are further classified as front, rear, and side:
- i. “Yard, Front” means a space extending the full width of the lot between the architectural front of the principal building or structure and the front lot line.
  - ii. “Yard, Rear” means a space extending the full width of the lot between the architectural rear of the principal building or structure and the rear lot line.
  - iii. “Yard, Side” means a space extending from the front yard to the rear yard between the principal building façade and the side lot line.

Front, Rear, and Side Yard



78. “Zoning” means the division of a municipality or county into districts or zones which specify permitted and conditional uses and development standards for real property within the districts or zones.
79. “Zoning Officer” means the person designated by the City of Weston through the Board of Zoning Appeals to administer and enforce the provisions of this code.

# City of Weston Zoning Ordinance

## CHAPTER 3: ZONING DISTRICTS AND REQUIREMENTS

### Article 301: Districts Established; Classification of Districts

#### Section 301.01 Districts Established.

For the purpose of this code, the City of Weston is hereby divided into the following zoning districts:

1. R-1: Single-Family Residential
2. R-2: Multi-Family Residential
3. MH: Manufactured Home Neighborhood
4. P: Parks
5. MU: Mixed-Use
6. NC: Neighborhood Commercial
7. C-1: General Commercial
8. HO1 and HO2: Historic Overlays

#### Section 301.02 Use Table.

The use table provides a quick reference to uses permitted by right or conditional in each district. The use table is part of this Zoning Ordinance and is attached at the end of this code in Appendix 2.

#### Section 301.03 Classification of Districts and District Boundaries.

- (a) Except where references on the Zoning Map to a road or street line or other designated line by dimensions are shown on the Zoning Map, the district boundary lines are intended to follow lot lines or the centerlines of roads or streets, as they existed at the time of the adoption of this code. To the extent possible, district boundary lines should not be established or interpreted to bisect property lots. Where district boundary lines are shown following creeks, streams, or river channels, it is intended that the district line follow the center of the creek, stream, or river. Where a district line does not coincide clearly with such lines, or where a district line is not designated by dimensions, a district line shall be determined by scaling.
- (b) The boundaries of all zoning districts are shown on the Zoning Map, which is the official zoning map for the City.
- (c) Unless a use is allowed as a “use permitted by right,” “use permitted with conditions,” “conditional use,” “nonconforming use,” “accessory use,” or “temporary use,” then such use is prohibited.

#### Section 301.05 Procedures Relating to Annexed or Vacated Areas.

- (a) *Zoning of Annexed Lands.* Zoning classification for any land annexed into the City shall be established by ordinance, pursuant to Chapter 8A, Article 7, simultaneously with the adoption of the annexation resolution required by West Virginia Code, Chapter 8, Article 6, as amended. City Council shall hear zoning recommendations from the Planning Commission for the subject area during the required hearing for annexation. Prior to any hearings, the Weston Planning Commission shall submit its written recommendations, to



# City of Weston Zoning Ordinance

be consistent with the comprehensive plan, to City Council at least thirty (30) days prior to the hearing for annexation.

1. Prior to the annexation hearing and formal zoning designation of any parcel(s) of land being annexed, the City shall, at least thirty (30) days prior to the enactment of the zoning map amendment:
    - i. Give written notice, by certified mail, to the landowner(s) whose property is directly involved in the proposed amendment; and
    - ii. Publish a notice of the proposed amendment to the zoning ordinance map as a Class II-0 legal advertisement, pursuant to West Virginia Code Chapter 59.
  2. After the required thirty (30) day notice period ends and the property owners have been notified by certified mail, the City Council shall hold a public hearing regarding the zoning designation of the newly annexed land. After the hearing, City Council can, by ordinance, designate the zoning districts for the annexed land.
- (b) Whenever any street, place, alley, public right-of-way, railroad right-of-way, waterway, or other similar area is vacated by proper authority, the districts adjoining each side of such street, place, alley, public way, railroad right-of-way, waterway, or similar area shall be extended automatically to the center of such vacation and all area included in the vacation shall then and thenceforth be subject to all appropriate provisions of the extended districts. In the event of a partial vacation, the adjoining district, or district nearest the portion vacated, shall be extended automatically to include all of the vacated area.

## **Section 301.07 Uses Not Expressly Permitted or Conditional.**

It is recognized that new types or forms of land use will develop within the City of Weston that are not anticipated by this code. In order to provide for such changes and contingencies, the classification of any new or unlisted land use shall be made by the Zoning Officer to determine if the use can reasonably be interpreted to fit into a similar use category described in this code.

## **Article 303: SF, Single-Family Residential**

### **Section 303.01 Purpose.**

Single-Family Residential: The purpose of the Single-Family Residential District is to preserve the desirable character of existing, lower-density, single-family neighborhoods. This district provides adequate open space, recreational, and cultural amenities conducive to single-family residential development.

### **Section 303.03 Uses permitted by right.**

- (a) The following shall be uses permitted by right in the Single-Family Residential District. Asterisked uses have supplemental regulations in Chapter 4.
1. Bus/Other Transit Shelter
  2. Child Day Care Facility, Class 4\*
  3. Dwelling, Single-Family
  4. Essential Utilities and Equipment
  5. Garage, Private

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6. Governmental Operations
7. Greenhouse, Noncommercial\*
8. Group Residential Facility
9. Group Residential Home
10. Home-based Business (No Impact)\*
11. Public Recreation
12. Solar Energy, Small
13. Telecommunications, Class I\*
14. Tourist Home

**Section 303.05          Conditional uses.**

(a) The following shall be conditional uses in the Single Family Residential District. Asterisked uses have supplemental regulations in Chapter 4.

1. Bed and Breakfast Inn\*
2. Child Day Care Facility, Class 3\*
3. Conversion of Old School/Church
4. Dwelling, Condominium
5. Dwelling, Conversion Apartment
6. Dwelling, Garage Conversion
7. Dwelling, Two-Family
8. Home-based Business (Low Impact)\*
9. Wind Energy System, Small\*

**Section 303.07          Lot, Yard, and Height Requirements.**

Single Family Residential District Requirements	
<b>Max. Building Height</b>	35 feet
<b>Min. Lot Size (Sq. Ft.)</b>	No minimum
<b>Min. Lot Width</b>	40 feet
<b>Max. Lot Coverage (as a %)</b>	No maximum
<b>Min. Front Setback</b>	10 feet, or the average of the two adjoining properties which have pre-existing structures, whichever is less
<b>Min. Side Setback</b>	5 feet
<b>Min. Rear Setback</b>	No minimum

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## Article 305: R-2, Multi-Family Residential

### Section 305.01 Purpose.

The purpose of the Multi-Family Residential District is to provide for a variety of housing types at a higher density. This district will preserve the desirable characteristics of a residential neighborhood while in close proximity to community amenities.

### Section 305.03 Uses permitted by right.

(a) The following shall be uses permitted by right in the Multi-Family Residential District.

Asterisked uses have supplemental regulations in Chapter 4.

1. Child Day Care Facility, Class 4\*
2. Dwelling, Conversion Apartment
3. Dwelling, Garage Conversion
4. Dwelling, Garden Home
5. Dwelling, Single-Family
6. Dwelling, Townhouse\*
7. Dwelling, Two-Family
8. Essential Utilities and Equipment
9. Garage, Private
10. Governmental Operations
11. Greenhouse, Noncommercial\*
12. Group Residential Facility
13. Group Residential Home
14. Home-based Business (No Impact)\*
15. Recreation, Public
16. Solar Energy, Small
17. Telecommunications, Class I\*
18. Tourist Home

### Section 305.05 Conditional uses.

(a) The following shall be conditional uses in the Multi-Family Residential District.

Asterisked uses have supplemental regulations in Chapter 4.

1. Child Day Care Facility, Class 3\*
2. Conversion of Old School/Church
3. Dwelling, Apartment
4. Dwelling, Condominium
5. Home-based Business (Low Impact)\*
6. Wind Energy System, Small\*

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## Section 305.07 Lot, Yard, and Height Requirements.

Multi-Family Residential District Requirements	
<b>Max. Building Height</b>	35 feet
<b>Min. Lot Size (Sq. Ft.)</b>	No minimum
<b>Min. Lot Width</b>	40 feet
<b>Max. Lot Coverage (as a %)</b>	No maximum
<b>Min. Front Setback</b>	10 feet, or the average of the two adjoining properties which have pre-existing structures, whichever is less
<b>Min. Side Setback</b>	5 feet
<b>Min. Rear Setback</b>	No minimum

## Article 307: MH, Manufactured Home Neighborhood District

### Section 307.01 Purpose.

The purpose of the Manufactured Home Neighborhood District is to provide an area for the placement of manufactured homes that can accommodate the density of manufactured housing, particularly in rental communities, with the associated essential utilities and infrastructure and anticipated fire and safety needs of denser developments and manufactured housing.

### Section 307.03 Uses permitted by right.

- (a) The following shall be uses permitted by right in the Manufactured Home Neighborhood District. Asterisked uses have supplemental regulations in Chapter 4.
1. Dwelling, Conversion Apartment
  2. Dwelling, Garage Conversion
  3. Essential Utilities and Equipment
  4. Factory-built Home
  5. Factory-built Home Rental Community
  6. Group Residential Facility
  7. Group Residential Home
  8. Tourist Home

## Section 307.05 Lot, Yard, and Height Requirements.

Manufactured Home Neighborhood District Requirements	
<b>Max. Building Height</b>	35 feet
<b>Min. Lot Size (Sq. Ft.)</b>	No minimum
<b>Min. Lot Width</b>	40 feet
<b>Max. Lot Coverage (as a %)</b>	No maximum
<b>Min. Front Setback</b>	10 feet, or the average of the two adjoining properties which have pre-existing structures, whichever is less
<b>Min. Side Setback</b>	5 feet
<b>Min. Rear Setback</b>	No minimum

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## Article 309: P, Parks District

### Section 309.01 Purpose.

The purpose of the Parks District is to provide space for indoor and outdoor recreation and to protect open space to preserve the natural beauty and scenic value of the City.

### Section 309.03 Uses permitted by right.

(a) The following shall be uses permitted by right in the Parks District. Asterisked uses have supplemental regulations in Chapter 4.

1. Amphitheater
2. Essential Utilities and Equipment
3. Farmer's Market
4. Funeral Home/Mortuary
5. Governmental Operations
6. Group Residential Facility
7. Group Residential Home
8. Park
9. Recreation, Public
10. Solar Energy System, Small
11. Telecommunications, Class I\*
12. Temporary Shelter
13. Tourist Home

### Section 309.05 Lot, Yard, and Height Requirements.

Parks District Requirements	
Max. Building Height	35 feet
Min. Lot Size (Sq. Ft.)	No minimum
Min. Lot Width	40 feet
Max. Lot Coverage (as a %)	No maximum
Min. Front Setback	No minimum
Min. Side Setback	No minimum
Min. Rear Setback	No minimum

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## Article 311: MU, Mixed-Use District

### Section 311.01 Purpose.

The purpose of the Mixed-Use District is to provide a diverse mix of residential, small-scale business, office, and educational uses in a high-density, pedestrian-oriented community. The Mixed-Use District serves as a buffer between residential uses and commercial and industrial uses.

### Section 311.03 Uses permitted by right.

(a) The following shall be uses permitted by right in the Mixed-Use District. Asterisked uses have supplemental regulations in Chapter 4.

1. Bakery
2. Bed and Breakfast\*
3. Broadcasting Studio
4. Bus/Other Transit
5. Child Day Care Facility, Class I\*
6. Child Day Care Facility, Class II\*
7. Child Day Care Facility, Class III\*
8. Clinic
9. Community Facility
10. Cultural Service
11. Drive-through Facility
12. Dwelling, Conversion Apartment
13. Dwelling, Garage Conversion
14. Dwelling, Mixed-Use
15. Dwelling, Single-Family
16. Dwelling, Two Family
17. Educational Institution
18. Essential Utilities and Equipment
19. Farmer's Market
20. Funeral Home/Mortuary
21. Garage, Private
22. Governmental Operations
23. Greenhouse, Noncommercial\*
24. Group Residential Facility
25. Group Residential Home
26. Health Club
27. Home-based Business (Low Impact)\*
28. Home-based Business (No Impact)\*
29. Liquor Store
30. Night Club
31. Parking Lot
32. Personal Service
33. Pharmacy
34. Photographic Studio

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- 35. Places of Worship/Religious Institution
- 36. Private Club
- 37. Professional Services
- 38. Recreation, Public
- 39. Restaurant
- 40. Retail <7,000 gross floor area
- 41. School, Preschool to 12
- 42. Solar Energy System, Small
- 43. Studio, Dancing, Music, or Art
- 44. Tattoo Parlor/Body Piercing Studio
- 45. Telecommunications, Class I\*
- 46. Temporary Shelter
- 47. Tourist Home

**Section 311.05 Conditional uses.**

- (a) The following shall be conditional uses in the Mixed-Use District. Asterisked uses have supplemental regulations in Chapter 4.
- 1. Bank/Financial Institution
  - 2. Brewery Pub
  - 3. Catering Business
  - 4. Convenience Store
  - 5. Distillery
  - 6. Dwelling, Apartment
  - 7. Dwelling, Condominium
  - 8. Dwelling, Garden Home
  - 9. Dwelling, Townhouse\*
  - 10. Emergency Shelter
  - 11. Gas Station\*
  - 12. Recreation, Private
  - 13. Tavern/Drinking Establishment

**Section 311.07 Lot, Yard, and Height Requirements.**

Mixed-Use District Requirements	
<b>Max. Building Height</b>	70 feet
<b>Min. Lot Size (Sq. Ft.)</b>	No minimum
<b>Min. Lot Width</b>	40 feet
<b>Max. Lot Coverage (as a %)</b>	No maximum
<b>Min. Front Setback</b>	No minimum
<b>Min. Side Setback</b>	No minimum
<b>Min. Rear Setback</b>	No minimum

# City of Weston Zoning Ordinance

## Article 313: NC, Neighborhood Commercial District

### Section 313.01 Purpose.

The purpose of the Neighborhood Commercial District is to provide an area for low-impact, small-scale business uses that are compatible with and provide convenience to nearby residential development.

### Section 313.03 Uses permitted by right.

(a) The following shall be uses permitted by right in the Neighborhood Commercial District.

Asterisked uses have supplemental regulations in Chapter 4.

1. Bakery
2. Bed and Breakfast\*
3. Bus/Other Transit Shelter
4. Child Day Care Facility, Class 4\*
5. Clinic
6. Community Facility
7. Cultural Service
8. Dwelling, Conversion Apartment
9. Dwelling, Garage Conversion
10. Dwelling, Single-Family
11. Essential Utilities and Equipment
12. Farmer's Market
13. Garage, Private
14. Governmental Operations
15. Greenhouse, Noncommercial\*
16. Group Residential Facility
17. Group Residential Home
18. Home-based Business (Low-Impact)\*
19. Home-based Business (No Impact)\*
20. Parking Lot
21. Personal Service
22. Pharmacy
23. Photographic Studio
24. Places of Worship/Religious Institution
25. Professional Services
26. Recreation, Public
27. Solar Energy System, Small
28. Studio, Dancing, Music, or Art
29. Telecommunications, Class I\*
30. Temporary Shelter
31. Tourist Home



# City of Weston Zoning Ordinance

**Section 313.05 Conditional Uses.**

- (a) The following shall be conditional uses in the Neighborhood Commercial District. Asterisked uses have supplemental regulations in Chapter 4.
1. Liquor Store
  2. Retail <7,000 gross floor area
  3. School, Preschool to 12
  4. Wind Energy System, Small\*

**Section 313.07 Lot, Yard, and Height Requirements.**

Neighborhood Commercial District Requirements	
<b>Max. Building Height</b>	45 feet
<b>Min. Lot Size (Sq. Ft.)</b>	No minimum
<b>Min. Lot Width</b>	40 feet
<b>Max. Lot Coverage (as a %)</b>	No maximum
<b>Min. Front Setback</b>	10 feet, or the average of the two adjoining properties which have pre-existing structures, whichever is less
<b>Min. Side Setback</b>	5 feet
<b>Min. Rear Setback</b>	No minimum

**Article 315: C-1, General Commercial District**

**Section 315.01 Purpose.**

The purpose of the Commercial Corridor District is to provide space for a commercial corridor to serve as an attractive gateway to the City. The district is intended to include higher-density development with compact and highly visible businesses.

**Section 315.03 Uses permitted by right.**

- (a) The following shall be uses permitted by right in the General Commercial District. Asterisked uses have supplemental regulations in Chapter 4.
1. Amphitheater
  2. Amusement and Recreation Center
  3. Animal Hospital/Veterinary Office
  4. Automobile Car Wash\*
  5. Automobile Repair/Service\*
  6. Bakery
  7. Bank/Financial Institution
  8. Bed and Breakfast\*
  9. Boat and Marine Sales/Service
  10. Boat Storage\*
  11. Brewery Pub
  12. Broadcasting Studio
  13. Building Material Facility

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14. Bus & Transit Facilities
15. Catering Business
16. Cemetery/Mausoleum
17. Child Day Care Facility, Class 1\*
18. Child Day Care Facility, Class 2\*
19. Child Day Care Facility, Class 3\*
20. Child Day Care Facility, Class 4\*
21. Clinic
22. Community Facility
23. Continuing Care Facility
24. Convenience Store
25. Conversion of Old School/Church
26. Cultural Service
27. Distillery
28. Distribution Facility
29. Drive-through Facility
30. Dwelling, Apartment
31. Dwelling, Condominium
32. Dwelling, Conversion Apartment
33. Dwelling, Garage Conversion
34. Dwelling, Single-Family
35. Educational Institution
36. Equipment Rental/Repair
37. Essential Utilities and Equipment
38. Farm Equipment/Construction and Supply Sales
39. Farmer's Market
40. Funeral Home/Mortuary
41. Garage, Private
42. Garden Center
43. Gas Station\*
44. Governmental Operations
45. Greenhouse, Noncommercial\*
46. Greenhouse, Commercial
47. Group Residential Facility
48. Group Residential Home
49. Health Care Medical Cannabis Organization
50. Home-based Business (Low-Impact)\*
51. Home-based Business (No Impact)\*
52. Hospital
53. Hotel/Motel
54. Kennel
55. Liquor Store
56. Lumberyard
57. Medical Cannabis Dispensary
58. Medical Cannabis Growing Facility
59. Medical Cannabis Processing Facility

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60. Medical Adult Day Care Center
61. Night Club
62. Office Supply Establishment
63. Parcel Delivery Facility
64. Parking Lot
65. Parking Structure
66. Personal Service
67. Pet Shop
68. Pharmacy
69. Photographic Studio
70. Places of Worship/Religious Institution
71. Professional Services
72. Recreation, Private
73. Recreation, Public
74. Research and Development
75. Restaurant
76. Retail <7,000 gross floor area
77. Retail >7,000 gross floor area
78. Roadside Stand
79. School, Commercial
80. School, Preschool to 12
81. Self-Storage Facility
82. Senior Independent Housing
83. Shopping Center
84. Solar Energy System, Small
85. Sports Arena
86. Studio, Dancing, Music, or Art
87. Tattoo Parlor/Body Piercing Studio
88. Tavern/Drinking Establishment
89. Telecommunications, Class I\*
90. Telecommunications, Class II\*
91. Telecommunications, Class III\*
92. Temporary Shelter
93. Theater
94. Theater, Drive-in
95. Tourist Home
96. Truck Terminal
97. Vehicle Sales/Rental and Service
98. Warehouse
99. Wholesale Establishment
100. Wind Energy System, Small\*
101. Winery

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## Section 315.05 Conditional Uses.

(a) The following shall be conditional uses in the General Commercial District. Asterisked uses have supplemental regulations in Chapter 4.

1. Adult Business\*
2. Dog Day Care\*
3. Extractive Industry
4. Flea Market
5. Industrial Park
6. Manufacturing (Light)
7. Roadside Vendor Stand
8. Solar Energy System, Large
9. Temporary Shelter
10. Video Gaming and Lottery Establishment\*
11. Wind Energy System, Large\*

## Section 315.07 Lot, Yard, and Height Requirements.

General Commercial District Requirements	
Max. Building Height	60 feet
Min. Lot Size (Sq. Ft.)	No minimum
Min. Lot Width	40 feet
Max. Lot Coverage (as a %)	No maximum
Min. Front Setback	10 feet, or the average of the two adjoining properties which have pre-existing structures, whichever is less
Min. Side Setback	5 feet
Min. Rear Setback	10 feet

## Article 317: Historic Overlays, HO1 and HO2

### Section 317.01 Purpose.

- (a) The City of Weston historic overlays HO1 and HO2 are hereby created in accordance with Section 8A-7-2(b).
- (b) The purpose of the historic overlays is to promote the general welfare and education of the public through maintaining those general areas or individual structures that have been designated as having historic, architectural, or cultural significance. HO1 and HO2 are intended to protect such areas or structures from encroachment or destruction while at the same time encouraging uses that will lead to their preservation, continuance, and improvement.

### Section 317.03 Application.

The HO1 and HO2 overlays are created as special zoning districts to be overlaid on to the underlying zoning districts. Where conflict exists between the provisions of the HO1 or HO2 overlay and the underlying zoning district, the most stringent requirements shall apply.

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## Section 317.05 Conditional Use Permits.

- (a) *Definitions.* Unless otherwise expressly stated, the following uses shall, for the purpose of this Article, be defined as follows:
1. “Historic Residential” means a residential use located within a structure designated as historic on a local, state, or national register.
  2. “Historic Commercial” means a commercial use located within a structure designated as historic on a local, state, or national register.
- (b) *Conditional uses.*
1. HO1. All uses permitted in the zoning districts underlying HO1 and all Historic Residential and Historic Commercial uses within HO1 shall be conditional uses within HO1 and subject to all the provisions of this Article.
  2. HO2. All Historic Residential and Historic Commercial uses within HO2 shall be conditional uses within HO2 and subject to all the provisions of this Article.
- (c) *Conditional use permit required.*
1. HO1. Before any building or structure within HO1 is constructed, erected, expanded, enlarged, or otherwise structurally altered, including signage, the owner of such building or structure shall apply to the Board of Zoning Appeals for a conditional use permit.
  2. HO2. Before any building or structure that constitutes a Historic Residential or Historic Commercial use within HO2 is expanded, enlarged, or otherwise structurally altered, including signage, the owner of such building or structure shall apply to the Board of Zoning Appeals for a conditional use permit.
- (d) *Submission of professional plans.* In the case of the construction of a new house, commercial building, or other significant structure, the application shall include a professional set of plans, including site and elevation plans drawn to scale, along with sufficient explanation or justification for such change in accordance with this Article. The same may be required by the Board for other applications under this Article when such plans are needed to allow the Board to fully assess the physical, aesthetic, and cultural impacts of the proposed change.

## Section 317.07 Basis for Decision.

- (a) *Professional standards.* The maintenance and preservation of the historic, architectural, or cultural significance of the Historic Residential and Historic Commercial uses within the HO1 and HO2 overlays are to be given the utmost consideration by the Board of Zoning Appeals in reviewing applications submitted under this Article. The Board shall use, as one basis for its decisions and considerations, *The Secretary of the Interior’s Standards for Historic Preservation Projects* (as issued by the U.S. Department of the Interior). The Board may also consult other treatises or authorities on historic preservation, and may solicit expert advice to assess how best to protect and improve the overall character of the HO1 and HO2 overlays.
- (b) *Historic preservation.* Whenever the Board of Zoning Appeals receives an application for a conditional use permit pursuant to Section 317.05(c), the Board shall evaluate the proposal based upon the formal application, its accompanying plans, and any other submissions. The Board shall further assess the proposed architectural style design, method of construction, and location as they relate to existing nearby structures, sites, or features in order to judge whether the proposal will ensure that harmony and

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compatibility will exist within the area. In HO1, the Board shall seek to preserve the late 19th and early 20th century architecture prevalent in existing structures within HO1 and set requirements on new construction in HO1 compatible with late 19th and early 20th century architecture.

## **Section 317.09 Permitted Uses and Lot Requirements.**

The HO1 and HO2 overlays impose a set of requirements in addition to those of the underlying zoning district. All applicable use and bulk and area regulations of the underlying zoning district shall apply in addition to the regulations outlined in this Article. Only land identified on the zoning map within the HO1 and HO2 overlays is regulated by this Article.

## **Section 317.11 General Design Guidelines for HO1 and HO2.**

- (a) *Windows and Doors.* Existing windows and doors, including the window sash, glass, lintels, frames, molding, shutters, and steps, should be retained and repaired whenever possible. If a new window or door must be used, it should be of a material compatible with the front façade. Changing the size or arrangement of windowpanes, muntins, and rails where they contribute to the historic and architectural character of the building is discouraged. Inappropriate window or door features on significant façades are discouraged. Replacement windows in restored and rehabilitated structures should retain the dimensions and pane divisions of the window being replaced. Paired casement windows, although not historically common, are generally acceptable because of their vertical orientation. The use of single-pane windows should not be permitted unless equipped with snap-in muntins.
- (b) *Storm Windows.* Exterior storm windows and doors may be installed if they are visually unobtrusive, do not cause damage to existing frames, and can be removed in the future. Storm windows should match the trim color. Mill-finished aluminum can be painted to match.
- (c) *Porches and Steps.* Porches and steps that are appropriate to the building and the site should be retained. The original material and architectural features of porches and steps should be retained whenever possible.
- (d) *Roofs.* The original roof shape should be preserved. All architectural features that give the roof its essential character should be preserved or replaced in a compatible manner.
- (e) *Architectural Metals.* Architectural metals should be cleaned when necessary with an appropriate method that does not erode the surface.
- (f) *Masonry Surface and Re-pointing.* Original masonry should be retained whenever possible, without applying any surface treatment, including paint. When re-pointing of mortar joints is absolutely necessary, old mortar should be duplicated in composition, color, texture, method of application, and joint profile. The surface cleaning of structures shall be undertaken with the gentlest means possible.
- (g) *Wood Frame Buildings.* Architectural features, such as cornices, brackets, window and door molding and details, clapboard, weatherboard, shingles, and other wood siding, are essential and parts of the character and appearance of frame buildings. They should be retained and preserved whenever possible. Frame buildings should not be resurfaced with new materials that are inappropriate for the building or that will cause deterioration of the original structure.

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- (h) *Structural Systems*. Existing foundations should not be disturbed with new excavations that could undermine the structural integrity of the building.
- (i) *Mechanical Systems*. Exterior cables (e.g., electrical, telephone, and cable TV) should be installed in places where they will be visually unobtrusive. Audio/video antenna and mechanical equipment (e.g., air conditioning and solar panels) should be placed in as inconspicuous a location as possible.
- (j) *Garages*. If an alley is adjacent to the dwelling, a new garage should be located off the alley. Where alleys do not exist, garages facing the street or driveway curb cuts may be acceptable. Garage doors should not face the street. If this is found necessary, single garage doors should be used to avoid the horizontal orientation of two-car garage doors. Parking spaces should be screened from the street and sidewalk by landscaping.
- (k) *Walls, Fences, and Railings*. Removal or replacement with inappropriate material or design is discouraged where these are historically or architecturally important elements of the design and character of the structure and district.
- (l) *Storefronts*. Proposed changes should be supported by historic photos and blueprints of the structure.
  1. Opening. The storefront opening, where possible, shall be recessed six (6) to twelve (12) inches into the façade storefront opening rather than applied to the face of the façade
  2. Frame. The storefront design shall generally be composed of a hierarchical frame made up of vertical and horizontal elements.
  3. Recessed entry. The storefront should have a recessed entry off the sidewalk to create a more intimate sense of entry at the door. The recessed entry should be three (3) feet to six (6) feet deep.
  4. Windows. The storefront should be as transparent as possible. Large window areas emphasize display, maximize natural light, and allow for visibility into and out of the store.
  5. Cornice. The storefront should have a strong horizontal form at its top to separate it from the upper façade and to help certain signage.
  6. Materials, color, and texture. These characteristics of the storefront design should complement the upper façade and adjacent façades.

### **Section 317.13      Design Standards for New Construction in HO1.**

- (a) A new building in the HO1 should be visually compatible with its neighbors in spacing, setback, massing, materials, roof shape, window divisions, and siding emphasis. A new building does not necessarily have to be identical with its neighbors in these respects, but attention shall be given to the immediate architectural environment of the new building. Any new building shall support and enhance a block's design unity and sense of character through consideration of silhouette, spacing, setbacks, proportions, volume, mass, entryway, material, surface, shadow, texture, style, and image. In addition, these guidelines apply only to the parts of the building visible from a public way.
- (b) Rhythms of building spacing should be maintained.
- (c) *Front of buildings facing the street*. The buildings in the City of Weston are characterized by their linear appearance. The front of nearly every building faces the street. Although this may not be achievable on every site due to other constraints, architectural treatments can achieve the same effect. Parking should be located at the rear and side of buildings.

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- (d) Entrances and porches are often the focus of buildings, particularly when they occur on primary elevations. Together with their functional and decorative features such as doors, steps, balustrades, pilasters, and entablatures, they can be extremely important in defining the overall character of a building. The porch treatment of new structures shall relate to the porch treatment of existing adjacent structures. Open porches are strongly encouraged, but screened in porches may be acceptable if well detailed.
- (e) The roof, with its shape; features such as cresting, dormers and chimneys; and the size, color and patterning of the roofing material, can be extremely important in defining the building's overall character. Roof profiles contribute strongly to the character of a street, and new construction shall relate to the predominant roof shape and pitch of existing adjacent buildings. Where flat roofs appear historically, they almost always project beyond the facade line and are frequently supported by brackets. New roofs should follow the traditional types: gabled, gambrel, hipped, and mansard. Roofing material shall be unobtrusive and not call attention to itself, except on buildings where pattern is a part of the overall design. Asphalt shingle is acceptable, provided it is a relatively dark shade. Random mingling of shingle shapes and colors should not be permitted, and consideration should be given to whether there is stylistic justification for the use of shaped shingles at all.
- (f) The proportion, size, and detailing of windows in new construction should relate to that of existing adjacent buildings. Most windows in the City's historic districts have a vertical orientation. Also, wooden, double-hung windows are traditional in the City's historic districts. The use of large picture windows shall not be permitted in domestic structures, nor should any window that is basically horizontal in orientation. Reflective glass is prohibited. Projecting bay windows with a polygonal plan are appropriate. If a bay window is added, a projecting bay window is preferable to a curving bow window.
- (g) Window type and materials shall be compatible with the front facade and the historic and architectural character of the buildings. Exterior storm windows and doors should be visually unobtrusive. Aluminum shall be painted in an appropriate manner.
- (h) Stylistic trim using cornices, scrollwork, and the like is encouraged. Shutters are appropriate for new structures. Shutters should be paneled or louvered. Plank or board and batten shutters shall not be permitted. Shutters shall not be pierced with sawn initials or other motifs. Shutters shall be dimensioned to cover the window opening. The height of shutters shall be equal to the distance from the sill to the lintel, and the width of each unit shall be half the width of the frame, all measured on the exterior. Attachment of shutters to the building with hinges is preferable to an immovable mounting.
- (i) Exterior materials are to be natural in appearance. For siding of new structures, diagonal and vertical siding are generally unacceptable. Siding of new structures shall have the same directional emphasis as the siding on original structures. Clapboard is the preferred siding material of new buildings. Materials which imitate natural materials may be acceptable. Imitative materials such as asphalt siding, wood-textured metal siding or artificial siding stone or brick should not be used. Four (4)-inch metal siding, when installed and carefully detailed, may be acceptable.
- (j) Paint color for a privately-owned building is essentially a personal choice. Several books have been published regarding historic paint colors at various periods in American architectural history (including *Century of Color*, published by the American Life Foundation in 1981); these should be consulted prior to choosing a color. Colors should



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be compatible with the historic district's atmosphere and typical of the period from which the architectural style was developed.

## CHAPTER 4: SUPPLEMENTAL REGULATIONS

### Article 401: Purpose

#### Section 401.01 Purpose.

The purpose of this Chapter is to establish standards and policies for specific uses in all districts that require particular considerations. These regulations will supplement general development standards by establishing uniform criteria for each use, whether a permitted use by right or a conditional use, and are set forth to achieve compatibility with the principal uses permitted in a zoning district. The provisions for this Chapter shall apply in addition to any other applicable zoning regulations.

### Article 403: Supplemental Provisions

#### Section 403.01 Abandoned Vehicle.

No abandoned motor vehicle shall be permitted on any residential property for more than seven (7) days, unless it is in an enclosed garage.

#### Section 403.03 Adult Business.

- (a) No such adult establishment shall be located less than one thousand (1,000) feet from a school zone, place of worship or religious institution, library, day care center, civic building, park, historic district, dwelling, lot with residential districting, or other adult establishment as measured from front door to front door along the curb line of public streets providing access.
- (b) All doors, windows, and other apertures shall be located and covered or screened with opaque glazing to discourage and prevent visibility or viewing of the interior.
- (c) No exterior signage, building element, advertisement, display, or other promotional material shall be pornographic in nature or convey any such idea or element to specified anatomical areas, as defined in this code, and shall not be visible from a public right of way or pedestrian walk.
- (d) In the event that an activity or business which might fall under a use category other than adult business is combined with or includes activities which constitute an adult bookstore, adult movie theater or movie house, or adult entertainment, as defined herein, then such activity or business shall constitute an adult business and shall be governed by those provisions in this code applicable to adult business uses.

#### Section 403.05 Automobile Repair/Service.

Automobile repair or service shall be subject to the following regulations:

- (a) The only vehicles which may be stored outside in connection with the business include:

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1. Customer vehicles awaiting service may be stored outside for a period not to exceed two weeks, and a work order or some other written proof must be provided to show that the vehicle is actually awaiting service.
  2. Employees' personal vehicles used for travel to and from work.
  3. A vehicle used in connection with the auto repair operation, such as a wrecker.
- (b) Vehicles that may not be stored outside are:
1. Inoperable vehicles not awaiting service.
  2. Inoperable vehicles being scrapped or used for replacement parts for another vehicle being repaired.
  3. Operable vehicles not awaiting service and not used in connection with the business.
- (c) No portion of an automotive repair or service station or any part of their appurtenances or accessory uses shall be placed within five (5) feet of any residential dwelling.
- (d) Automobile repair or service shall be screened from neighboring properties with fencing or with a landscaped buffer area.

## **Section 403.07 Bed and Breakfast Inn.**

- (a) The bed and breakfast inn shall be owner occupied.
- (b) No more than six (6) guest rooms suitable to accommodate twelve (12) guests shall be provided. No guest shall be accommodated for more than seven (7) consecutive nights.
- (c) Amenities provided by the Bed and Breakfast, such as swimming pools, porches, or decks, shall be limited for the use of the residents and guests of the facility.
- (d) The bed and breakfast shall not change the residential character of the dwelling and shall not detract from the residential character of the neighborhood.
- (e) Meals shall only be provided to overnight guests, except for special events. There shall be no separate cooking facilities in any guest room.
- (f) Employment shall not exceed two (2) full-time employees, not including the owner.

## **Section 403.09 Boat Storage.**

- (a) Boats may be no more than thirty-five (35) feet in length.
- (b) Enclosed buildings that contain boat storage shall not exceed thirty-six (36) feet in height.
- (c) Any on-site boat maintenance is prohibited.
- (d) Driveway access to individual storage garages or facilities shall be of adequate size such that no vehicle is forced to directly back onto a public street.

## **Section 403.11 Car Wash, Automobile.**

- (a) The minimum distance between any buildings, including accessory uses, and any residential zoning district shall be twenty (20) feet.
- (b) Exterior lighting shall be shielded so that it is deflected away from adjacent properties and from passing motorists.
- (c) A fence with a minimum height of six (6) feet shall be provided along the interior side and rear property line, when adjacent to a dwelling, to protect the dwelling from light and noise and eliminate blowing debris, and to protect adjacent property values. The fence shall be constructed of masonry, concrete, wood, or other similar materials.

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- (d) All of the area to be utilized by the washing and drying operations, including all ingress and egress areas, shall be paved with concrete, asphalt, or asphaltic concrete.
- (e) Where such use is located adjacent to residentially zoned property or property used for residential purposes, hours of operation shall be limited to between six (6) a.m. and eleven (11) p.m.
- (f) Five (5) off-street waiting spaces for each car washing device or stall are required, or five (5) off-street waiting spaces for an assembly line type washing establishment, and two (2) parking spaces at the end of each washing bay for drying and hand-finishing vehicles.

### **Section 403.13 Child Day Care Facility.**

All child care providers, whether state or privately operated, shall obtain a license from the West Virginia Secretary of State and the Department of Health and Human Resources. Each facility shall also be inspected by the Building Inspector and Fire Marshal to ensure the safety of children and employees.

- (a) A facility shall provide a minimum of thirty-five (35) square feet of usable space per child. Any rooms or areas that have not been approved for the use of children shall be inaccessible. No activity space may be created in the basement of a structure unless expressly approved by the Fire Marshal.
- (b) A secured outdoor activity area must be provided by the facility allowing a minimum of seventy-five (75) square feet of space per child. Should the minimum space not be available, a rotating outdoor activity schedule shall be established to meet the minimum requirements and ensure that each child be afforded outdoor playtime every day, weather permitting.
- (c) The outdoor activity area noted above shall be fenced with a minimum six (6)-foot-high fence. All play equipment shall be located in the fenced area.
- (d) Parks may be used to meet outdoor activity requirements if located immediately adjacent to the facility.
- (e) In no instance shall vehicles picking up or dropping off children idle in the street right-of-way or otherwise block public traffic patterns.
- (f) Child day care businesses operated from a residence shall be operated by a permanent resident. No changes to the exterior of residences may be made for a child day care business operated from a residence except changes necessary for safety improvements.

### **Section 403.15 Dog Day Care.**

- (a) The hours of operation shall be limited daily between seven (7) a.m. and nine (9) p.m.
- (b) Dogs may be groomed, trained, exercised, and socialized, but not kept or boarded overnight, bred, sold, or let for hire unless the use is combined with a kennel as defined herein.
- (c) There shall be no more than fifteen (15) dogs on the premise at one time.
- (d) Indoor recreational area shall be at least one hundred (100) square feet per dog, and outdoor recreational area shall be at least one hundred and fifty (150) square feet per dog.
- (e) The fence shall provide full containment for the dogs and be secured at all times. The fence structure shall be deep enough and secured to the ground to prevent escape and

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high enough to prevent dogs from jumping or climbing over. The fence shall comply with all fence provisions in this code.

- (f) If there is a grooming facility on site, it must be physically separated from primary enclosure areas and food storage.
- (g) Dogs shall display all required licensing, vaccination, and identification tags. Current records of required licensing and vaccination shall be kept by the dog day care.

## **Section 403.17 Dwelling, Townhouse.**

- (a) No more than six (6) townhouse units are permitted within each row of buildings.
- (b) To break up the mass of attached units, the front façade of each attached unit shall be treated differently, with different building materials and/or different architectural designs or treatments. These treatments shall blend in with the character of the surrounding neighborhood.
- (c) Fifteen percent (15%) of the property must be dedicated to open space. This does not include required yard setbacks and other site requirements. Maintenance of open space will be the responsibility of either a homeowner's association or the owner of the complex.
- (d) Trash receptacles and equipment must be screened.  
Separation between rows of buildings shall be required using a driveway or yard space of no less than twenty (20) feet in depth.

## **Section 403.19 Garage Sales.**

- (a) No more than four (4) garage sales, yard sales, or rummage sales are permitted within any twelve (12)-month-period for each residence or household.
- (b) For the purpose of this subsection, garage sale, yard sale, and rummage sale shall be deemed to mean the same thing.
- (c) Sales must be contained within the individual's property and may not encroach into a public right-of-way.
- (d) Each garage sale shall not be permitted to last more than seventy-two (72) hours.
- (e) A garage sale shall not include the sale of new merchandise.
- (f) Tents may be used during the event subject to subsection (c) above and must be removed immediately following the conclusion of each event.
- (g) All items must be removed from the exterior of the premise at the end of the sales event.

## **Section 403.21 Gas Station.**

Gasoline service stations shall be subject to the following regulations:

- (a) No street entrance or exit of such service station for vehicles shall be within two hundred (200) feet of a street entrance or exit of any school, park, or playground conducted for and attended by children.
- (b) No building or dispensing equipment or such service station shall be within one hundred (100) feet of any hospital, church, or public library.
- (c) Equipment above surface or ground for the service of motor vehicles shall be no closer than fifteen (15) feet to any property line.
- (d) Automobile supplies may be displayed for sale at gasoline pumps at a distance not to exceed five (5) feet from said pumps.

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- (e) The width of any entrance driveway leading from the public street to such service station shall not exceed thirty (30) feet at its intersection with curb line or edge of pavement.
- (f) No two (2) driveways leading from a public street to such service station shall be within fifteen (15) feet of each other at their intersection with the curb or street line.
- (g) Parking and vehicle access shall be so arranged that there will be no need for the motorist to back over sidewalks or onto streets.

### **Section 403.23 Greenhouse, Non-commercial.**

Noncommercial greenhouses shall only be located in the rear yard and shall not create offensive odors or dust or exceed fifteen (15) feet in height.

### **Section 403.25 Home-based Business (Low Impact).**

The business or commercial activity conducted as a home-based business must satisfy the following criteria:

- (a) Customer, client, patient, or other traffic shall be restricted to eight (8) a.m. to six (6) p.m.
- (b) No more than twelve (12) visits to the home-based business shall be allowed per day, except as necessary to operate childcare facilities in accordance with the West Virginia Code and Bed and Breakfasts; such visits may be addressed in a conditional use permit. A “visit” is defined as a stop at the business premises by one automobile transporting one or more customers, clients, patients, packages, parcels, or other business associates. A visit does not include the operator of the business, members of his or her family, or the business employee of a Bed and Breakfast.
- (c) The business or commercial activity shall not change the residential character of the dwelling and shall not detract from the residential character of the neighborhood.
- (d) The home-based business shall not employ individuals living outside the dwelling to physically work at the dwelling, except Bed and Breakfast may employ two nonresident employees to physically work at the Bed and Breakfast.
- (e) The business or commercial activity may not use any equipment or processes that create noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with radio or television reception detectable in the surrounding neighborhood.
- (f) The business or commercial activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with the use of a dwelling in the neighborhood.
- (g) The business activity may not occupy more than twenty-five percent (25%) of the gross floor area of the residence.
- (h) The business may not involve any illegal activity.
- (i) Any outdoor display or storage of materials, goods, supplies, or equipment shall be prohibited, except for signs as permitted in this code.
- (j) No traffic shall be generated by such home occupation in greater volumes 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 by off-street parking.

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## **Section 403.27 Home-based Business (No Impact).**

The business activity must satisfy the following requirements:

- (a) No employees other than persons residing in the dwelling shall be employed by the home-based business.
- (b) A home-based business shall not change the residential character of the dwelling and shall not detract from the residential character of the neighborhood.
- (c) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
- (d) A home-based business shall not display or sell retail goods or stockpile inventory of a substantial nature.
- (e) There shall be no outside appearance of a business use, including, but not limited to, parking, signs, or lights.
- (f) The business activity may not use any equipment or process that creates noise, vibration, glare, fumes, odors, or electronic interference, including interference with radio or television reception detectable in the neighborhood.
- (g) The business activity shall not generate any solid waste or sewage discharge, in volume or type, not normally associated with residential use in the neighborhood.
- (h) The business activity shall be conducted only within the dwelling and may not occupy more than twenty-five percent (25%) of the gross floor area.
- (i) No traffic shall be generated by such home-based business in excess of that normally associated with residential use.
- (j) The business may not involve any illegal activity.

## **Section 403.29 Medical Cannabis Organizations.**

The following supplemental provisions apply to all medical cannabis organizations or as otherwise specified herein.

- (a) No medical cannabis organization shall be located within one thousand (1000) feet of a school, day care, park, place of worship or religious institution, educational institution, or community facility.
- (b) No medical cannabis organization shall be located within five hundred (500) feet of another medical cannabis organization.
- (c) No medical cannabis organization shall be located within fifty (50) feet of property being used for a residential use or property within a residential zoning district.
- (d) No more than one (1) medical cannabis dispensary is permitted within the City of Weston. No more than one (1) medical cannabis processing facility and no more than one (1) medical cannabis growing facility are permitted within the City of Weston.
- (e) There shall be no emission of dust, fumes, vapors, or odors into the environment from the premises of a medical cannabis organization.
- (f) The only medical cannabis uses permitted under this ordinance are those expressly defined and permitted herein. Medical cannabis organizations may not be combined with other uses.
- (g) Medical cannabis organizations shall possess all applicable state licenses.

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## Section 403.31 Telecommunications Facilities.

- (a) All wireless telecommunications facilities and freestanding telecommunications towers shall comply with any and all Federal Aviation Administration, Federal Communication Commission, and any other applicable federal and state regulations.
- (b) Telecommunication Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA).
- (c) Telecommunication Towers not requiring FAA painting or marking shall have an exterior finish, which enhances compatibility with adjacent land uses as approved by the City.
- (d) The City may require landscaping on properties with telecommunication facilities or towers in excess of other requirements in this code in order to enhance compatibility with adjacent land uses. Landscaping shall be installed on the outside of any fencing required in this code, yet still within the property boundary where the telecommunication facility or tower is located.
- (e) Nothing in this section is construed to regulate satellite signal receiving stations, known as home satellite dishes, whether such dish is used for television reception or other purposes.
- (f) Any owner of property used as the location for telecommunication facilities shall maintain such site and all structures in good condition and free from trash, outdoor storage, weeds, and other debris.
- (g) If applicable, a copy of the applicant's Federal Communications Commission (FCC) license, or, if the applicant is not an FCC license holder, a copy of at least one letter of commitment from an FCC license holder to locate at least one antenna on the applicant's tower shall be submitted with the permit application, including a pictorial representation, such as a silhouette drawing or photograph, of the proposed telecommunications facility.
- (h) Unless co-locating as a Class II facility, certification, supported by evidence, that co-locations of the proposed telecommunications facility with an existing approved tower or facility cannot be accommodated is required. Reasons for not co-locating on a site would include, but not be limited to, the following:
  1. No existing towers or facilities are located within a two thousand (2,000)-foot-radius;
  2. Existing towers or facilities are not of sufficient height to meet the applicant's engineering requirements;
  3. Existing towers or facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment;
  4. Applicant's planned equipment would cause radio frequency interference with other existing or planned equipment of the tower, or facility would cause interference with the applicant's planned equipment which cannot be reasonably prevented;
  5. Unwillingness of the owner of the existing tower or facility to entertain a co-location proposal;
  6. Existing towers or facilities do not provide an acceptable location for requisite coverage for the applicant's communications network.
- (i) Class I telecommunications facilities. The following shall apply to all Class I telecommunications facilities:
  1. Class I telecommunications facilities shall not exceed a height of sixty (60) feet above grade;

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2. A building permit is required prior to constructing a Class I facility over six (6) feet in height.
  3. A West Virginia licensed engineer shall certify that the design of a Class I facility is such that in the event of structural failure or collapse, no part of the structure will encroach upon any adjoining property or public right-of-way.
- (j) Class II telecommunications facilities. The following shall apply to all Class II telecommunications facilities:
1. Antennas or associated electronic equipment shall be designed for co-location on an existing, permitted telecommunications tower, or attached to an existing building, water tank, or other existing support structure whose main function is not the support of telecommunication facilities, provided stealth technology is utilized to the fullest extent possible. Unless specifically being attached to an existing, permitted telecommunications tower, these facilities must be designed utilizing the latest stealth technologies as defined in this code.
  2. All Class II facilities, not to be co-located on an existing telecommunication tower, are required to be screened by natural vegetation or otherwise camouflaged by stealth technology to conform with existing site color, architecture, and landscaping characteristics so as to minimize visual impact, provided the efficacy of the telecommunication facility is not compromised.
  3. A zoning permit is required that shows the siting, placement, screening, co-location or stealth design, camouflage, height, and setback of the Class II facility.
  4. Class II telecommunications facilities which are not co-located on an existing telecommunications tower may be permitted on existing structures if such facilities meet all other requirements of this code. The owner of such structure shall, by written certification to the Zoning Officer, establish the following when plans are submitted for a zoning permit:
    - i. Sign an affidavit acknowledging that they understand that the structure will be used to support telecommunication facilities and any ancillary equipment.
    - ii. The height from grade of the telecommunications facilities shall not exceed the height from grade of the support structure by more than twenty (20) feet.
  5. Any telecommunications facilities and their appurtenances, located above the primary roof of a support structure, are set back one (1) foot from the edge of the primary roof for each one (1) foot in height above the primary roof of the telecommunications facilities. This setback requirement shall not apply to telecommunications facilities and their appurtenances located above the primary roof of a structure if such facilities are appropriately screened from view through the use of panels, walls, fences, or other screening techniques consistent with the code. Setback requirements shall not apply to stealth antennas mounted to the exterior of structures below the primary roof but which do not protrude more than eighteen (18) inches from the side of such a structure.
- (k) Class III telecommunication facilities. The following shall apply to all Class III telecommunications facilities:
1. Class III is reserved for applicants seeking to erect a new telecommunications tower or facility, with associated antennas and electronic equipment. All Class III telecommunication facilities must adhere to the City's building code standards.



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2. Towers are exempt from the maximum height restrictions of the zoning districts where located. Towers shall be permitted to a height of one hundred (100) feet, unless the applicant can show good cause to construct a tower exceeding one hundred (100) feet. Under no circumstance shall a tower be greater than two hundred (200) feet above grade.
  3. Towers shall be designed in such a manner so as to permit future co-location of other carrier's antennas, rather than construction of additional single-use towers.
  4. A Class III telecommunications facility application is required, in which the applicant must show that the new tower is built to minimize visual impact of the tower through careful design, siting, landscaping, and innovative camouflaging and stealth techniques.
  5. Security fencing, no less than six (6) feet in height shall be provided around the equipment shed. The fencing shall conform to the requirements found under Section 503.11 of this code.
  6. Towers shall be setback from all residential property lines a minimum of one hundred (100) feet or one hundred percent (100%) of the height of the proposed Tower, whichever is greater.
  7. Avoid potential damage to property caused by towers and telecommunications facilities by ensuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or when determined to be structurally unsound.
- (l) Application to develop a Class III telecommunications facility. An application to develop a Class III telecommunications facility shall include:
1. The name, address, and telephone number of the owner and lessee of the parcel of land upon which the tower is situated. If the applicant is not the owner of the parcel of land upon which the tower is situated, the written consent of the owner shall be evidenced in the application.
  2. The legal description, book, and page number from the record of such land kept in the Office of the Clerk of Lewis County, and address of the parcel of land upon which the tower is situated.
  3. The names, addresses, and telephone numbers of all owners of other towers or usable antenna support structures within a one-half (0.5) mile radius of the proposed new tower site, including City-owned property. The applicant must notify such property owners by certified mail in writing and supply the City with copies of such notices.
  4. The names, addresses, and telephone numbers of adjacent property owners and those property owners within two hundred (200) linear feet of the property line of the proposed new tower site, including City-owned property. The applicant must notify such property owners, by certified mail in writing and supply the City with copies of such notices. Tower separation distances from residentially zoned lands shall be measured from the base of a tower to the closest point of residentially zoned property.
  5. A description of the design plan proposed by the applicant in the City. Applicant must identify its utilization of the most recent technological design, including microcell or small cell design, as part of the design plan. The applicant must demonstrate the need for towers and why design alternatives, such as the use of microcell or small cell, cannot be utilized to accomplish the provision of the applicant's telecommunications services.

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6. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to obtain permission to install or co-locate the applicant's telecommunications facilities on another usable tower located within a one-half mile radius of the proposed Tower site.
  7. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install the applicant's telecommunications facilities on a support structure, as a Class II telecommunication facility, owned by other persons located within a one-half (0.5) mile radius of the proposed tower site.
  8. Written technical evidence from a West Virginia licensed engineer that the proposed tower or telecommunications facilities cannot be installed or co-located on another person's tower or usable antenna support structure (as a Class II telecommunication facility) owned by other persons located within one-half (0.5) mile radius of the proposed tower site.
  9. A written statement from the telecommunications provider that the construction and placement of the tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties.
  10. Written, technical evidence from a licensed engineer(s) acceptable to the Fire Marshal and the building official that the proposed site of the tower or telecommunications facilities does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.
  11. In order to assist the City in evaluating visual impact, the applicant shall submit color photo simulations showing the proposed site of the Tower with a photo-realistic representation of the proposed tower as it would appear viewed from the closest residential property and from adjacent roadways.
  12. The Zoning Officer may require an applicant to supplement any information that the Zoning Officer considers inadequate or that the applicant has failed to supply. The City or any of its duly authorized designees may deny an application on the basis that the applicant has not satisfactorily supplied the information required in this subsection. The City shall review applications in a prompt manner and set forth the reasons for approval or denial.
  13. A fee for management of the application in the amount of two hundred dollars (\$200.00) must be included with the application. Such fee includes administrative costs for processing this application including but not limited to expenses incurred for inspections, document review, and mapping. This fee is non-refundable.
- (m) In January of each year, the owner or operator of a communications tower within the City of Weston shall submit written report to the City that there have been no changes in the operating characteristics of the communications tower as approved at the time of approval, including, at a minimum:
1. Copy of the current FCC license, if applicable;
  2. Name, address, and emergency telephone number for the operator of the communications tower;

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3. Copy of Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence covering the communications tower and communications antennas;
  4. At any time during the calendar year, if an amendment to the FCC license is issued, a copy of the amended license shall be submitted to the City.
- (n) Bond for Removal Costs.
1. At the time of issuance of the permit or application approval for construction of the telecommunication facility, a bond or escrow account shall be posted with the City in an amount certified by the applicant's engineer to be sufficient, but in no case shall be less than \$20,000, to cover the costs of removing such wireless communications facility and disposing of all of its components, together with a financial security agreement authorizing the City to use the funds to remove the facility if the facility is abandoned, and further authorizing the City to place a lien on the premises in the event the escrow or bond is insufficient to cover the costs of removal and disposal.
  2. The financial security agreement shall be executed by both the applicant and the landowner.
  3. At the time of filing of the Annual Report required in subsection (m) above, any new owner of the land or of the facility, as well as an organization utilizing the facility, shall reaffirm the validity of the financial security agreement and/or execute a new financial security agreement as may be required by the City Solicitor.
  4. If the Zoning Officer finds that an abandoned telecommunications facility has not been removed within ninety (90) days of the cessation of use, said officer shall give written notice to the owner of the building or premises on which such facility is located.
  5. Removal of the facility shall be effected within fifteen (15) days after receipt of the notice. If such facility is not removed after the conclusion of the fifteen (15) day period, the Zoning Officer is hereby authorized to cause the antenna to be removed at the expense of the owner of the building or premises on which such antenna is located.
  6. If the escrow or bond is insufficient to cover the entire cost of removal and disposal, the City may place a lien upon the premises that may be collected in accordance with the rules for collection of municipal liens.

### **Section 403.33 Urban Agriculture.**

- (a) Definitions for this section.
1. "Beekeeping" means the keeping or propagation of honeybee hives for collection of honey or other bee products.
  2. "Community Garden" means a neighborhood-based development with the primary purpose of providing space for members of the community to grow plants for beautification, education, recreation, community distribution, or personal use.
  3. "Composting" means accumulating a mixture of various decaying organic substances, such as dead leaves or manure, intended to be used for fertilizing soil.
  4. "Home Agriculture" means the gardening or production, principally for use or consumption of the property owner or resident, of plants or their products including but is not limited to fruits of all kinds including grapes, nuts, and berries; vegetables;

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- floral, ornamental, and other non-commercial greenhouse products; and bees and apiary products.
5. "Hydroponics" means the cultivation of plants in nutrient solution rather than soil.
  6. "Livestock" means any hog, pig, goat, cow, horse, pony, emu, alpaca, or other hoofed animal.
- (b) The responsibility of managing, maintenance, and operations of community garden sites shall be that of the land owner or designated public or civic entity, nonprofit organization, or other community-based organization. Processing and storage of plants or plant products are prohibited on site. Garden tools and supplies may be stored within an accessory structure.
  - (c) Composting shall take place at least twenty (20) feet from any dwelling, except a dwelling associated with the use.
  - (d) The keeping of rabbits is permitted as an accessory use to a dwelling, provided that the number of rabbits on property less than one (1) acre shall not exceed six (6) and the number of rabbits kept on property greater than (1) acre shall not exceed (12) twelve, subject to the following provisions:
    1. A dwelling shall be located on the same lot as the rabbits;
    2. Rabbits shall be kept within a building, coop, or enclosure, and within a fully enclosed and fenced rear or side yard such that rabbits may not be at large within the City. The building, coop, or enclosure in which the rabbits are kept must be at least ten (10) feet from any dwelling, except the primary dwelling situated on the property. The building, coop, or enclosure shall be durably constructed and maintained in conformance with the West Virginia State Building Code; and
    3. A permit is required for keeping rabbits within the City. A permit may be obtained from the City Clerk after application to the Zoning Officer and an inspection performed by the Zoning Officer.
  - (f) Any sale resulting from composting, home agriculture, or keeping of rabbits shall constitute a home-based business and is subject to all applicable provisions of this code.
  - (g) Composting, home agriculture, and keeping of rabbits shall not take place in the front yard of any lot, except plants that are integrated with the principal structure's landscaping and primarily serve an ornamental purpose. Any of these practices occurring in the front yard at the time of enactment of this ordinance shall be deemed a nonconforming use which may not be expanded, including by adding new plantings intended for home agriculture.
  - (h) Prohibitions.
    1. Beekeeping.
    2. Livestock shall not be kept within the City, except up to two (2) livestock animals under one hundred (100) pounds that are primarily kept indoors as pets.
    3. Slaughtering and processing more than twelve (12) rabbits per year is prohibited within the City.

## **Section 403.35 Wind Energy Systems.**

- (a) The purpose of this section is to regulate the placement, construction, and modification of small wind energy systems while promoting the safe, effective, and efficient use of such systems.

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- (b) The requirements set forth in this section shall govern the siting of wind energy systems used to generate electricity or perform work which may be connected to the utility grid pursuant to West Virginia's net metering laws, serve as an independent source of energy, or serve in a hybrid system.
- (c) The requirements for siting and construction of all small wind energy systems regulated by this section shall include the following:
1. Small wind energy towers shall maintain a galvanized steel finish, unless FAA standards require otherwise, or if the owner is attempting to conform the tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. A wind energy tower may be erected, maintained, or operated on or as an attachment to a building on a lot. A photo simulation may be required by the City.
  2. Wind energy systems shall not be artificially lighted unless required by the Federal Aviation Administration (FAA) or appropriate authority.
  3. No tower shall have any sign, writing, or image that may be construed as advertising by the Zoning Officer or designee.
  4. The applicant shall provide evidence that the proposed height of the wind energy system tower does not exceed the height recommended by the manufacturer or distributor of the system. The tower height shall not exceed a maximum height of seventy (70) feet on a parcel. When situated on or attached to a building the total height shall not exceed seventy (70) feet. The building itself shall otherwise conform with the applicable height requirement under this ordinance.
  5. The applicant shall provide evidence that the provider of electric utility service to the site has been informed of the applicant's intent to install an interconnected, customer-owned electricity generator, unless the applicant intends, and so states on the application, that the system will not be connected to the electricity grid. Notification will take place by having the electric utility provider sign the conditional use permit application, but such signature does not construe approval for net metering by the electric utility.
  6. Wind energy systems shall adhere to noise limits as delineated in Article 527 of the City of Weston Municipal Code. These levels, however, may be exceeded during short-term events such as utility outages or severe windstorms.
  7. The applicant will provide information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.
  8. The minimum distance between the ground and any protruding blade utilized on a small wind energy system shall be fifteen (15) feet, as measured at the lowest point of the arc of the blades. The lowest point of the arc of the blades shall also be ten (10) feet above the height of any structure within seventy-five (75) feet of the base. The supporting tower shall also be enclosed with a six (6)-foot tall fence or the base of the tower shall not be climbable for a distance of ten (10) feet.
  9. The applicant will provide proof of adequate liability insurance for a small wind energy system. Whether or not the applicant is participating in the net metering program, the applicant will be required to meet the insurance coverage requirements as set forth in W. Va. Code R. § 150-33-4.
  10. The small wind energy system generators and alternators should be constructed so as to prevent the emission of radio and television signals and shall comply with the

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- provisions of Section 47 of the Federal Code of Regulations, Part 15 and subsequent revisions governing said emissions.
- (d) Federal and state requirements.
1. *Compliance with the Building Code.* Building permit applications for wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including tower, base, and footings. An engineering analysis of the tower showing compliance with the Building Code and certified by a licensed professional engineer shall also be submitted.
  2. *Compliance with FAA Regulations.* Wind energy systems must comply with applicable FAA regulations.
  3. *Compliance with National Electric Code.* Building permit applications for wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
  4. *Compliance with regulations governing energy net metering.* Wind energy systems connected to the utility grid must comply with West Virginia Code § 24-2F-8 and West Virginia Administrative Code Title 150, Series 33.
- (e) The wind energy system shall be setback a distance at least equal to one hundred ten percent (110%) of the height of the tower plus the blade length from all adjacent property lines and a distance equal at least to one hundred fifty percent (150%) of the tower height plus blade length from any dwelling inhabited by humans on neighboring property. Additionally, no portion of the wind energy system, including guy wire anchors, may be extended closer than ten (10) feet to the property line.
- (f) Removal of defective or abandoned wind energy systems. Any wind energy system found to be unsafe by the building official shall be repaired by the owner to meet federal, state, and local safety standards or removed within six (6) months. Any wind energy system that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of the system shall remove the turbine within ninety (90) days of receipt of notice from the City instructing the owner to remove the abandoned wind energy system.

## **Section 403.37 Video Gaming or Lottery Establishments.**

- (a) No public entrance to a video gaming or lottery establishment within the City shall be located within one thousand (1,000) feet of the closest public entrance of any gambling establishment, church, place of worship, library, public park, public playground, school, children daycare center, nursing or personal care home, continuous care facility or rehabilitation facility that is located within the City.
- (b) The distance prescribed in subsection (a) hereof shall be measured along a straight line beginning at a point or points from any public entrance or entrances of a gambling establishment existing or proposed to exist.

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## CHAPTER 5: GENERAL REGULATIONS

### Article 501: Purpose

#### Section 501.01 Purpose.

Provide for special situations that must be regulated in such a manner as to promote orderly development and to protect the public health, safety, and general welfare of the community. The following supplemental regulations have been deemed necessary to clarify and carry out the overall intent of this ordinance.

### Article 503: General Provisions.

#### Section 503.01 Accessory Buildings, Uses, and Structures.

- (a) All accessory buildings, uses, and structures shall require a Zoning Permit. Accessory buildings, accessory uses, and accessory structures shall be permitted in all districts, provided each is customarily incidental and subordinate to a principal use. There must be a principal structure on the lot prior to the issuance of a Zoning Permit for an accessory building or structure, except adjacent lots under the same ownership may have an accessory structure located on a lot adjacent to the principal structure.
- (b) No use that is to be carried on in an accessory building or structure shall be in violation of the permitted uses in that district.
- (c) All accessory buildings, uses, and structures shall comply with the side and rear yard setback requirements for that district. Accessory structures shall only be located in the side or rear yard, except garages, carports, fencing, mailboxes, and structures customarily associated with being the front yard may be located in the front yard.
- (d) Except as provided elsewhere in this code, no accessory structure shall be constructed and used as a dwelling. Provided, however, that one residential unit for a caretaker may be permitted in conjunction with any active industrial establishment.

#### Section 503.03 Yard/Setback Requirements.

- (a) All yards required to be provided under this code shall be open to the sky and unobstructed by any building or structure except for accessory buildings or structures in the side or rear yard and within the building setback line, fences, and the following which may project into the required yards as established in this code:
  1. Steps and stoops not exceeding twenty-four (24) square feet;
  2. Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projection of chimneys and flues into the rear or side yard not exceeding three and one-half (3.5) feet in width and placed so as not to obstruct light or ventilation; and
  3. Sills, eaves, belt courses, cornices, and ornamental features not exceeding two (2) feet in width.
- (b) For purposes of determining the required yard for townhouse developments, setbacks shall only apply from the perimeter of the main building to the perimeter of the parent parcel upon which the building is situated.

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## **Section 503.05 Swimming Pools.**

Private swimming pools are permitted accessory uses only when located in rear yards. Swimming pools and protective barriers must adhere to setback requirements within the zoning district where the pool is to be located.

## **Section 503.07 Additional Principal Buildings.**

- (a) *Dwellings.* Individual lots or subdivided parcels ten (10) acres or less in size shall have no building or buildings used for living purposes in addition to the principal building on the same lot, except garage apartments where permitted in a zoning district. Undivided land parcels of ten (10) acres or greater in size shall be limited to one residential structure per ten (10)-acre unit of undivided land area. This provision does not apply to factory-built home rental communities.
- (b) *Non-dwellings.* Where a lot is not used as a dwelling, more than one principal building may be located upon the lot or tract, but only when such buildings conform to all open space and yard requirements around the lot for the district in which the lot or tract is located. A lot is not used as a dwelling for purposes of this subsection when the lot contains a caretaker's residence used in conjunction with an active industrial establishment or a place of worship or religious institution as provided in this code.

## **Section 503.09 Orientation of Principal Structures.**

All principal structures shall be required to have a front door facing the street unless the Zoning Officer determines that the prevailing condition of the developed lots fronting the same street would warrant a different orientation, or another orientation is necessary for emergency services access.

## **Section 503.11 Fences, Landscaping, and Screening.**

Subject to the following conditions, fences and walls may be erected and hedges and other plantings may be grown along the boundaries of a lot:

- (a) *Clear sight triangle.* Fences, hedges, other plantings, or walls at street corners shall not interfere with any clear sight triangle. The height of such objects is restricted to three and one-half (3.5) feet within the clear sight triangle. No fence, hedge, other plantings, or walls shall otherwise impose a threat to the public safety, including by obstructing the view of motorists to oncoming traffic or pedestrians.
- (b) *Height restrictions.* Fences, walls, hedges, and other plantings used for the purpose of screening shall not exceed forty-two (42) inches in height from the front building line extending to the front lot line, and shall not exceed six (6) feet in height extending behind the front building line of the main structure, excluding porches and stairs.
- (c) *Fences and walls.*
  - 1. Fences and walls shall be durably constructed and well maintained.
  - 2. Fences and walls that have deteriorated shall be replaced or removed immediately.
  - 3. Fence and walls shall not be constructed out of fabric, junk, junk vehicles, appliances, tanks, barrels, razor wire, or barbed wire. Electric fencing shall only be used to protect a garden, provided that electric fencing shall not exceed forty-eight (48) inches in height, shall not be located in the front yard, and shall post a warning sign



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on each side of the fence that reads “Warning – Electric Fence” at intervals of not more than fifty (50) feet.

4. The finished side of the fence shall be oriented towards the front of the lot or the direction of the adjacent property owner, unless the fence is not visible from adjoining property.

(d) *Landscaped buffer areas.*

1. Five (5) foot landscaped buffer areas are the preferred method of buffering. However, where a buffer strip is considered to be impracticable or inappropriate, an opaque fence at least six (6) feet in height, in the rear or side yard, or four (4) feet in height in the front yard so as to restrict a clear view beyond said buffer may be substituted in whole or in part for a natural buffer, subject to approval by the Zoning Officer.
2. Landscaped buffer areas shall be continually maintained by the landowner. Any plant material that does not survive shall be replaced within six (6) months. All landscaping shall be kept free of refuse and debris.
3. Landscaped buffer areas may be required by the Board of Zoning Appeals as a condition of a conditional use permit.
4. Landscaped buffer areas shall not be required where the lot abuts an area of existing natural vegetation that effectively screens the lot from casual observation to a height of at least eight (8) feet.
5. All species within the screen planting shall be indigenous or otherwise well-suited to the City, except that trees with large leaves which could clog storm drains; trees that are brittle, disease-prone, have low, spreading branches or shallow root systems; trees that drop large fruit or much sap; or any plantings that are otherwise messy shall also be avoided.
6. Hedges shall be kept trimmed so that their branches shall not extend into the public road, or upon the lands of an adjoining owner, more than eighteen (18) inches over the dividing line.

(e) Landscaped buffer areas shall be provided between any new multi-family, commercial, or industrial development that is adjacent to single-family residential property (existing or zoned) or adjacent to any dwelling, which landscaping shall be at least five (5) feet wide and at least five (5) feet high, subject to height limitations contained within this section.

(f) At least one (1) tree for each fifty (50) linear feet shall be planted in a landscaping strip in addition to other planting materials.

(g) Landscaped areas shall be protected from the encroachment of vehicles by use of curbing, wheel stops, bollards, fencing, or other approved barriers.

(h) The landscaped areas shall not obstruct sight distances for motorists or pedestrians, nor shall such landscaping create any potential hazard to public safety.

### **Section 503.13 Clear Sight Triangle.**

In a clear sight triangle, the entire area shall remain clear of obstructions to sight, including but not limited to fences, hedges, other landscaping, and signs, above a plane established three and one-half (3.5) feet in elevation to a height of ten (10) feet from grade level at the intersection of any street, alley, or other public right-of-way centerline.

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## **Section 503.15 Lot Lines and Irregular Lots.**

- (a) *Corner lots.* Corner lots shall have no rear lot line.
- (b) *Flag lots.* When the handle of a flag lot is less than the minimum width for a lot in the zoning district in which it is located, the handle is not to be used in delineating the minimum required lot width. The minimum lot width shall be taken from the front building setback line. However, the handle shall be used in computing the required minimum lot size, except that in no case shall the area of the handle constitute more than fifty percent (50%) of the entire lot. Additionally, no structures, whether primary or accessory, shall be placed in the handle.
- (c) *Lot width.* In a case where there is only one (1) side lot line, lot width shall be measured between such side lot line and the opposite rear lot lines or street line.
- (d) *Irregular lots.* Front setbacks for irregular lots shall be measured from the front lot line adjacent to the street right of way with the greatest frontage in linear feet.
- (e) *Pie-shaped lots.* Setbacks on pie-shaped lots shall be measured at the closest point between the building and the angled lot line.
- (f) *Rear lot line (Irregular).* In the case of a lot having no street frontage or a lot of an odd shape, only the one lot line farthest from any street shall be considered a rear lot line. Where there is only one (1) lot line other than street lot lines, it shall be considered the rear lot line.

## **Section 503.17 Temporary Uses.**

Only the following uses are permitted temporarily, for up to four (4) consecutive weeks, unless otherwise stated, in one (1) calendar year:

- (a) Seasonal sales of such items as pumpkins, Christmas trees, fireworks stands, etc. in the Mixed-Use, Neighborhood Commercial, and General Commercial districts.
- (b) Carnival, circus, and street fairs in the Mixed-Use, Neighborhood Commercial, and General Commercial districts.
- (c) Mobile amusements and lighting equipment as a temporary attraction or sign in the Mixed-Use, Neighborhood Commercial, and General Commercial districts.
- (d) A permit is required to be completed, returned to the Zoning Officer, and approved before any temporary use may commence, in addition to any other requirements of the Code of the City of Weston, including but not limited to obtaining a business license.
- (e) Contractor's offices and real estate offices or trailers and equipment sheds may be permitted for the period of active construction or selling of units. No sleeping or cooking accommodations are allowed.
- (f) Only a well-established non-profit organization or lawful place of worship proposing a temporary use to clearly primarily serve a charitable, public service or religious purpose shall be eligible to receive approval of a commercial use in a district where that use is otherwise not permitted.
- (g) Temporary amusement events. Indoor or outdoor temporary amusement events, including the erection of tents for such event, may be allowed as a temporary use, provided such use shall not exceed a duration of fifteen (15) days in one (1) calendar year. In residential districts, such temporary amusement events shall be located on institutional and public uses property only.

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## **Section 503.19 Height Exceptions.**

- (a) Special industrial structures such as cooling towers, elevator bulkheads, fire towers, tanks, and water towers, which require a greater height than provided in the district, may be erected to a greater height than permitted providing:
  - 1. The structure shall not occupy more than twenty-five percent (25%) of the lot area;
  - 2. The setback requirements of the district in which the structure is erected shall be increased by one (1) foot for each foot of height over the maximum height permitted; and
  - 3. The increase is necessary to comply with state or federal statutes or regulations
- (b) The height limitations of this code shall not apply to flagpoles, church spires, belfries, chimneys, antennas, or water tanks.

## **Section 503.21 Storage, General.**

- (a) No lot or premise shall be used as a storage area for inoperable automobiles, appliances, or the storage or collection of any other miscellaneous items unless permitted in this code or by state statute. No lot or premise shall be used as a garbage dump or a dead animal rendering plant, nor may manure, rubbish, or unauthorized miscellaneous refuse be stored in the open.
- (b) All outdoor storage areas shall be located in the rear yard only. Only outdoor areas for sales may be permitted within the front yard.
- (c) *Hazardous materials.* Any storage of hazardous material that is ancillary to a permitted use or a conditional use shall meet the following conditions:
  - 1. All storage shall comply with all state, federal, and local regulations.
  - 2. Such material shall be listed and made known to the Chief of the City of Weston Fire Department.

## **Section 503.23 Storage of Trailers, Camping, and Recreational Equipment.**

- (a) At no time shall trailers or camping and recreational equipment be occupied or used for living, sleeping, or housekeeping purposes while being temporarily or permanently parked or stored on a residential property.
- (b) Trailers or camping and recreational equipment must be parked in rear or side yards, setback at least three (3) feet from a property line. At no time may trailers or camping and recreational equipment be parked on or so as to obstruct a pedestrian sidewalk.

## **Section 503.25 Performance Standards.**

No use of land or structure in any district shall involve any element, or cause any condition that may be dangerous, injurious, or noxious to any other property or person. Furthermore, every use of land or structure in any district must observe the following performance requirements:

- (a) No activities shall be permitted that carry objectionable substances onto neighboring properties due to erosion by wind or water;
- (b) No activity shall cause electrical disturbances adversely affecting radio, television, or other communication equipment in the surrounding area;
- (c) Noise, which is determined to be objectionable because of volume or frequency, shall be muffled or otherwise controlled, except for fire sirens and related apparatus used solely for public safety purposes;

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- (d) No gases or fumes toxic to persons or injurious to property shall be permitted to escape beyond the building in which they occur;
- (e) No glare shall be seen from any street or any residential area; and
- (f) No intense earth-shaking vibration shall be created or maintained by any industry beyond the property on which it is located.

## **Section 503.27      Lighting.**

- (a) All lighting shall be erected and maintained so that light is confined to the property and will not cast direct light or glare upon adjacent properties or public rights of ways.
- (b) All lighting shall be low-intensity and shielded so there is no illumination of adjoining residential properties.
- (c) Feature lighting, such as up lighting of trees or other plant material, seasonal lighting, etc., shall be so arranged to reflect away from any residential structure. Such lighting shall not create a glare on adjacent streets or properties.
- (d) Building, parking, and all other exterior lighting shall be shielded and directed in a manner that does not reflect or cause glare onto adjacent properties or interfere with street traffic. Bare, unshaded bulbs are prohibited.
- (e) For all non-residential uses, exterior wall-mounted floodlights shall be prohibited, except for security lighting.
- (f) Lighting is required for all off-street parking areas, off-street loading areas, and driveways providing ingress and egress for all non-residential and multi-family developments.

## **Section 503.29      Parking.**

- (a) Ingress and egress for commercial development.
  - 1. Adequate ingress and egress to the parking facility shall be provided by clearly defined driveways.
  - 2. In no event shall vehicles be permitted to back directly into the public street from the off-street parking area.
- (b) Driveways for commercial development.
  - 1. Driveways should be located to minimize traffic conflicts with traffic entering the street from either the same or the opposite side of the street.
  - 2. Properties with frontages of six hundred (600) feet or less on any individual street are only permitted one (1) driveway intersection per street.
  - 3. Properties with frontages greater than six hundred (600) feet may be permitted a maximum of two (2) driveways per street frontage, provided that such driveways are at least three hundred (300) feet apart and that one (1) driveway is clearly marked for egress only and one (1) driveway is clearly marked for ingress only.
  - 4. Regardless of frontage, a development may be restricted to a single driveway depending on usage and interior and exterior traffic patterns.
  - 5. All access driveways shall be designed to conform to West Virginia Department of Transportation specifications with regard to roads.
- (c) On any lot, no wall, fence, hedge, tree, shrub, or other obstruction shall be allowed which dangerously obscures the view of approaching traffic along the street, or at any intersection, including driveways.

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- (d) For residential uses, only one (1) driveway access per unit is permitted, unless two (2) are needed for a U-shaped driveway. A lot with at least one hundred (100) feet of frontage along a street may be permitted one (1) additional driveway access.
- (e) Off-street parking spaces, with proper and safe access from a street, shall be provided on all non-residential lots, either within a structure or in the open, to serve the uses upon that lot.
- (f) *Parking requirements.*
  1. The following minimum number of off-street parking spaces per use shall be provided for the uses indicated below as shown in *Table 5.1: Minimum Parking Spaces Required*, in addition to the special queuing requirement in subsection (g) and *Table 5.2: Special Queuing Requirements*, except that there are no parking requirements for commercial uses in the Mixed Use commercial District.
  2. For uses not specified in this table the number of parking spaces shall be determined by the Zoning Officer on the basis of similar requirements, number of persons employed, and number of visitors. Appeals to the determination of parking spaces may be made to the Board of Zoning Appeals.
  3. *Combination of uses.* Where there is a combination of uses on a lot, the required number of parking spaces shall be the sum of that found for each use, dividing the gross floor area proportionately between the different uses. The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use at the same time, except that one half (0.5) of the parking space required for churches, theaters, or assembly halls with peak attendance at night or on Sunday may be assigned to a use which will be closed at night or on Sunday.
  4. All square footage is in gross floor area (GFA).
  5. For any non-conforming use which is hereafter damaged or partially destroyed, and which is lawfully reconstructed, re-established, or repaired, off-street parking and loading facilities equivalent to those maintained at the time of such damage or partial destruction shall be restored and continued in operation; provided, however, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this code for equivalent new uses.

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<b>Table 5.1: Minimum Parking Spaces Required</b>	
<i>Use</i>	<i>Minimum Number of Parking Spaces</i>
<b>Residential Uses</b>	
Single family residential	2 spaces per dwelling unit
Multi-family residential	1 per bedroom
Continuing Care Facility	1 space per 3 beds and 1 space for each employee
Senior Independent Housing	1.5 space for 1 bedroom unit 2 spaces for 2 bedroom unit 2.5 spaces for 3 or more bedroom unit
<b>Educational, Institutional, Social and Fraternal Uses</b>	
Assembly (Places of Worship, theaters, auditoriums, etc)	1 space per 4 fixed seats, 1 space per 60 square feet of the main assembly where no fixed seats are used
Community Facility	1 space per 1,000 sq. ft. of GFA and 1 space per employee
Cultural Service	1 space per 300 feet of GFA
Educational Institution	2 spaces per 1,000 GFA
Park	5 spaces per acre of outdoor area
School, K-12	2 spaces per classroom, 5 per classroom in high schools
School, Commercial	6 spaces per classroom
<b>Business and Industrial</b>	
Child Day Care Facilities	1 space per employee and 1 additional space for every 10 children enrolled; 1 designated drop off/pick-up space is permitted
Clinics	5 spaces for each doctor engaged at the clinic plus 1 parking space for each employee
Commercial (Retail, Office, Personal Service, etc.)	1 space for each 200 square feet of gross floor area
Hospital	1 space per 4 patients and 1 space per employee on largest shift
Hotels, Motels, etc.	1 space per guest room and 1 space for each 3 employees; 1 space per 3 persons to the maximum capacity of the largest banquet or meeting room
Industrial	1 space per employee on largest shift plus 5 customer parking spaces
Restaurant/Tavern or Drinking Establishment /Night Club	1 space per 100 square feet of GFA plus 1 space per employee
Restaurant, Carry Out	1 space per 2 employees
	1 space per 2.5 seats, and 1 space per 2 employees

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(g) Special Queuing Requirements.

- a. All public and private schools, day care centers, institutional uses, places of worship, and other places of assembly shall provide off-street passenger drop-off and pick-up facilities.

<i>Use</i>	<i>Minimum Number of Spaces</i>
School	5 automobile spaces and 5 bus spaces for every 50 students, when buses are used for student transportation
Places of Worship and Religious Institutions, Places of Assembly, Institutions	10 automobile spaces and 2 bus spaces OR 1 automobile spaces and 0.25 bus spaces for every 50 seats in largest assembly room, whichever is greater
Nonresidential Day Care	6 automobile spaces
All Other Uses	Where utilized, 3 automobile spaces, unless otherwise determined by Zoning Officer

(h) Parking Space Dimensions.

1. For angle parking, stalls shall be a minimum of nine (9) feet in width and eighteen (18) feet in length.
2. For parallel parking, stalls shall be a minimum of eight (8) feet in width and twenty (20) feet in length.
3. For compact space parking, stalls shall be not less than seven (7) feet wide and sixteen (16) feet long, and reserved for the parking of only one compact automobile.
4. The minimum width of aisles providing access to stalls, varying with the angle of the parking, shall be as follows in *Table 5.3: Parking Standards*:

<i>Angle of Parking</i>	<i>Minimum Aisle Width (Double-Sided Parking)</i>	<i>Minimum Aisle Width (Single-Sided Parking)</i>
Parallel	12'	12'
45°	12'-8"	12'-8"
60°	16'	16'
75°	20'	18'
90°	24'	18'

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- (i) The required parking area shall be measured exclusive of interior drives or maneuvering areas.
- (j) Parking spaces for use by persons with disabilities shall meet Americans with Disabilities Act of 1990 (ADA) standards.
- (k) If the land between parking areas and the side or rear lot lines or street right-of-way line is landscaped to the satisfaction of the City of Weston, parking may be allowed in front, side and rear yards, but no closer than five (5) feet from a side or rear lot line or street right-of-way line.
- (l) All parking areas shall be designed to be accessible year-round.
- (m) Parking spaces shall be clearly delineated by suitable markings. Short-term visitor parking spaces shall be differentiated from long-term employee spaces by suitable markings or signage.

## **Section 503.31 Off-street Loading Requirements.**

In connection with any building or structure which is to be erected or substantially altered and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading berths not less than the minimum requirements specified in this section:

- (a) Areas provided for the loading and unloading of delivery trucks and other vehicles and for the servicing of shops by refuse collection, fuels, and other service vehicles shall be arranged so that they may be used without:
  - 1. Blocking or interfering with the use of accessways, automobile parking facilities, or pedestrian ways, or
  - 2. Backing out into a street.
- (b) All required loading berths shall be located on the same lot as the use to be served, and no portion of the vehicle shall project into any traffic lane. No loading berth for vehicles of more than two (2) ton capacity shall be located less than one hundred (100) feet from any residential district. No permitted or required loading berth shall be located within fifty (50) feet of any property line. No loading facilities shall be constructed between the building setback line and a street right-of-way line.
- (c) All off-street loading areas shall be adequately buffered from adjacent streets and properties and landscaped in accordance with the provisions of this code.



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## Article 505: Sign Regulations

### Section 505.01 Findings, Purpose, and Intent; Interpretation.

- (a) Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, color, illumination, movement, materials, location, height, and condition of all signs placed on property for exterior observation, thus ensuring the protection of property values; preservation of the character of the various neighborhoods; creation of a convenient, attractive, and harmonious community; protection against destruction of or encroachment upon historic areas; and the safety and welfare of pedestrians and wheeled traffic, while providing convenience to citizens and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, and size of all signs. These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of signs while still reducing and mitigating the extent of the harms caused by signs.
- (b) This article shall be interpreted in a manner consistent with the First Amendment to the Constitution of the United States guarantee of free speech. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this article which can be given effect without the invalid provision.
- (c) Signs not expressly permitted under this code are prohibited.
- (d) The City of Weston is not subject to the requirements of this Article.

### Section 505.03 Permit Required.

- (a) *Application for permit.* Except as provided in this code, a sign permit is required prior to the display and erection of any sign.
  - 1. An application for a sign permit shall be filed with the Zoning Officer on forms furnished by the City. The applicant shall provide sufficient information to determine if the proposed sign is permitted under this code and other applicable laws, regulations, and ordinances. An application for a temporary sign shall state the dates intended for the erection and removal of the sign. An application for an electronic message display shall include the manufacturer's statement that the sign has been pre-programmed, to the extent possible, to conform to the requirements of this code. Such manufacturer's statement shall include, where applicable, the pre-stacked sign settings related to text and graphic features, message change features, message change time intervals, day and night lighting requirements, and any other settings capable of limiting the electronic message display such that it conforms to this code.
  - 2. The Zoning Officer shall promptly process the sign permit application and approve the application, reject the application, or notify the applicant of deficiencies in the application within twenty (20) business days after receipt. Any application that complies with all provisions of this code, the building code, and other applicable laws shall be approved.

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3. If the application is rejected, the Zoning Officer shall provide a list of the reasons for the rejection in writing. An application shall be rejected for non-compliance with the terms of this code, building code, or other applicable law.
- (b) *Permit fee.* A nonrefundable fee shall accompany all sign permit applications. The permit fee schedule shall be set by the City. If the sign is part of a new construction or renovation project, the cost of the sign permit fee shall be included in the total project permit fee.
- (c) *Duration and revocation of permit.* If a sign is not installed within six (6) months following the issuance of a sign permit or the time period stated within the permit, or within thirty (30) days for a temporary sign permit, the permit shall be void. The permit for a temporary sign shall state its duration, not to exceed sixty (60) days unless otherwise provided in this code. The Zoning Officer may revoke a sign permit under any of the following circumstances:
  1. The information in the application was materially false or misleading;
  2. The sign as installed does not conform to the sign permit application; or
  3. The sign violates this code, building code, or other applicable law, regulation, or ordinance.
- (d) *Appeals.* Appeals from the denial or granting of a sign permit shall be made to the Board of Zoning Appeals pursuant to the process set forth in this code.

### **Section 505.05 Permit Not Required.**

The purpose of not requiring a permit for some signage is to exempt certain signs that are frequently used, often by private citizens, and which typically have less of an impact on the public safety and aesthetic concerns. Signs permitted under this section count towards the maximum sign area and maximum number of signs allowed per use. A sign permit is not required for:

- (a) Signs required by law.
- (b) Flags up to sixteen (16) square feet.
- (c) The changing of messages on marquees and the repair of an existing permitted sign, except that repair of a nonconforming sign must comply with this code.
- (d) Temporary signs as follows, subject to sign area and height limitations of the district in which the sign is located:
  1. One (1) sign, no illumination, no more than twelve (12) square feet in area, located on property where a building permit is active.
  2. On any property for sale or rent, one sign with a total area of up to twelve (12) square feet and a maximum height of six (6) feet.
  3. On dwellings, no more than four (4) temporary signs with a total area of no more than twelve (12) square feet.
  4. Window signs, provided that the total area of window signs does not exceed twenty-five (25%) percent of the total area of all windows on each building façade.
  5. On any property where a new use began activity within the last six (6) months banners for not more than fifteen (15) days.
- (e) Two (2) minor signs per use.
- (f) Pavement markings. Any sign applied directly and entirely to and flush with an asphalt, concrete, or similar paved surface.

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- (g) A permanent window sign, provided that the aggregate area of all window signs on each window or door does not exceed twenty-five percent (25%) of the total area of the window or door.

## **Section 505.07 Prohibited Signs.**

The purpose of prohibiting the following signage is to address the community's substantial public safety and welfare concerns, including aesthetic concerns and protecting property values, associated with certain types of signage. In addition to signs prohibited elsewhere in this code or by applicable state or federal law, the following signs are prohibited:

### *(a) General prohibitions.*

1. Signs that violate any state or federal law relating to outdoor advertising or in violation of this code.
2. Signs attached to natural vegetation.
3. Signs simulating, or which are likely to be confused with, a traffic control sign or any other sign displayed by a public authority.
4. Vehicle or trailer signs, defined as any sign attached to or displayed on a vehicle, if the vehicle or trailer is used for the primary purpose of advertising a business establishment, product, service, or activity and it fails to display current license plates, inspection sticker, or municipal decal; if the vehicle is inoperable; if evidence of paid-to-date local taxes cannot be made available; or if the sign alters the standard design of such vehicle or trailer.
5. Animated signs, except where animated sign features as part of an electronic message display are expressly permitted.
6. Flashing signs or other signs displaying flashing, scrolling, or intermittent lights or lights of changing degrees of intensity, except where flashing features as part of an electronic message display are expressly permitted.
7. Beacons.

### *(b) Prohibitions based on materials.*

1. Signs consisting of illuminated tubing or strings of lights outlining property lines or open sales areas, rooflines, doors, windows, or wall edges of any building, except for temporary decorations not to exceed three (3) months per year.
2. Signs that emit smoke, flame, scent, mist, aerosol, liquid, or gas.
3. Signs that emit sound.
4. Neon signs, except in windows where permitted in a district.

### *(c) Prohibitions based on location.*

1. Off-premises signs, unless specifically permitted by this chapter.
2. Signs erected on public land other than those approved by the Zoning Officer in writing, required by law without such approval, or permitted under West Virginia law. Any sign not so authorized is subject to immediate removal by the City, with the costs charged to the owner or person having control of such sign, with payment due within thirty (30) days of notice of charges. Removal of the sign under this provision does not preclude prosecution of the person responsible for the sign.
3. Roof signs. Signs on the roof surface or extending above the roofline of a building or its parapet wall.

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4. Any sign located in the vision triangle formed by any two (2) or more intersecting streets or any street and alley.
5. Window signs with an aggregate area on a window or door in excess of twenty-five percent (25%) of the total area of the window or door or located above the first floor unless the related use is only on the floor where the window sign is displayed.

### Section 505.09 General Requirements.

- (a) *Setback and placement.* All signs shall be set back from any public right-of-way at least the height of the sign. Electronic message displays shall be placed perpendicular to residential structures where possible and shall comply with FCC regulations, including the avoidance of harmful interference with radio frequencies.
- (b) *Illumination.* The purpose of the following provisions regulating signage lighting is to ensure that signs are lighted in such a manner as to maintain aesthetic consistency with signs already existing in the community and to ensure the safety of drivers and pedestrians, while also ensuring that signs are adequately able to convey sign messages.
  1. Definitions.
    - i. “Candela” means the basic unit of measurement of light in SI (metric) units.
    - ii. “Candela per square meter (cd/m<sup>2</sup>)” means the SI (metric) unit used to describe the luminance of a light source or of an illuminated surface that reflects light. Also referred to as Nits.
    - iii. “Nit” means a photometric unit of measurement referring to luminance. One nit is equal to one (1) cd/m<sup>2</sup>.
    - iv. “SI (International System of Units)” means the modern metric system of measurement, abbreviated SI for the French term “Le Systeme International d’Unites.”
  2. A sign in any district may be illuminated at night. Signs that are illuminated at night may not exceed a maximum luminance level of seven hundred and fifty (750) cd/m<sup>2</sup> or Nits, regardless of the method of illumination, at least one-half (0.5) hour before Apparent Sunset, as determined by the National Oceanic and Atmospheric Administration (NOAA), US Department of Commerce, for the specific geographic location and date. All illuminated signs must comply with this maximum luminance level throughout the night, if the sign is energized, until Apparent Sunrise, as determined by the NOAA, at which time the sign may resume luminance levels appropriate for daylight conditions.
  3. The maximum luminance during daylight conditions, between Apparent Sunrise and one-half (0.5) hour before Apparent Sunset, shall be ten thousand (10,000) cd/m<sup>2</sup> or Nits.
  4. All permitted and conditional use signs may be backlit, internally lighted, or indirectly lighted, subject to lighting limitations in this code. All external sign lighting shall have lighting fixtures or luminaires that are fully shielded.
  5. Temporary signs shall not be lighted.
- (c) *Maximum height measurements.* Wall signs and other signs with sign structures not affixed to the ground are measured from the lowest attached component of the sign to the highest attached component of the sign. The height of signs with sign structures affixed

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to the ground is measured as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign, subject to limitations in this article.

Normal grade is the lower of:

1. Existing grade prior to construction; or
2. The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating primarily for the purpose of mounting or elevating the sign.

(d) *Measurement of sign area.* Sign area is calculated under the following principles:

1. With signs that are regular polygons or circles, the area can be calculated by the mathematical formula for that polygon or circle. With signs that are not regular polygons or circles, the sign area is calculated using all that area within a maximum of three abutting or overlapping rectangles that enclose the sign face.
2. The permitted area of a double-faced a-frame sign shall be considered to be the area on one side only. If one face contains a larger sign area than the other, the larger face shall be used in calculating the sign area.
3. For projecting signs, the sign area also includes the area of the visible sides of the sign, calculated as a rectangle enclosing each entire side view.
4. Supports, uprights, or structures on which any sign is supported shall not be included in determining the sign area unless such supports, uprights, or structure are designed in such a way as to form an integral background of the display; except, however, when a sign is placed on a fence, wall, planter, or other similar structure that is designed to serve a separate purpose other than to support the sign, the entire area of such structure shall not be computed.
5. In instances where there are multiple tenants or users on a property or in a building, allowable sign area for all parties shall not exceed the maximum sign area computed based upon the number of tenants multiplied by forty (40) square feet per tenant. In no case shall any tenant sign exceed forty (40) square feet.
6. All signs displayed, whether permanent or temporary, and regardless of the type of sign are counted toward the maximum sign area allowed per use, except window signs on non-dwellings where permitted.

(e) *Wall signs.* Wall signs shall provide as part of zoning permit application:

- i. Express permission from the operator and/or owner of the building;
- ii. The name and address of the person applying the wall sign; and
- iii. A clear drawing of the proposed wall sign including dimensions and location.
- iv. Wall signs larger than one hundred (100) square feet are subject to the design review standard in subsection (f).

(f) Design review standards for wall signs in excess of one hundred (100) square feet and all signs within HO1 and HO2. The Board of Zoning Appeals shall issue zoning permits for signs subject to design review in accordance with Section 323.03, except that the Board of Zoning Appeals shall issue a determination within forty (40) business days. In determining whether a sign is compatible with the theme and overall character to be achieved in each zoning district or overlay, the Board of Zoning Appeals shall base its compatibility determination on the following criteria:

1. The relationship of the scale and placement of the sign to the building or premises on which it is to be displayed.

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2. The relationship of the colors of the sign to the colors of adjacent buildings and nearby signs.
3. The similarity or dissimilarity of the sign's size and shape to the size and shape of other signs in the area.
4. The similarity or dissimilarity of the style of lettering or number of words on the sign to the style of lettering or number of words of nearby signs.
5. The compatibility of the type of illumination, if any, with the type of illumination in the area.
6. The compatibility of the materials used in the construction of the sign with the materials used in the construction of other sign in the area.

### **Section 505.11 Nonconforming Signs.**

- (a) Signs lawfully existing on the effective date of this code that do not conform to the provisions of this code, and signs that are accessory to a nonconforming use shall be deemed nonconforming signs and may remain except as qualified below.
  1. Nonconforming signs shall not be enlarged nor shall any feature of a nonconforming sign, such as illumination or technology, be increased.
  2. Nonconforming signs shall not be extended, structurally reconstructed, altered in any manner, or replaced with another nonconforming sign nor increased in technological advancement, except as permitted by this code.
  3. Nonconforming signs shall not be moved for any distance on the same lot or to any other lot unless such change in location will make the sign conform in all respects to the provisions of this article.
  4. A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding fifty percent (50%) of its area may be restored within six (6) months after such destruction or damage, but shall not be enlarged. If such sign is so destroyed or damaged to an extent exceeding fifty percent (50%) of its area, the sign shall not be reconstructed but may be replaced with a sign that is in full accordance with this code.
  5. Nonconforming sign structures shall be removed if the use to which they are accessory has not been in operation for a period of one (1) year or more, except as provided in 323.13(h). Such sign structure shall be removed or made conforming by the owner or lessee of the property. If the owner or lessee fails to remove or make conforming the sign structure within thirty (30) days of notice by the Zoning Officer, the Zoning Officer may cause the sign to be made conforming or removed and the cost of such removal or modification shall be charged to the owner, person having control, or person receiving benefit from such sign, with payment due within thirty (30) days of notice of charges.
  6. If a nonconforming sign is altered such that the sign is conforming or is replaced by a conforming sign, such sign shall thereafter be kept in accordance with the provisions of this code.
- (b) The burden of establishing nonconforming status of signs and the physical characteristics and location of such signs shall be with the owner of the property. Upon notice from the Zoning Officer, a property owner shall submit verification that sign(s) were lawfully

## City of Weston Zoning Ordinance

erected. Failure to provide such verification shall cause the sign to be deemed an illegal sign.

- (c) Nothing in this section prevents keeping a nonconforming sign in good repair.

### **Section 505.13 Maintenance and Removal.**

- (a) All signs shall be constructed and mounted in compliance with the West Virginia Uniform Statewide Building Code. All signs and components thereof shall be maintained in good repair and in a safe, neat, and clean condition.
- (b) *Safety hazard.* The Zoning Officer may cause to have removed or repaired immediately without written notice any sign which, in his or her opinion, has become insecure, in danger of falling, or otherwise unsafe, and, as such, presents an immediate threat to the safety of the public. If such action is necessary to render a sign safe, the cost of such emergency removal or repair shall be charged to the owner, person having control, or person receiving benefit from such sign, with payment due within thirty (30) days of notice of charges.
- (c) *Nuisance.* Any sign which constitutes a nuisance shall be abated by the owner within thirty (30) days of notice by the Zoning Officer. At any time, the Zoning Officer may cause the nuisance to be abated with the costs charged to the owner, person having control, or person receiving benefit from such sign, with payment due within thirty (30) days of notice of charges.
- (d) *Illegal sign and disrepair.* Any sign which is illegal or in disrepair shall be made conforming or repaired within thirty (30) days of notice from the Zoning Officer. Signs of disrepair include chipped paint, missing or significantly faded letters or other aspects of the sign, cracked portions of the sign face, broken lighting, graffiti, and unlevelled portions of the sign structure or face. If an illegal sign or a sign in disrepair is not made conforming or repaired, the Zoning Officer may cause the sign to be removed or repaired and the cost of such removal or repair shall be charged to the owner, person having control, or person receiving benefit from such sign, with payment due within thirty (30) days of notice of charges.
- (e) *Expired permit.* Any sign for which a sign permit has expired shall be removed within five (5) days of the permit expiration. If the sign is not removed, the Zoning Officer may cause the sign to be removed and the cost of such removal shall be charged to the owner, person having control, or person receiving benefit from such sign, with payment due within thirty (30) days of notice of charges.
- (f) Signs located within ten (10) feet of any public right-of-way and in violation of this code may be impounded at any time.
- (g) The owner of any commercial sign, whether conforming or nonconforming, other than a permitted off-premise sign, located on commercial property where the use or business has ceased operating shall, within sixty (60) days of the cessation of the use or business operation, remove temporary signs and all aspects of any permanent sign that refer to the use or business. Property owner may request, in writing, a waiver of such requirement, if the businesses is temporarily or seasonally operational, is remodeling, or otherwise has the good will intention of opening that business back up within one (1) year of time of cessation.

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## **Section 505.15 Temporary Signs.**

Temporary signs pose distinct concerns with visual clutter, safety in erection and display, and removal when the time for display has concluded. Temporary signs also pose distinct concerns with materials quality. The following provisions and individual zoning of temporary signs per district serve to address these concerns.

- (a) Temporary signs require a permit, except as provided in this article, and may be permitted up to sixty (60) days each calendar year.
- (b) Temporary signs shall be securely affixed to the ground or a building, or a pole designated only to a single temporary sign.
- (c) Person assisted signs shall not be located more than ten (10) feet from the entrance to a building or within ten (10) feet of a right-of-way.

## **Section 505.17 Signs for Single-Family Residential, Multi-Family Residential, Manufactured Home Neighborhood, and Parks Districts.**

- (a) *Purpose.* Signage in residential districts poses a heightened risk of visual blight and unsightly clutter, as residential neighborhoods typically contain markedly less signage than other districts in order to maintain the residential character of the neighborhood. At the same time, communicating from one's residence is a distinct and impactful form of speech that should be protected, and nonresidential uses should be afforded adequate signage incidental to the primary use in the form of on-premises signs. Signs permitted in these districts are smaller, fewer in number, and limited in sign type in order to limit visual clutter and distraction, while affording ample speech.
- (b) *Signs permitted as accessory to dwellings.*
  1. Permitted permanent sign use as accessory to dwellings: Freestanding, Minor, Projecting, Wall, Wicket, Window. No more than four (4) permanent signs are permitted by right per dwelling.
  2. Permitted temporary signs as accessory to dwellings: A-frame, Banner, Beacon, Chalkboard, Geological, Inflatable/Tethered, Minor, Wall, Wicket, Window. No more than ten (10) temporary signs are permitted by right per dwelling.
  3. No more than three (3) flags as accessory to dwellings.
- (c) *Signs permitted as accessory to non-dwellings.*
  1. Permitted permanent sign use as accessory to non-dwellings: Freestanding, Geological, Minor, Projecting, Wall, Wicket, Window. No more than five (5) permanent signs are permitted by right per use.
  2. Permitted temporary signs: A-frame, Banner, Beacon, Chalkboard, Changeable Copy, Inflatable/Tethered, Minor, Wall, Wicket, Window. No more than three (3) temporary signs are permitted by right per use.
  3. No more than three (3) flags.



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(d) *Dimension specifications chart.* All maximum sign area requirements include the sum total sign area of all signs per use.

	Permitted as Accessory to Dwellings	Permitted as Accessory to Non-dwellings	Temporary Signs	Flags
Max. Sign Area	9 sq. ft.	9 sq. ft.	16 sq. ft.	16 sq. ft. each
Max. Height	3 ft.	3 ft.	4 ft.	25 ft.

### **Section 505.19 Signs for Mixed-Use Districts.**

(a) *Purpose.* On-premises signage in mixed-use areas is essential for the operation of a variety of uses. In mixed-use areas, particularly those near residential development and neighboring residential districts, signage that is less intrusive by being smaller, shorter in height, and more uniform in sign type improves the aesthetic qualities of these and neighboring districts and limits the visual distraction of signage.

(b) Permitted sign use as accessory to dwellings shall be the same as for Section 505.17.

(c) *Sign permitted as accessory to non-dwellings.*

1. Permitted permanent sign use as accessory to non-dwellings: A-frame, Awning/Canopy, Chalkboard, Changeable Copy, EMD Static, EMD Static with Transition, EMD Static Partially Animated, Freestanding, Geological, Inflatable/Tethered, Marquee, Minor, Monument, Neon, Pennant, Projecting, Wall, Wicket, Window. No more than seven (7) permanent signs are permitted by right per use.
2. Permitted temporary signs: A-frame, Banner, Beacon, Chalkboard, Changeable Copy, Inflatable/Tethered, Minor, Person-assisted, Wall, Wicket, Window. No more than five (5) temporary signs are permitted by right per use.
3. No more than three (3) flags.

(d) *Dimension specifications chart.* All maximum sign area requirements include the sum total sign area per use.

	Freestanding Signs	All Other Signs	Temporary Signs	Flags
Max. Sign Area	20 sq.ft.	2 sq. ft. per 1 sq. ft. lineal building frontage (Max is half size of building)	60 sq. ft.	16 sq. ft. each
Max. Height	10 ft.	4 ft.	5 ft.	25 ft.

### **Section 505.21 Signs for Neighborhood Commercial Districts.**

(a) *Purpose.* On-premises signage in neighborhood commercial areas is essential for the operation of a variety of uses. However, in lighter commercial developments, particularly those near residential development and neighboring residential districts, signage that is less intrusive by being smaller, shorter in height, and more uniform in sign type improves the aesthetic qualities of these and neighboring districts and limits the visual distraction of signage.

(b) Permitted sign use as accessory to dwellings shall be the same as for Section 505.17.

# City of Weston Zoning Ordinance

(c) *Sign permitted as accessory to non-dwellings.*

1. Permitted permanent sign use as accessory to non-dwellings: A-frame, Awning/Canopy, Chalkboard, Changeable Copy, EMD Static, EMD Static with Transition, EMD Static Partially Animated, Freestanding, Geological, Marquee, Minor, Monument, Neon, Pennant, Projecting, Wall, Wicket, Window. No more than seven (7) permanent signs are permitted by right per use.
2. Permitted temporary signs: A-frame, Banner, Beacon, Chalkboard, Changeable Copy, Inflatable/Tethered, Minor, Person-assisted, Wall, Wicket, Window. No more than five (5) temporary signs are permitted by right per use.
3. No more than three (3) flags.

(d) *Dimension specifications chart.* All maximum sign area requirements include the sum total sign area per use.

	Freestanding Sign	All Other Signs	Temporary Signs	Flags
Max. Sign Area	20 sq. ft.	25 sq. ft.	2 sq. ft.	16 sq. ft. each
Max. Height	10 ft.	5 ft.	6 ft.	25 ft.

## **Section 505.23 Signs for General Commercial District.**

(a) *Purpose.* Signage in commercial areas is allowed to a greater extent, in size, number, and sign type, in order to maintain proportion to the size and scope of uses typically present within these areas. However, even the most intensive use districts in smaller communities are still limited in signage to some degree in order to maintain the small-town character of smaller communities and to limit visual distraction by signage.

(b) Permitted sign use as accessory to dwellings shall be the same as for Section 505.17.

(c) *Sign permitted as accessory to non-dwellings.*

1. Permitted permanent sign use as accessory to non-dwellings: A-frame, Awning/Canopy, Chalkboard, Changeable Copy, EMD Static, EMD Static with Transition, EMD Static Partially Animated, Freestanding, Geological, Inflatable/Tethered, Marquee, Minor, Monument, Neon, Off-premises, Pennant, Projecting, Wall, Wicket, Window. No more than ten (10) permanent signs are permitted by right per use.
2. Permitted temporary signs: A-frame, Banner, Beacon, Chalkboard, Changeable Copy, Inflatable/Tethered, Minor, Off-premises, Pennant, Person-assisted, Wall, Wicket, Window. No more than seven (7) temporary signs are permitted by right per use.
3. No more than three (3) flags.

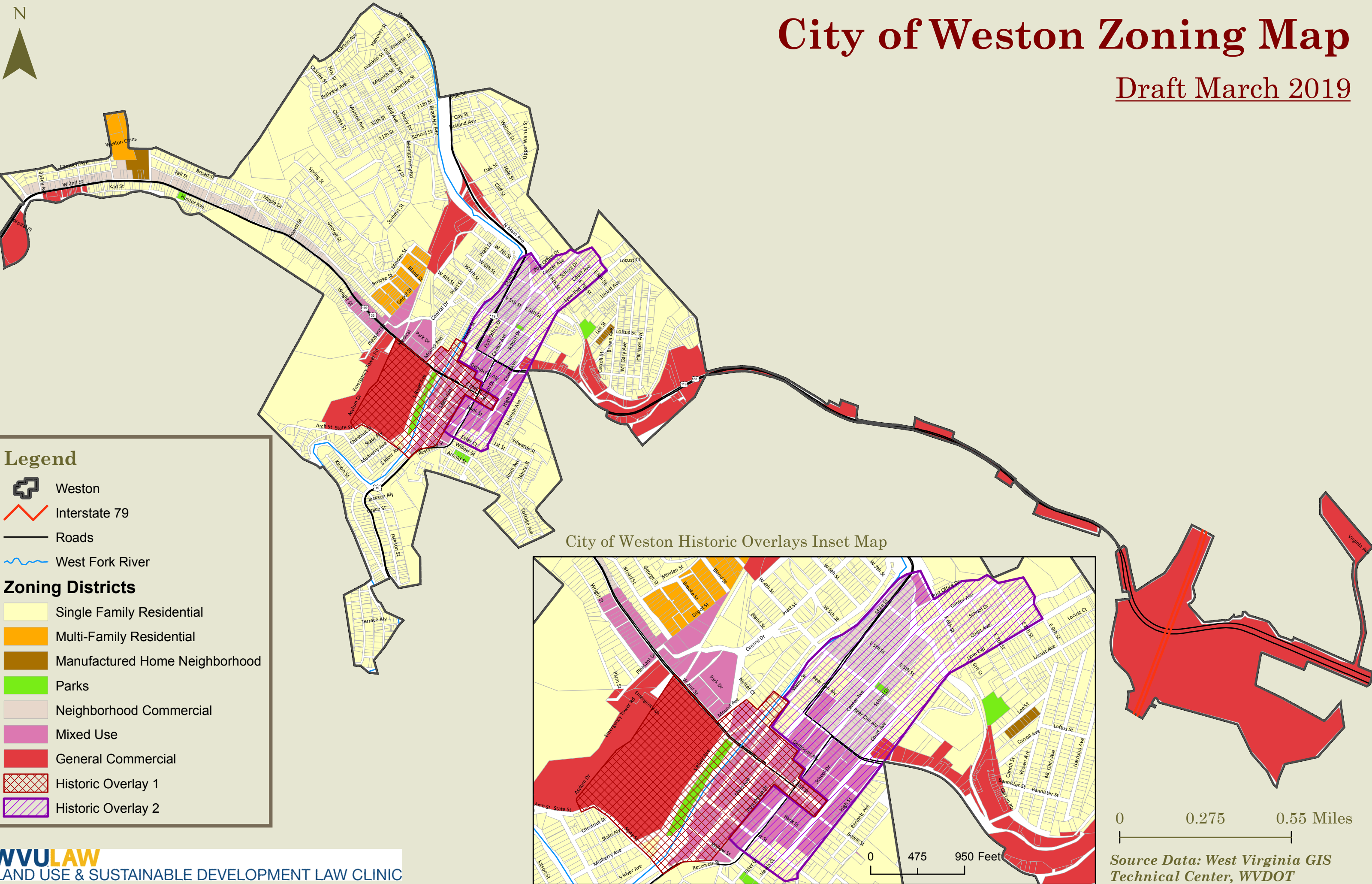
(d) *Dimension specifications chart.* All maximum sign area requirements include the sum total sign area per use.

	Freestanding Sign	All Other Signs	Temporary Signs	Flags
Max. Sign Area	90 sq. ft.	50 sq. ft.	24 sq. ft.	16 sq. ft. each
Max. Height	20 ft.	10 ft.	6 ft.	25 ft.

**APPENDIX 1:  
OFFICIAL ZONING  
MAP**

# City of Weston Zoning Map

Draft March 2019



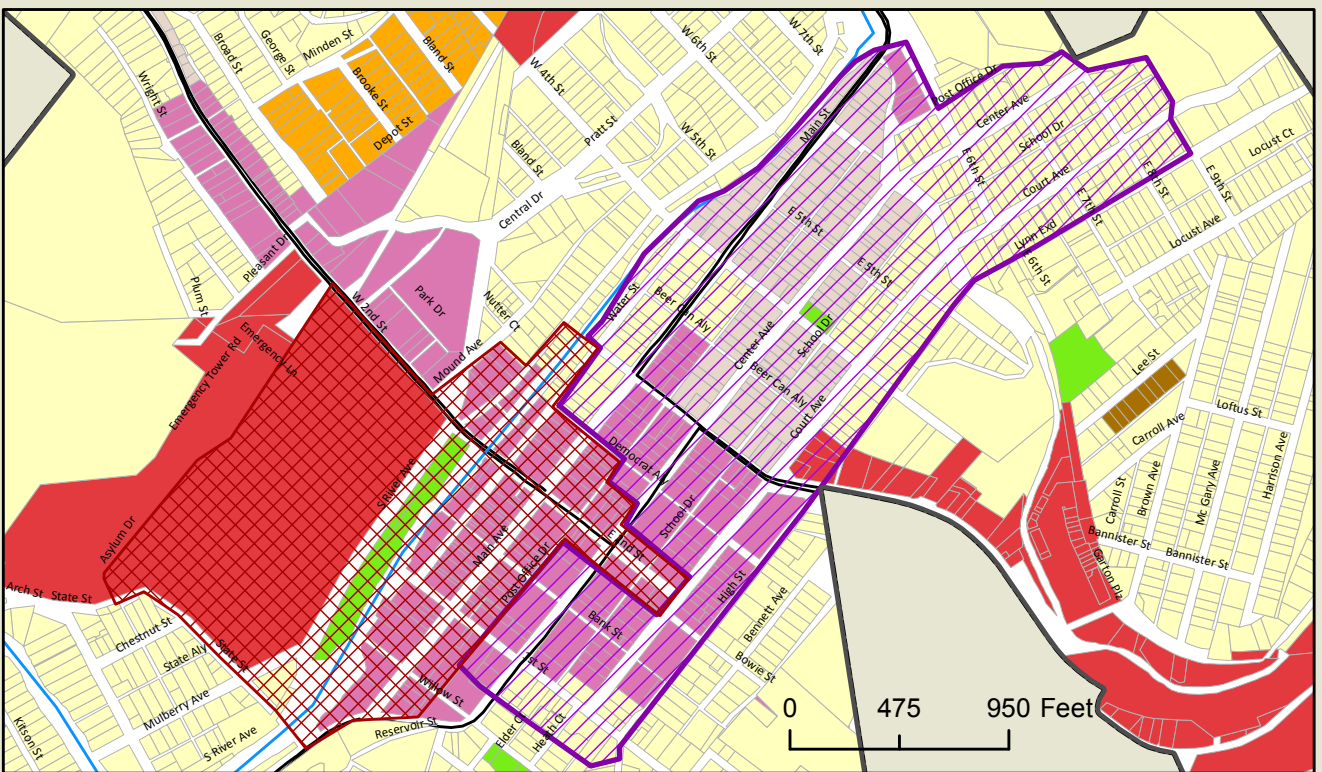
**Legend**

- Weston
- Interstate 79
- Roads
- West Fork River

**Zoning Districts**

- Single Family Residential
- Multi-Family Residential
- Manufactured Home Neighborhood
- Parks
- Neighborhood Commercial
- Mixed Use
- General Commercial
- Historic Overlay 1
- Historic Overlay 2

City of Weston Historic Overlays Inset Map



0 0.275 0.55 Miles

0 475 950 Feet

Source Data: West Virginia GIS Technical Center, WVDOT

**APPENDIX 2:**  
**USE TABLE**

## City of Weston Zoning Ordinance Draft Use Table (March 2019)

P = Permitted ("By- Right"); C = Conditional (Board of Zoning Appeals); asterisked uses have supplemental regulations

Uses	Zoning Districts						
	Single Family Residential	Multi Family Residential	Manufactured Home Neighborhood	Parks	Mixed Use	Neighborhood Commercial	General Commercial
Adult Business*							C
Amphitheater				P			P
Amusement and Recreation Center							P
Animal Hospital/Veterinary Office							P
Automobile Car Wash*							P
Automobile Repair/Service*							P
Bakery					P	P	P
Bank/Financial Institution					C		P
Bed and Breakfast Inn*	C				P	P	P
Boat and Marine Sales/Service							P
Boat Storage*							P
Brewery Pub					C		P
Broadcasting Studio (radio/television)					P		P
Building Material Facility							P
Bus & Transit Facilities							P
Bus/Other Transit Shelter	P				P	P	
Catering Business							
Catering Business					C		P
Cemetery/Mausoleum							P
Child Day Care Facility, Class 1*					P		P
Child Day Care Facility, Class 2*					P		P
Child Day Care Facility, Class 3*	C	C			P		P
Child Day Care Facility, Class 4*	P	P			P	P	P

P = Permitted ("By- Right"); C = Conditional (Board of Zoning Appeals); asterisked uses have supplemental regulations

Uses	Zoning Districts						
	Single Family Residential	Multi Family Residential	Manufactured Home Neighborhood	Parks	Mixed Use	Neighborhood Commercial	General Commercial
Clinic					P	P	P
Community Facility					P	P	P
Continuing Care Facility							P
Convenience Store					C		P
Conversion Old School/Church	C	C					P
Cultural Service					P	P	P
Distillery					C		P
Distribution Facility							P
Dog Day Care*							C
Drive-through Facility					P		P
Dwelling, Apartment		C			C		P
Dwelling, Condominium	C	C			C		P
Dwelling, Conversion Apartment	C	P	P		P	P	P
Dwelling, Garage Conversion	C	P	P		P	P	P
Dwelling, Garden Home		P			C		
Dwelling, Mixed Use					P		
Dwelling, Single Family	P	P			P	P	P
Dwelling, Townhouse*		P			C		
Dwelling, Two-Family	C	P			P		
Educational Institution					P		P
Equipment Rental / Repair							P
Essential Utilities and Equipment	P	P	P	P	P	P	P
Extractive Industry							C
Factory-Built Home			P				

P = Permitted ("By- Right"); C = Conditional (Board of Zoning Appeals); asterisked uses have supplemental regulations

Uses	Zoning Districts						
	Single Family Residential	Multi Family Residential	Manufactured Home Neighborhood	Parks	Mixed Use	Neighborhood Commercial	General Commercial
Factory-Built Home Rental Community			P				
Equipment/Construction and Supply Sales							P
Farmer's Market				P	P	P	P
Flea Market							C
Funeral Home / Mortuary					P		P
Garage, Private	P	P		P	P	P	P
Garden Center							P
Gas Station*					C		P
Governmental Operations	P	P		P	P	P	P
Greenhouse, Noncommercial*	P	P			P	P	P
Greenhouse, Commercial							P
Group Residential Facility	P	P	P	P	P	P	P
Group Residential Home	P	P	P	P	P	P	P
Health Care Medical Cannabis Organization							P
Health Club					P		P
Home-Based Business (Low Impact)*	C	C			P	P	P
Home-Based Business (No Impact)*	P	P			P	P	P
Hospital							P
Hotel/Motel							P
Industrial Park							C
Kennel							P
Liquor Store					P	C	P
Lumberyard							P
Manufacturing (Light)							C



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Uses	Zoning Districts						
	Single Family Residential	Multi Family Residential	Manufactured Home Neighborhood	Parks	Mixed Use	Neighborhood Commercial	General Commercial
Medical Cannabis Dispensary							P
Medical Cannabis Growing Facility							P
Medical Cannabis Processing Facility							P
Medical Adult Day Care Center							P
Night Club					P		P
Office Supply Establishment							P
Parcel Delivery Facility							P
Park				P			
Parking Lot					P	P	P
Parking Structure							P
Personal Service					P	P	P
Pet Shop							P
Pharmacy					P	P	P
Photographic Studio					P	P	P
Places of Worship/Religious Institution					P	P	P
Private Club					P		
Professional Services					P	P	P
Recreation, Private					C		
Recreation, Public	P	P		P	P	P	P
Research and Development							P
Restaurant					P		P
Retail Store/Shop <7,000 gross floor area					P	C	P
Retail Store/Shop >7,000 gross floor area							P
Roadside Stand							P

P = Permitted ("By- Right"); C = Conditional (Board of Zoning Appeals); asterisked uses have supplemental regulations

Uses	Zoning Districts						
	Single Family Residential	Multi Family Residential	Manufactured Home Neighborhood	Parks	Mixed Use	Neighborhood Commercial	General Commercial
Roadside Vendor Stand							C
School, Commercial							P
School, Pre-School-12					P	C	P
Self-Storage Facility							P
Senior Independent Housing							P
Shopping Center							P
Solar Energy System, Small	P	P		P	P	P	P
Solar Energy System, Large							C
Sports Arena							P
Studio, Dancing, Music or Art					P	P	P
Tattoo Parlor/Body Piercing Studio					P		P
Tavern/Drinking Establishment					C		P
Telecommunications, Class I*	P	P		P	P	P	P
Telecommunications, Class II*							P
Telecommunications, Class III*							P
Temporary Shelter				P	P	P	P
Theater							P
Tourist Home	P	P	P	P	P	P	P
Theater, Drive In							P
Truck Terminal							P
Vehicle Sales/Rental and Service							P
Video Gaming and Lottery Establishment*							C
Warehouse							P

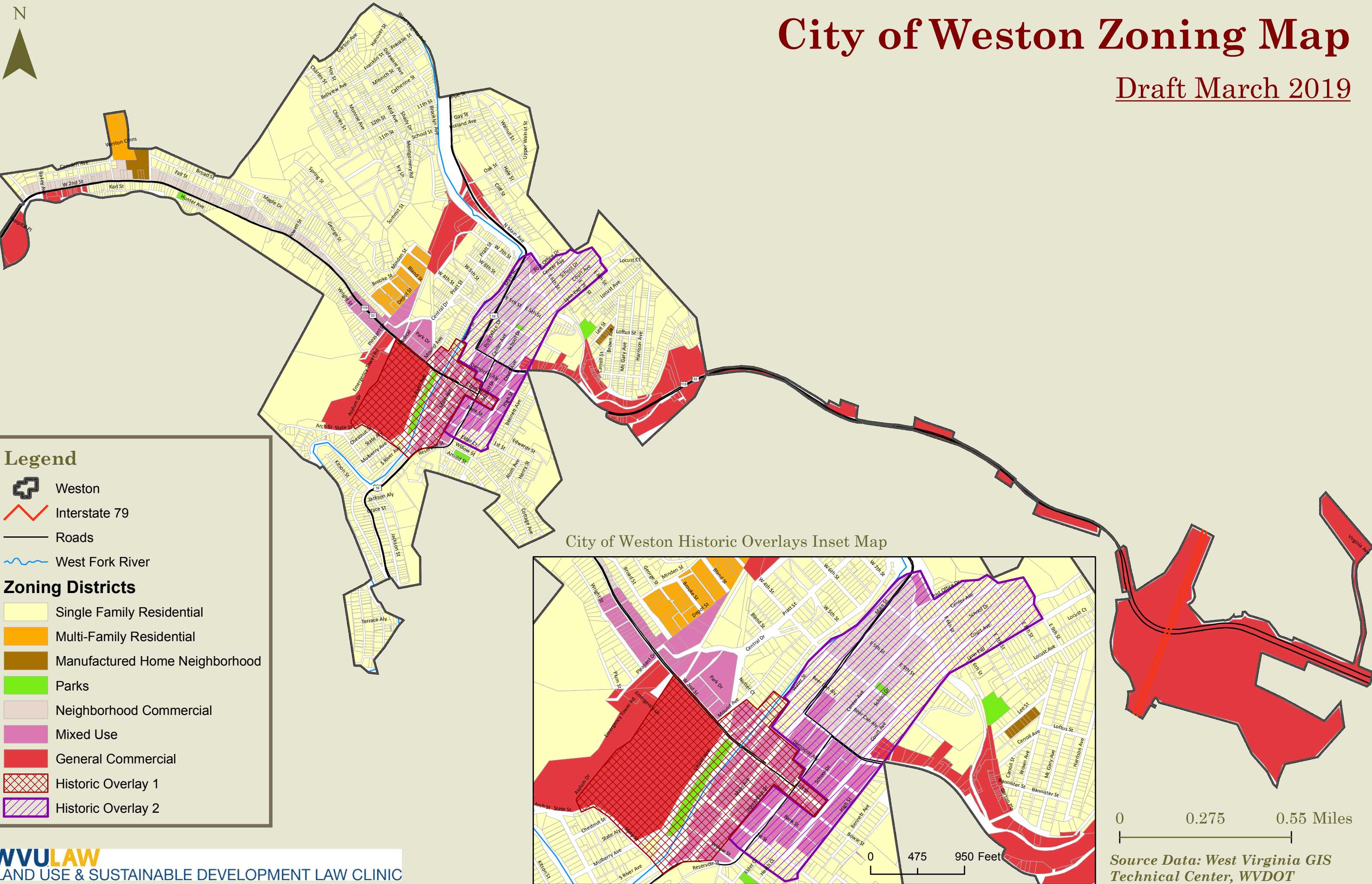
P = Permitted ("By- Right"); C = Conditional (Board of Zoning Appeals); asterisked uses have supplemental regulations

	<b>Zoning Districts</b>						
<b>Uses</b>	<i>Single Family Residential</i>	<i>Multi Family Residential</i>	<i>Manufactured Home Neighborhood</i>	<i>Parks</i>	<i>Mixed Use</i>	<i>Neighborhood Commercial</i>	<i>General Commercial</i>
Wholesale Establishment							P
Wind Energy System, Small*	C	C				C	P
Wind Energy System, Large							C
Winery							P





**APPENDIX B:  
PROPOSED  
ZONING MAP**

# City of Weston Zoning Map




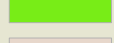
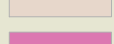




Draft March 2019



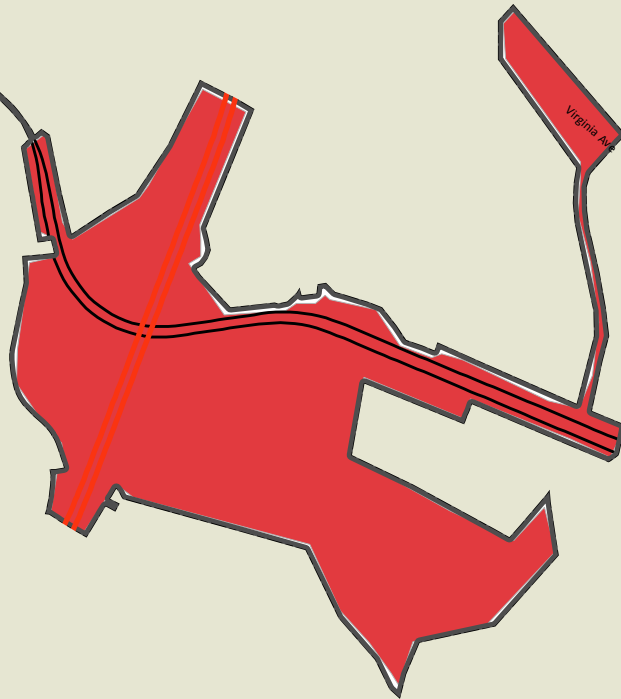
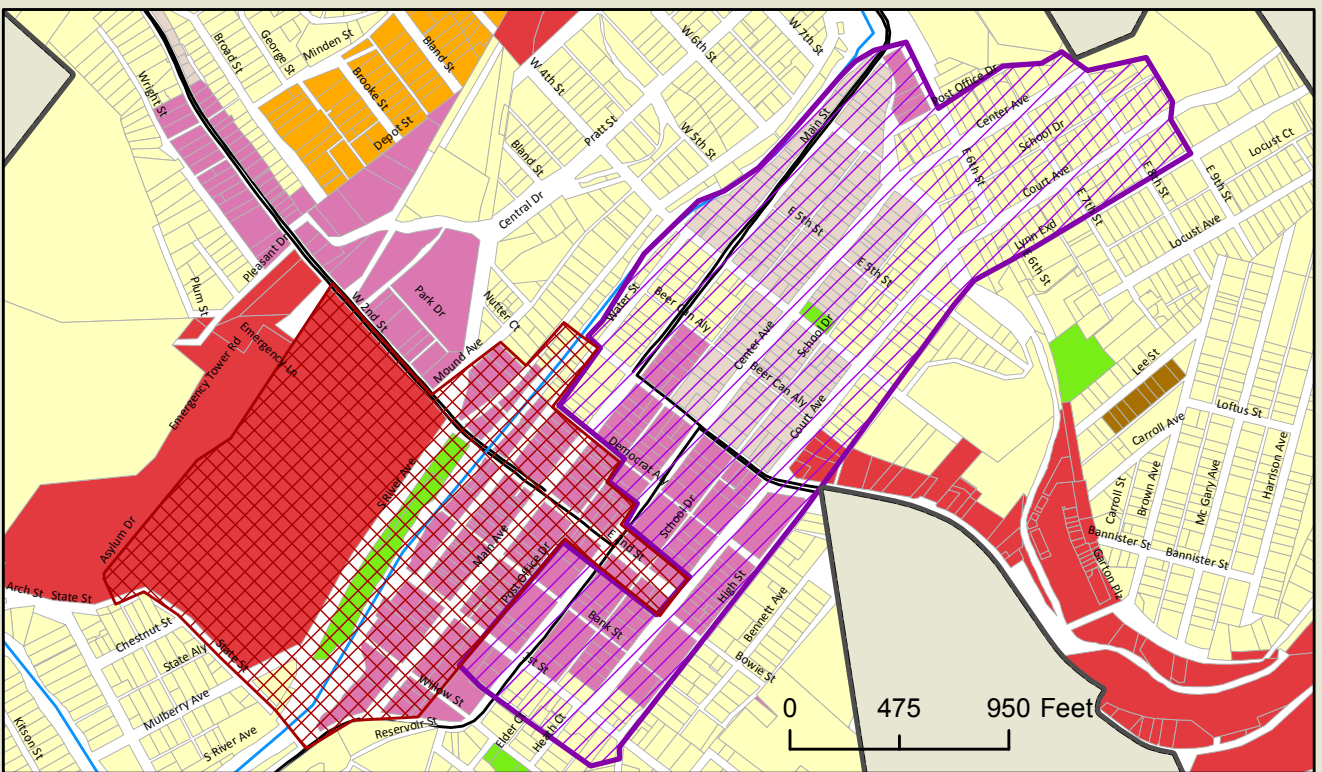
**Legend**

-  Weston
-  Interstate 79
-  Roads
-  West Fork River

**Zoning Districts**

-  Single Family Residential
-  Multi-Family Residential
-  Manufactured Home Neighborhood
-  Parks
-  Neighborhood Commercial
-  Mixed Use
-  General Commercial
-  Historic Overlay 1
-  Historic Overlay 2

City of Weston Historic Overlays Inset Map



0 0.275 0.55 Miles

0 475 950 Feet

Source Data: West Virginia GIS Technical Center, WVDOT