



**OUR LOGAN  
OUR FUTURE**

## **City of Logan Planning and Zoning Ordinance**

Adoption Draft – June 5, 2023

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## Chapter 1: General Provisions

### 1.01 PURPOSE

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It is the purpose of this zoning ordinance to promote and protect the public welfare, health, safety, comfort, and morals of the people of the City of Logan through the establishment of minimum regulations governing the establishment and use of structures as well as the development and use of land. Furthermore, the more specific purpose of this zoning ordinance is to:

- (a) Implement the City of Logan Comprehensive Plan and other policies or plans adopted or approved by the city as they relate to the development of land;
- (b) Encourage and facilitate orderly, efficient, and appropriate growth and development;
- (c) Protect the character and the values of the residential, business, industrial, and recreational areas and assure the orderly and beneficial development of these areas;
- (d) Provide adequate open spaces for light and air for all residents;
- (e) Establish appropriate development density and intensity in order to prevent or reduce congestion and to secure the economy in the cost of providing water supply systems, electricity, sewerage systems, streets, and highways, fire and police protection, schools, parks and recreation facilities, and other governmental services;
- (f) Manage congestion on the streets to improve public safety by locating buildings and uses adjacent to streets in such a manner that they will cause the least interference with traffic movements;
- (g) Provide for adequate access to all areas of the city by people of all abilities and by varied modes of transportation; and
- (h) Foster a more rational pattern of relationship between recreation, conservation, residential, business, commercial, industrial, and institutional uses for the mutual benefit of all.

### 1.02 SCOPE AND AUTHORITY

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#### (a) General Authority and Scope

- (1) The authority for the preparation, adoption, and implementation of this ordinance is derived from Chapter 8A of the West Virginia Code (WVC), which permits the adoption of uniform rules and regulations governing the zoning of land.
- (2) Nothing in this ordinance shall be construed to limit City Council in the exercise of all of its powers to zone or redistrict now or hereafter authorized by the West Virginia Constitution or the West Virginia Code.

#### (b) References to the West Virginia Code (WVC)

Whenever any provision of this ordinance refers to or cites a section of the WVC, as amended, and that section is later amended or superseded, this ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

### 1.03 TITLE

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These regulations shall be known and may be cited as the “City of Logan Zoning Ordinance” or may be referred to as the “zoning ordinance” or the “ordinance.”

### 1.04 EFFECTIVE DATE

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This ordinance was originally adopted by City Council on <><sup>1</sup> (Ordinance <>), as amended.

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<sup>1</sup> The <> symbol will be replaced with the date and ordinance number upon the actual adoption of this ordinance.

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## 1.05 APPLICABILITY

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- (a) The provisions of this ordinance shall apply to all land, buildings, structures, and uses of land, buildings, and structures, or portions thereof, located within the municipal boundaries of the City of Logan in Logan County, West Virginia. The provisions of this ordinance are the minimum requirements adopted to meet the purposes of this ordinance as established in Section [1.01: Purpose](#).
- (b) The regulations established for each district in this ordinance shall apply uniformly to each class or type of use, land, building, or structure unless modified, varied, or waived as provided herein.
- (c) No building, structure, or land shall be used or occupied, and no building or structure or part thereof shall be structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

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## 1.06 COMPREHENSIVE PLAN AND OTHER CITY PLANS

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- (a) This ordinance's administration, enforcement, and amendment should be consistent with the most recently adopted version of the City of Logan Comprehensive Plan, as amended and herein referred to as the "comprehensive plan." Such plan, or references to such plan, shall also include other adopted or approved plans within the city that relate to development, including, but not limited to, a thoroughfare plan, parks and recreation plan, etc. Amendments to this ordinance should maintain and enhance the consistency between this ordinance and the comprehensive plan or any other adopted or approved city plans.
- (b) The City of Logan adopted its first comprehensive plan on July 12, 2022.

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## 1.07 INTERPRETATION AND CONFLICTS

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(a) **Interpretation of Provisions**

The provisions of this ordinance shall be held to be the minimum requirements adopted for the promotion of the public welfare, health, safety, and comfort.

(b) **Conflict with Other Public Laws, Ordinances, Regulations, or Permits**

This ordinance is intended to complement other city, state, and federal regulations that affect land use and the division of land. This ordinance is not intended to revoke or repeal any other public law, ordinance, regulation, or permit. However, where conditions, standards, or requirements imposed by any provision of this ordinance are more restrictive than comparable standards imposed by any other public law, ordinance, or regulation, the provisions of this ordinance shall govern.

(c) **Repeal of Conflicting Ordinance**

All ordinances or parts of ordinances in conflict with this ordinance or inconsistent with the provisions of this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

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## 1.08 RELATIONSHIP WITH THIRD-PARTY PRIVATE AGREEMENTS

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- (a) This ordinance is not intended to interfere with or abrogate any third-party private agreements, including, but not limited to, easements, covenants, or other legal agreements between third parties. However, where this ordinance proposes a greater restriction or imposes higher standards or requirements than such easement, covenant, or other private third-party agreement, then the provisions of this ordinance shall govern.
- (b) Nothing in this ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not excuse any failure to comply with this ordinance.
- (c) In no case shall the city be obligated to enforce the provisions of any easements, covenants, or other agreements between private parties, even if the city is a named party in and has been granted the right to enforce the provisions of such agreement.

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## 1.09 SEVERABILITY

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- (a) If any court of competent jurisdiction invalidates any provision of this ordinance, then such judgment or ruling shall not affect the validity and continued enforcement of any other provision of this ordinance.

- (b) If any court of competent jurisdiction invalidates the application of any provision of this ordinance to a particular property, structure, or situation, then such judgment or ruling shall not affect the application of that provision to any other property, structure, or situation not specifically included in that judgment or ruling.
- (c) If any court of competent jurisdiction invalidates any condition attached to the approval of a development review application, then such judgment or ruling shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment or ruling.

## **1.10 RESTORATION OF UNSAFE BUILDINGS**

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Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety upon order of such official.

## **1.11 USE OF GRAPHICS, TABLES, ILLUSTRATIONS, FIGURES, AND CROSS-REFERENCES**

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- (a) Graphics, illustrations, and figures are provided for illustrative purposes only and shall not be construed as regulations. Where a conflict may occur between the text and any graphic, illustration, or figure, the text shall control.
- (b) In some instances, cross-references between chapters, sections, and subsections are provided that include the number along with the name of the referenced chapter, section, or subsection. Where a conflict may occur between the given cross-reference number and name, the name shall control.
- (c) A table shall be considered text for the purposes of this ordinance unless specifically identified as a figure.

## **1.12 BURDEN OF PROOF**

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- (a) The burden of demonstrating that an application, development, structure, or use of land or structures subject to this ordinance complies with applicable review and approval standards rests with, and is the responsibility of, the applicant.
- (b) The burden of proof also rests with, and is the responsibility of, any person claiming that a nonconformity was established legally.
- (c) The burden of proof is not the responsibility of the city or other parties to demonstrate that the standards have (or have not) been met by the applicant or person responsible for the application, development, use of land or structure, or nonconformity with this ordinance.

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## Chapter 2: Decision-Making Roles and Authorities

### 2.01 PURPOSE

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The purpose of this chapter is to set forth the powers and duties of the City of Logan’s various review boards and administrative staff with respect to the administration and enforcement of the provisions of this ordinance.

### 2.02 REVIEW AUTHORITY NAMES, REFERENCES, AND DELEGATION

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#### (a) Review Authority Names and References

For the purposes of this ordinance, the formal names of the administration and decision-making authorities identified above may also be referred to as the abbreviated names identified below:

- (1) The City of Logan City Council may be hereafter referred to as “City Council” or “Council.”
- (2) The City of Logan Planning Commission may be hereafter referred to as the “Planning Commission.”
- (3) The City of Logan Board of Zoning Appeals may be hereafter referred to as the “Board” or “BZA.”
- (4) Unless otherwise established by the City Council, the City of Logan Zoning Officer shall be the Building Code Enforcement Officer and may be hereafter referred to as the “Zoning Officer.”

#### (b) Delegation of Authority

Whenever a provision appears requiring the head of a department or another officer or employee of the city to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate the responsibility to subordinates unless the terms of the provision specify otherwise.

### 2.03 CITY COUNCIL

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In addition to any other authority granted to the City Council by ordinance or state law, the City Council shall have the following powers and duties as it relates to this ordinance:

- (a) Initiate, hear, review, and make decisions related to amendments to the text of this ordinance or the zoning map;
- (b) Review, hear, and decide on applications for planned unit developments as authorized by this ordinance;
- (c) Review and accept, where appropriate, any proposed dedication of streets, utilities, and other public improvements required by this ordinance;
- (d) Establish fees for development review procedures, certificates, and permits outlined in this ordinance;
- (e) Perform any other duties related to the administration and enforcement of this ordinance as authorized by this ordinance and the WVC.

### 2.04 PLANNING COMMISSION

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#### (a) Establishment

The City of Logan established its Planning Commission by an ordinance adopted in October 2021. This is a recodification of the City of Logan Planning Commission Ordinance and is intended to modify, amend, and replace the original ordinance establishing the Logal Planning Commission in October 2021. The purpose of the Planning Commission is to promote and advice the City on the orderly development of the City and to perform such other duties as authorized by this ordinance and the WVC.

#### (b) Membership

The membership of the Planning Commission shall be as follows:

- (1) The Planning Commission shall be composed of three members. In the future, the City Council may elect to increase the membership to five members, as provided for in this section. All members of the Planning Commission must:
  - A. Be residents of the city, with three-fifths of the members having been residents of the city for at least three years prior to nomination and confirmation;



- B. Be qualified by knowledge and experience in matters pertaining to the development of the city; and
  - C. Fairly represent different areas of interest, knowledge, and expertise, including, but not limited to, business, industry, labor, government, and other relevant disciplines.
- (2) The three-member Planning Commission shall be comprised of the following:
- A. The Mayor, or their designee, whose term on the Planning Commission shall be the same as the term of office of the Mayor;
  - B. A member of City Council, or its designee, whose term on Planning Commission shall be the same as the term of office for City Council members at the time of the nomination and confirmation; and
  - C. A resident of the city who satisfies the qualifications set forth herein, whose term shall begin upon nomination and confirmation and continue for a term of three years until a qualified successor has been nominated and confirmed.
- (3) Nominations of the City Council and resident members to the Planning Commission shall be made by the Mayor, subject to confirmation by City Council.
- (4) Members of the Planning Commission shall serve in that capacity without compensation but shall be permitted to receive reimbursement for all reasonable and necessary expenses actually incurred in the performance of their official duties of the Planning Commission.
- (5) Vacancies to the Planning Commission shall be filled in the same manner as the nomination of members.
- (6) At the request of the Mayor or a member of the City Council and subject to a majority vote in favor of removal by the City Council, a member may be removed and replaced for inactivity, neglect of duty, or malfeasance. Prior to any such removal, the member will be provided with a minimum of 30-days written notice containing a statement of the reasons for the requested removal and will be provided with the opportunity to respond and appear before City Council in opposition to the request for removal prior to a vote by City Council on the request for removal.
- (7) **Process to Increase Membership to Five Members and Terms for Five-Member Planning Commission**
- A. City Council may increase the total number of members of the Planning Commission from three to five members, without amendment of this ordinance, upon the adoption of a resolution authorizing the increase.
  - B. Upon the adoption of a resolution increasing the Planning Commission membership from three to five, the membership of the Planning Commission shall become and thereafter remain five members until and unless this ordinance is lawfully amended.
  - C. The two additional members shall be subject to the same qualifications set forth herein.
  - D. The terms of each of the new members shall be initially staggered for a period of one, two, or three years, such that each of the three non-elected members of the Planning Commission will have a term ending at the end of each year. Thereafter, the terms for each of the non-elected members shall be for three years, and each member shall serve until a qualified successor has been nominated and confirmed.

(c) **Roles and Powers of the Planning Commission**

The Planning Commission shall have the following roles and powers:

- (1) Initiate, hear, review, and make recommendations to City Council for the approval of a Comprehensive Plan and other plans for the future physical development and improvement of the city based upon utility, convenience and beauty, physical needs, density, and the social welfare and physical well-being of the people;
- (2) Review, hear, and decide on applications for planned unit developments as authorized by this ordinance;
- (3) Initiate, hear, review, and make recommendations to City Council related to amendments to the text of this ordinance or the zoning map;
- (4) Review and make decisions site plan review applications as provided for in this ordinance;

- (5) Consider, investigate, and report upon any special matter or question coming within the scope of its work as requested by the City Council or the administration;
- (6) Generally, supervise and administer the affairs of the Planning Commission;
- (7) Recommend and oversee the adoption and implementation of a Comprehensive Plan for the City of Logan, subject to lawful adoption of the plan by the City Council;
- (8) Prescribe rules and regulations pertaining to administration, investigations, and hearings, subject to adoption by City Council prior to implementation or enforcement;
- (9) Supervise the fiscal affairs and responsibilities of the Planning Commission;
- (10) With lawful consent from City Council and approval as to any and all salaries or expenses, hire employees or retain independent contractors necessary to carry out the duties and responsibilities of the Planning Commission;
- (11) Keep an accurate and complete record of all Planning Commission proceedings;
- (12) Supervise the advisory and fiscal affairs and responsibilities of the Planning Commission and record and/or file all bonds and contracts;
- (13) Take responsibility for the custody and preservation of all papers and documents of the Planning Commission;
- (14) Make recommendations to the City Administration and City Council concerning planning;
- (15) Make an annual report to the City Council concerning the operation of the Planning Commission and the status of planning within the city;
- (16) Prepare, publish, and distribute reports, ordinances, and other material relating to the activities authorized under this ordinance and the WVC;
- (17) Adopt a seal, and certify all official acts;
- (18) Invoke any legal, equitable, or special remedy for the enforcement of the provisions of this ordinance or any ordinance, rule, and regulation or any action taken thereunder that falls within the jurisdiction of the Planning Commission;
- (19) Prepare and submit an annual budget to City Council for review and approval;
- (20) If necessary, establish advisory committees;
- (21) Delegate limited powers to a committee composed of one or more members of the Planning Commission;
- (22) Contract for special or temporary services and professional counsel, subject to lawful approval by City Council;
- (23) Subject to notice to and lawful approval by City Council, the Planning Commission may accept gifts, funds, and donations for the benefit and development of the City, which will be deposited with the City in a special non-reverting fund to be available for expenditures by the Planning Commission for the purpose designated by the donor; and
- (24) Perform any other duties related to the administration and enforcement of this ordinance as authorized by this ordinance, by ordinance of City Council, or as authorized by West Virginia Code Section SA-2-1, et seq.

**(d) Meetings and General Provisions**

- (1) At the first regular meeting of each year, the Planning Commission shall elect a president and a vice-president from its membership.
- (2) The president will preside over Planning Commission meetings and may carry out such other lawful duties as authorized by the Planning Commission. During the temporary absence or disability of the president, the vice-president, where elected, shall fulfill the duties of the president.
- (3) The Planning Commission shall meet at least quarterly and may meet more frequently as may be requested by the president or by two or more members.
- (4) The president of the Planning Commission or the Zoning Officer may cancel a meeting if there is no pending business to be conducted.
- (5) In addition to any other requirements of state law, 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 days before the special meeting. Such written notice to members of a special meeting is not required if the date, time, and place of the special meeting were set in a regular meeting.

- (6) The Planning Commission may, by a majority vote of its entire membership at the time of consideration, adopt bylaws or rules for the governance of said board, provided they are consistent with state law and with any ordinances of the city.
- (7) The Planning Commission shall keep a record of their meetings and hearings, which shall be a public record.
- (8) Except as may be exempted or otherwise permitted by West Virginia law, the Planning Commission shall comply with the Open Governmental Meetings Act, WV Section 6-9 A-1, et seq.
- (9) The departments, divisions, and agencies of the city shall cooperate with and assist the Planning Commission in implementing the purposes for which they are formed.

(e) **Quorums and Decisions**

- (1) A majority of the full membership of the Planning Commission being present at a meeting shall constitute a quorum. For purposes of establishing a quorum, a member will be considered "present" if attending a Planning Commission meeting remotely via phone or internet device, so long as the member can be heard by everyone at the meeting, and vice versa, and all other applicable requirements for remote attendance pursuant to the Open Governmental Meetings Act, as interpreted by the West Virginia Ethics Commission, are met.
- (2) A motion made on a decision shall carry when at least a majority of the full Planning Commission membership concurs.
- (3) General business items that do not include decisions on applications, such as continuances or approval of minutes, shall only require a majority of the quorum to concur.
- (4) A member of a Planning Commission shall not be qualified to vote if that member did not attend the public hearing or meeting of the applicable case subject to a decision unless they have read or listened to the transcript of the public hearing or meeting, as applicable.
- (5) A member of the Planning Commission shall not be qualified to vote if they have a direct or indirect interest in the issue subject to the application or any other conflict of interest.

(f) **Obligations of the City**

The city will provide the Planning Commission with the following:

- (1) Suitable offices for the holding of meetings and the preservation of plans, maps, documents, and accounts, which may be located at City Hall or elsewhere as reasonably determined by the city;
- (2) Funding, when appropriate and available and subject to lawful approval by City Council, to defray the reasonable expenses of the Planning Commission; and
- (3) Assistance and cooperation in furtherance of the planning and development of the City.

## **2.05 BOARD OF ZONING APPEALS (BZA)**

(a) **Establishment**

There is hereby established a municipal board of zoning appeals to be known as "The City of Logan Board of Zoning Appeals," which may also be referred to as the "Board of Zoning Appeals" or "BZA" within this ordinance. The purpose of the BZA is to serve as a quasi-judicial review board for certain procedures, including variances, conditional uses, and appeals, and to perform such other duties as authorized by this ordinance and the WVC.

(b) **Membership**

The membership of the BZA shall be as follows:

- (1) The BZA shall be composed of five members, all members of the BZA must:
  - A. Be residents of the city, with three-fifths of the members having been residents of the city for at least three years prior to nomination and confirmation;
  - B. Be qualified by knowledge and experience in matters pertaining to the development of the city; and
  - C. Fairly represent different areas of interest, knowledge, and expertise, including, but not limited to, legal, business, industry, labor, government, and other relevant disciplines.
- (2) The terms of each of the new BZA members shall be initially staggered for a period of one, two, or three years, such that the term of one or two BZA members expires each year.

- (3) Nominations of the members to the BZA shall be made by the Mayor, subject to confirmation by City Council.
- (4) Members of the BZA shall serve in that capacity without compensation but shall be permitted to receive reimbursement for all reasonable and necessary expenses actually incurred in the performance of their official duties of the BZA.
- (5) Vacancies to the BZA shall be filled in the same manner as the nomination of members.
- (6) At the request of the Mayor or a member of the City Council and subject to a majority vote in favor of removal by the City Council, a member may be removed and replaced for inactivity, neglect of duty, or malfeasance. Prior to any such removal, the member will be provided with a minimum of 30-days written notice containing a statement of the reasons for the requested removal and will be provided with the opportunity to respond and appear before City Council in opposition to the request for removal prior to a vote by City Council on the request for removal.

(c) **Roles and Powers of the BZA**

The BZA shall have the following roles and powers to:

- (1) Hear, review, and decide on appeals of any administrative decision where it is alleged there is an error in any administrative order, requirement, decision, or determination made by the Zoning Officer or other staff member authorized to make such decisions or orders;
- (2) Hear, review, and make decisions on conditional use permits in the respective zoning district;
- (3) Hear, review, and decide on variance requests in accordance with the applicable provisions of this ordinance;
- (4) Resolve any disputes with respect to the precise location of a zoning district boundary, using, where applicable, the standards and criteria of Section [4.04\(b\)](#);
- (5) To permit the completion, restoration, reconstruction, expansion, or extension of a nonconforming use where the enforcement of the regulations pertaining to nonconforming lots or buildings will result in unnecessary hardship (See [Chapter 12: Nonconformities](#)); and
- (6) Perform any other duties related to the administration and enforcement of this ordinance as authorized by this ordinance, by ordinance of the City Council, or the WVC.

(d) **Meetings and General Provisions**

- (1) At the first regular meeting of each year, the BZA shall elect a chairperson and a vice-chairperson from its membership.
- (2) The chairperson will preside over the BZA meetings and may carry out such other lawful duties as authorized by the BZA. During the temporary absence or disability of the chairperson, the vice-chairperson, where elected, shall fulfill the duties of the chairperson.
- (3) The BZA shall hold such meetings as it may require for conducting its business. Prior to the end of each year, the members shall, by motion, determine the dates of its regular meetings for the succeeding year.
- (4) The chairperson of the BZA or the Zoning Officer may cancel a meeting if there is no pending business to be conducted.
- (5) Special meetings may be called by the chairperson or by a vote of the BZA at its regular meeting.
- (6) The BZA may, by a majority vote of its entire membership at the time of consideration, adopt bylaws or rules for the governance of said board, provided they are consistent with state law and with any ordinances of the city.
- (7) The BZA shall keep a record of their meetings and hearings, which shall be a public record.
- (8) Except as may be exempted or otherwise permitted by West Virginia State law, the Planning Commission shall comply with the Open Governmental Meetings Act, WV Section 6-9 A-1, et seq.
- (9) The departments, divisions, and agencies of the city shall cooperate with and assist the BZA in implementing the purposes for which they are formed.

(e) **Quorums and Decisions**

- (1) A majority of the full membership of the BZA being present at a meeting shall constitute a quorum. For purposes of establishing a quorum, a member will be considered "present" if attending a Planning Commission meeting remotely via phone or internet device, so long as the member can be heard by everyone at the meeting, and vice versa, and all other applicable requirements for remote attendance pursuant to the Open Governmental Meetings Act, as interpreted by the West Virginia Ethics Commission, are met. A motion made on a decision shall carry when at least three members of the BZA concur.
- (2) General business items that do not include decisions on applications, such as continuances or approval of minutes, shall only require a majority of the quorum to concur.
- (3) A member of a BZA shall not be qualified to vote if that member did not attend the public hearing or meeting of the applicable case subject to a decision unless they have read or listened to the transcript of the public hearing or meeting, as applicable.
- (4) A member of the BZA shall not be qualified to vote if they have a direct or indirect interest in the issue subject to the application or any other conflict of interest.

(f) **Obligations of the City**

The city will provide the BZA with the following:

- (1) Suitable offices for the holding of meetings and the preservation of plans, maps, documents, and accounts, which may be located at City Hall or elsewhere as reasonably determined by the city;
- (2) Funding, when appropriate and available and subject to lawful approval by City Council, to defray the reasonable expenses of the BZA; and
- (3) Assistance and cooperation in furtherance of the planning and development of the City.

## 2.06 ZONING OFFICER

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(a) **Establishment**

The position of City of Logan Zoning Officer shall be established to aid in the administration and enforcement of this ordinance. The Zoning Officer may be provided with the assistance of such other persons as the Mayor or City Council may direct.

(b) **Roles and Powers of the Zoning Officer**

The Zoning Officer shall have the following roles and powers to:

- (1) Enforce the provisions of this ordinance. The Zoning Officer shall have all necessary authority on behalf of the city to administer and enforce the provisions of this ordinance. Such authority shall include the ability to order, in writing, the remedy of any condition found in violation of this ordinance and the ability to bring legal action to ensure compliance with the provisions, including injunction, abatement, or other appropriate action or proceeding. All officials and employees of the city may assist the Zoning Officer by reporting to the Zoning Officer any new construction, reconstruction, land uses, or violations that are observed;
- (2) Review and provide comments and reports, as needed, for the various procedures where the Planning Commission, BZA, or City Council reviews an application;
- (3) Review and make administrative decisions on zoning certificates;
- (4) Review and make decisions on questions of interpretation related to this ordinance;
- (5) Accept, review for completeness, and respond to questions regarding review procedure applications established in this ordinance;
- (6) Participate in any pre-application meetings as may be requested by a property owner or potential applicant in accordance with this ordinance;
- (7) Coordinate the city's administrative review of applications required by this ordinance, including, but not limited to, rezoning applications, conditional use permit applications, and variances;
- (8) Maintain, in current status, the official zoning map;
- (9) Refer requests for appeals of decisions to the BZA pursuant to the procedures established in Section [3.05](#);

- (10) Provide such technical and consultation assistance as may be required by the BZA, the Planning Commission, and the City Council in the exercise of their duties relating to this ordinance;
- (11) Maintain permanent and current records of all applications and the decisions related to those applications;
- (12) Review, inspect properties, and make decisions on compliance with the provisions of this ordinance;
- (13) Investigate complaints and issue citations or other forms of enforcement and penalties for any violations and keep adequate records of all violations;
- (14) Order discontinuance of any illegal work being done;
- (15) Revoke a zoning certificate issued contrary to this ordinance or based on a false statement or misrepresentation on the application;
- (16) Take any other action authorized by this ordinance to ensure compliance with or to prevent violation(s) of this ordinance; and
- (17) Undertake any additional work as specified by this ordinance or as directed by the Planning Commission, BZA, or City Council.

(c) **Decisions of the Zoning Officer**

A decision of the Zoning Officer may be appealed to the BZA in accordance with Section [3.05](#) unless another appeals board is established by this ordinance.

## Chapter 3: Review Procedures

### 3.01 PURPOSE

This chapter establishes the various administrative and board-level review procedures used for the administration, interpretation, and enforcement of this ordinance. They are established in order to achieve, among others, the following purposes:

- (a) To provide for the inclusion of necessary facilities, services, and other uncommon uses through conditional use permits;
- (b) To provide the inclusion of uses that are uncommon but which have characteristics similar to permitted main uses;
- (c) To provide that no work shall be started on the relocation, construction, reconstruction, or structural alteration of a building until the proposed building or use is found to comply with all the provisions of this ordinance;
- (d) To provide for the enforcement of this ordinance through measures where there is noncompliance and keep records of actions in regard to the enforcement of the code; and
- (e) To provide supplementary administrative procedures in conformity with the objectives of the Comprehensive Plan and this ordinance.

### 3.02 COMMON REVIEW REQUIREMENTS

The requirements of this section shall apply to all applications and procedures subject to development review procedures established in this ordinance unless otherwise stated.

#### (a) Summary of Review Procedures

[Table 3-1](#) provides a list of all review procedures utilized in the administration and enforcement of this ordinance, the applicable review authority, the type of review hearing or meeting, and the decision-making responsibility of each review authority.

TABLE 3-1: SUMMARY OF REVIEW PROCEDURES				
Review Procedure	City Council	Planning Commission	BZA	Zoning Officer
Ordinance Text or Zoning Map Amendment	PH/D	PM/R		
Conditional Use Permit		PH/D		
Site Plan Review		PM/D		
Variance			PH /D	
Zoning Certificate				D
Appeals of Administrative Decisions			PH /D	
Interpretation of the Code				D
Abbreviations				
PH = Public Hearing		R = Recommendation		
PM = Public Meeting		D = Decisions		

#### (b) Authority to File Applications

- (1) Unless otherwise specified in this ordinance, applications for development review procedures defined in this ordinance may be initiated by:
  - A. An owner of the property that is the subject of the application; or
  - B. An agent authorized, in writing, by the owner, which may include a lessee of the property, manager, attorney, or other representative.
- (2) The Planning Commission or City Council may initiate ordinance text and map amendments under this ordinance, with or without written authorization or application from the property owners who may be affected.

**(c) Application Submission Schedule**

The schedule for the submission of applications in relation to scheduled meetings and hearings of the review bodies shall be established by the Zoning Officer and made available to the public.

**(d) Application Contents**

- (1) Applications required under this ordinance shall be submitted to the Office of the Zoning Officer.
- (2) All applications shall be in a form and in such numbers as established by the Zoning Officer and made available to the public as part of application forms.
- (3) Applications shall be accompanied by a fee, if required, in accordance with the fee ordinance adopted by City Council pursuant to Section [3.02\(g\): Fees](#).

**(4) Complete Application Determination**

- A. The Zoning Officer shall only initiate the review and processing of applications submitted under this ordinance if such application is determined to be complete.
- B. An application shall be determined to be complete if the applicant has submitted all of the forms, maps, and other submittal requirements required for the specified application. The Zoning Officer may waive the submission of requirements if such requirements are not needed due to the type or scale of the development or activity, or are unnecessary for determining compliance with this ordinance. Such waiver shall be provided to the applicant in writing as part of the record.
- C. The Zoning Officer shall make a determination of application completeness within five business days of the application filing.
- D. If the application is determined to be complete, the application shall then be processed according to the procedures and timelines set forth in this ordinance.
- E. If an application is determined to be incomplete, the Zoning Officer shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected, and the Zoning Officer determines that the application is complete.
- F. The City shall not be required to process an incomplete application, forward an incomplete application to any decision-making body, or be subject to any required timelines of review for incomplete applications.
- G. If the applicant fails to correct all deficiencies and submit a complete application within 60 days of the notice provided by the Zoning Officer, the incomplete application shall not be reviewed, the applicant's original filing fee shall be forfeited, and the incomplete application shall be deemed withdrawn. The Zoning Officer may grant one 60-day extension if just cause is shown upon written request by the applicant.
- H. No reconsideration of an incomplete application shall occur after the expiration of the 60-day period, and an applicant in need of further development approval under the code shall, pursuant to all of the original requirements of this chapter, submit a new application and submit a new filing fee.
- I. If any false or misleading information is submitted or supplied by an applicant on an application, that application shall be deemed incomplete.

**(e) Simultaneous Processing of Applications**

- (1) Whenever two or more forms of review and approval are required by review boards under this ordinance, the Zoning Officer shall determine the order and timing of the reviews.
- (2) The Zoning Officer may authorize a simultaneous review of applications so long as all applicable requirements are satisfied for all applications.

**(f) Pre-application Conferences or Meetings**

- (1) Prior to filing an application, an applicant may request a meeting with the Zoning Officer for a pre-application conference to discuss the proposed application or project.
- (2) An applicant may request a pre-application meeting with the Planning Commission or City Council for any review procedure in this chapter. The applicant may request such meeting by submitting a written request to the Zoning Officer for placement on the agenda of the next regularly scheduled meeting or any special meeting that may be called by the applicable review board.



- (3) The purpose of the pre-application conference or meeting shall be to discuss the proposed application or project, review submittal requirements, and discuss compliance with the provisions of this ordinance and the Comprehensive Plan prior to the submission of an application.
- (4) No action can be taken by the administrative staff and/or any review boards until the applicant submits an actual application and/or plan to the city pursuant to the laws and policies of the city. Therefore, all discussions that occur between the applicant and/or applicant's representative(s) and staff, Planning Commission, or City Council that occur prior to the date the applicant submits an actual application and/or plan including, but not limited to, any informal meetings with City staff, Planning Commission, or City Council, any pre-application conferences or meetings, are not binding on the city and do not constitute official assurances or representations by the city or its officials regarding any aspects of the plan or application discussed.

**(g) Fees**

- (1) Any application for a review procedure under this ordinance shall be accompanied by such fee as shall be specified from time to time by ordinance of the City Council. There shall be no fee, however, in the case of applications filed by the City Council or the Planning Commission.
- (2) The fees shall be in addition to any other fees that may be imposed by the city, state, Logan County, or other agency having jurisdiction.
- (3) Such fees are adopted to cover the cost to the city for investigations, legal advertising, postage, and other expenses resulting from the administration of planning and zoning activities.
- (4) Unless otherwise identified in the fee schedule adopted by City Council, no application shall be processed or determined to be complete until the established fee has been paid.
- (5) Application fees are not refundable except where the Zoning Officer determines that an application was accepted in error or the fee paid exceeds the amount due, in which case the amount of the overpayment will be refunded to the applicant.

**(h) General Provisions for Attendance and Decisions**

- (1) Whenever a provision of this ordinance allows for or requires attendance at a meeting or hearing by the applicant, the applicant may attend in person, may have an authorized representative attend in their place, or may provide the City Clerk written comments in advance of the meeting or hearing.
- (2) Whenever a provision in this ordinance requires a decision to be provided in writing, or communication in writing, then such provision shall be interpreted to allow for such communication by e-mail unless otherwise stated, required by law, or requested by the applicant.

**(i) Public Notification for Public Meetings**

For all public meetings required by this ordinance, the city shall comply with this ordinance and all applicable state notice requirements.

**(j) Constructive Notice**

- (1) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in the notice shall be limited to errors in a legal description, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall direct the department having responsibility for notification to make a formal finding as to whether there was substantial compliance with the notice requirements of this ordinance and such finding shall be made available to the decision-making body prior to final action on the request.
- (2) When the records of the city document the publication, mailing, and/or posting of notices as required by this chapter, it shall be presumed that notice of a public hearing was given as required by this section.

**(k) Conduct of Public Hearing**

**(1) Rights of All Persons at Public Hearings**

Any person may appear at a public hearing and submit information or evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be asked to identify themselves, and if appearing on behalf of a person or organization, identify the person or organization they are representing.

**(2) Continuance of a Public Hearing or Deferral of Application Review**

- A. An applicant may request that a review board's consideration of an application at a public hearing be deferred by submitting a written or verbal request for deferral to the Zoning Officer prior to the publication of the notice, as may be required by this ordinance. The Zoning Officer may grant such requests, in which case, the application will be considered at the next regularly scheduled meeting.
- B. A request for deferral of consideration of an application received by the Zoning Officer after the publication of notice of the public hearing, as required by this ordinance, shall be considered as a request for a continuance of the public hearing and may only be granted by the applicable review board.
- C. The review board conducting the public hearing may, on its own motion or at the request of the applicant, continue the public hearing to a fixed date, time, and place, provided the date, time, and place are publicly announced at the time of continuance. No additional written or published notice shall be required.

**(l) Withdrawal of Application**

- (1) Any request for withdrawal of an application shall be either submitted in writing to the Zoning Officer or made through a written request by the applicant prior to action by the review or decision-making body.
- (2) After a request for withdrawal has been received, the Zoning Officer will then withdrawal the application from any agenda, and no further action will be taken. Any future request for action will require a new application and fee in accordance with this ordinance.

**(m) Examination and Copying of Applications and Other Documents**

Documents and/or records related to applications may be inspected and/or copied as provided for by state law.

**(n) Effect of any Approvals**

- (1) The issuance of any approval or permit under this ordinance shall authorize only the particular development, alteration, construction, or use approved in the subject application.
- (2) All approvals shall run with the land or use and shall not be affected by a change in ownership, provided there is no change in use and all conditions of approval continue to be met.

**(o) Modifications or Amendments of Approved Applications**

- (1) For any review procedure, the Zoning Officer is authorized to allow minor changes related to the design of an approved application where the change is insignificant and has minimal impact on the overall design of the development or subdivision, does not increase density, or is necessary to address minor technical issues. This shall not give the Zoning Officer the authority to vary the requirements of this ordinance or any conditions of approval.
- (2) Where the Zoning Officer determines that the proposed modification, amendment, or change is not minor, as stated above, the applicant shall be required to resubmit an application and payment of additional fees for the application to be reviewed in accordance with the procedures and standards established for its original approval.

**(p) Reapplication after Denial of an Application**

If an application is denied, the applicant may:

- (1) Appeal the decision in accordance with the applicable appeals procedure established for the procedure in this ordinance or as granted by state law; or

- (2) Make changes to the application that will fully address all issues and findings identified for the denial and resubmit a new application, including any required fees. Any such resubmission shall contain evidence that shows how the new application has substantially changed to address each of the findings of the original decision. The Zoning Officer shall have the authority to determine if the evidence submitted substantially changes the application to address all issues as part of the complete application determination in [3.02\(d\)\(4\)](#). If it does not, the Zoning Officer shall return the application, with reasons for their determination in writing, along with any submitted fees;
- (3) Submit the same application after a 24-month waiting period; or
- (4) Submit a new application if the proposed use and design of the site will be entirely different than the denied application.

**(q) Subsequent Development**

- (1) Development authorized by any approval under this section and this ordinance shall not be carried out until the applicant has secured all other approvals required by this ordinance or any other applicable provisions of the city's ordinances.
- (2) The granting of any approval or permit shall not guarantee the approval of any other required permit or application.
- (3) The city shall not be responsible for reviewing the application for compliance with any permits, certificates, or other approvals that may be required by Logan County, the State, or other agencies having jurisdiction.

**(r) Records**

The City shall maintain permanent and current records of all applications and the decisions related to those applications in City Hall.

**(s) Computation of Time**

- (1) In computing any period of time prescribed or allowed by this ordinance, the date of the application, act, decision, or event from which the designated period of time begins shall not be included. The last date of the period of time to be computed shall be included unless it is a Saturday, a Sunday, or a legal holiday observed by the City of Logan where the city administrative offices are closed for the entire day, in which case the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.
- (2) When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation (i.e., business days and not calendar days).
- (3) When the city offices are closed to the public for the entire day, which constitutes the last day of the period of time, then such application, act, decision, or event may be performed on the next succeeding day, which is not a Saturday, a Sunday, or a legal holiday observed by the City of Logan in which the city administrative offices are closed for the entire day.
- (4) If a timeframe does not specify business or calendar days, such timeframe shall be interpreted to be calendar days.

### **3.03 ORDINANCE TEXT AND ZONING MAP AMENDMENTS**

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**(a) Purpose**

The purpose of the ordinance text and zoning map amendment procedure is to provide a process for amending the zoning map and/or text of this ordinance.

**(b) Applicability**

This section shall apply to requests to amend the text of this ordinance or amend the Certified Zoning District Map of the City of Logan, West Virginia.

**(c) Initiation**

- (1) For a zoning map amendment of a specific property, any person who has the authority to file an application (See Section [3.02\(b\)](#).) for such property may initiate an amendment by filing an application with the Zoning Officer.

- (2) Only City Council or the Planning Commission may initiate ordinance text amendments. However, any member of the public may request that the Planning Commission or City Council consider a text amendment during their respective public meetings.
- (3) City Council may initiate an ordinance text or zoning map amendment by referring a recommendation on an amendment to the Planning Commission.
- (4) The Planning Commission may initiate an ordinance text or map amendment by adopting a motion to make such an amendment.

**(d) Code Text or Map Amendment Review Procedure**

The review procedure for an ordinance text or map amendment shall be as follows:

**(1) Step 1 – Pre-Application Meeting (Optional)**

An applicant may request to have a pre-application meeting with the Zoning Officer and/or Planning Commission to informally discuss the application and any concept plans. Such meeting shall be subject to Section [3.02\(f\)](#).

**(2) Step 2 – Application**

- A. For amendments that are not initiated by the Planning Commission or City Council, the applicant shall submit an application in accordance with Section [3.02: Common Review Requirements](#) and with the provisions of this section.
- B. Amendments initiated by City Council shall be referred to the Planning Commission for initiation of review.

**(3) Step 3 – Zoning Officer Review**

- A. Upon determination that a text or zoning map amendment application is complete, the Zoning Officer shall forward the application to the Planning Commission and may distribute the application to other departments or agencies for review and comment.
- B. The Zoning Officer may consolidate any comments from the public received in advance of the hearing and comments from the Zoning Officer or other departments and agencies into a report for the Planning Commission to review as part of Step 4.

**(4) Step 4 – Planning Commission Review and Advisement**

- A. The Planning Commission shall review the amendment application at the next regularly scheduled Planning Commission meeting.
- B. Notification of the public meeting shall be provided in accordance with state law.
- C. In reviewing the application, Planning Commission shall, at a minimum, consider the review criteria of this section.
- D. The Planning Commission shall advise City Council on the proposed amendment. In advising the City Council, the Planning Commission shall have the option to recommend approval, approval with some modification, deny the application, or some other form of recommendation or advise.
- E. If the Planning Commission fails to act within 60 days of the initial meeting when it is heard, the application shall be forwarded to the City Council for action without any formal recommendation but shall, for the purposes of this ordinance, have been deemed to have met the requirement for advisement.

**(5) Step 5 – City Council Review and Decision**

- A. Following receipt of the recommendation from the Planning Commission (Step 4), the application shall be placed on City Council's agenda for the next regularly scheduled meeting, if in compliance with notification requirements, or City Council shall set a time for a public hearing on the proposed amendment to allow for required notification.
- B. Notification of the public hearing shall be provided in accordance with WVC §8A-7-8.
- C. City Council shall review a text or zoning map amendment application during the public hearing. In reviewing the application, City Council shall, at a minimum, consider the recommendation from the Planning Commission and the review criteria of this section.
- D. City Council shall adopt, adopt with some modification, or deny the application.

**(e) Review Criteria**

The review of ordinance text or map amendment applications by the Planning Commission and City Council shall be based on consideration of the criteria established in WVC §8A-7-8 and the following review criteria. Not all criteria may be applicable in each case, and each case shall be determined on its own facts.

- (1) The proposed amendment is consistent with the Comprehensive Plan, other adopted or approved city plans, and the stated purposes of this ordinance;
- (2) The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions;
- (3) The proposed amendment will promote the public welfare, health, safety, and comfort;
- (4) The proposed amendment, if amending the zoning map, is consistent with the stated purposes of the proposed zoning district; and/or
- (5) The proposed amendment will not constitute spot zoning, where special treatment is given to a particular property or property owner that would not be applicable to a similar property under the same circumstances.

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**3.04 SITE PLAN REVIEW**

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**(a) Purpose**

The purpose of the site plan review is to ensure that intense downtown and intense developments comply with the development and design standards of this code. Zoning certificates for any building, structure, expansion, or use of a building, structure, or land subject to this section shall not be issued without a site plan approved by Planning Commission.

**(b) Applicability**

The following forms of development shall require site plan review by the Planning Commission in accordance with this section. The site plan review shall be for the entire site for which the following development occurs:

- (1) New construction of any principal building in the B-1, B-2, B-3, I-1, or P-I Districts;
- (2) New construction of any nonresidential principal building R-1, R-2, or R-3 Districts; and
- (3) Any expansion of an existing principal building in the B-1, B-2, B-3, I-1, or P-I Districts that exceeds 20 percent of the existing square feet of ground floor area.

**(c) Site Plan Review Procedures**

The site review procedures shall proceed as follows:

**(1) Step 1 – Application**

The applicant shall submit an application in accordance with Section [3.02: Common Review Requirements](#) and with the provisions of this section.

**(2) Step 2 – Zoning Officer Review**

- A. Upon determination that a site plan review application is complete, the Zoning Officer shall forward the application to the Planning Commission and may distribute the application to other departments or agencies for review and comment.
- B. The Zoning Officer may consolidate any comments from the public received in advance of the hearing and comments from the Zoning Officer or other departments and agencies into a report for the Planning Commission to review as part of Step 3.

**(3) Step 3 – Review and Decision by Planning Commission**

- A. The Planning Commission shall review the site plan application at its next regularly scheduled public meeting or at a special meeting.
- B. In reviewing the application, the Planning Commission shall, at a minimum, consider the review criteria of this section.

- C. Within 60 days of the Zoning Officer determining that the application is complete, the Planning Commission shall make a decision on the application. In making its decision, the Planning Commission may approve, approve with modifications or supplementary conditions, or deny the application.
- D. If the Planning Commission fails to make a decision within the established timeframe, or an extended timeframe approved by the applicant, the application shall be deemed denied.
- E. Following approval of a site plan review application, the applicant shall be required to apply for and receive approval of a zoning certificate in order to initiate construction.

**(d) Review Criteria**

The following standards shall be utilized by the Planning Commission in the review of all site plans. These standards are intended to provide a frame of reference for the applicant in the preparation of the site plans as well as for the reviewing authority in making a judgment concerning them. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention, or innovation.

- (1) The proposed development is consistent with all the requirements of this ordinance and other related codes and ordinances of the city;
- (2) The proposed development is in compliance with the applicable zoning district regulations;
- (3) The proposed development complies with any established standards, policies, or requirements in the approved comprehensive land use plan;
- (4) The proposed development meets all the requirements or conditions of any applicable development approvals (e.g., conditional use approvals, variance approvals, etc.);
- (5) Proposed structures shall be related harmoniously to the terrain and to the existing buildings in the vicinity that have a visual relationship to the proposed buildings. The achievement of such a relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features, or other buildings;
- (6) The development will preserve and be sensitive to the natural characteristics of the site in a manner that complies with the applicable regulations set forth in this code;
- (7) Adequate provision is made for safe and efficient pedestrian and vehicular circulation within the site and to adjacent property;
- (8) Points of ingress/egress to the development shall be controlled and designed in such a manner as to minimize conflicts with adjacent properties and developments;
- (9) Adequate provision is made for emergency vehicle access and circulation; and
- (10) If the project is to be carried out in progressive stages, each stage shall be so planned that the foregoing criteria are complied with at the completion of each stage.

**(e) Effect of Site Plan Approval**

An approved site plan shall become, for the proposed development, a binding commitment of the specific elements approved for development. The approved site plan may be transferred to another person, corporation, or group of individuals or corporations prior to the issuance of a building permit. Such transfer shall occur only upon approval of the Zoning Officer. A request for such a transfer or change of ownership shall be presented to the Zoning Officer and granted only if the new ownership entity satisfies the administrative, financial, legal, and all other performance guarantees approved with the original site plan. All construction and development under any zoning certificate shall be in accordance with the approved site plan. Any departure from an approved site plan shall be cause for revocation of the zoning certificate, and the property owner or other responsible parties shall be subject to penalties as prescribed by this code.

**(f) Conditions on Approval**

The Planning Commission may impose conditions on an approval for site plan review provided such conditions are related to ensuring the performance of the design standards meets or exceed the subject standard.

**(g) Expiration of Approvals**

Approval of a site plan review application shall expire if the zoning certificate applicable to the property expires under Section [3.06](#) of this ordinance. Upon expiration of an approved site plan, a new application, including all applicable fees, shall be required before a new application will be reviewed.

**(h) Appeals**

Any person or entity claiming to be injured or aggrieved by Planning Commission's decision on a site plan review shall have the right to appeal the decision to the BZA in accordance with Section [3.05](#).

### **3.05 CONDITIONAL USE PERMITS, VARIANCES, AND APPEALS**

**(a) Purpose**

The purpose of this section is to establish the general review process used by the BZA in the review of conditional use permits, variances, and appeals. It is furthermore the purpose of this section to establish the intent and review criteria for the individual application types as follows:

**(1) Conditional Use Permit**

The purpose of a conditional use permit procedure is to allow consideration for certain uses that, due to their unique and special nature relative to location, design, size, operations, circulation, and general impact on the community, need to be evaluated on a case-by-case basis.

**(2) Variances**

The purpose of a variance is to provide limited relief from the requirements of this ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this ordinance. It is not intended that a variance be granted merely to remove inconveniences or financial burdens that the requirements of this ordinance may impose on property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

**(3) Appeals**

The purpose of the appeals process is to establish a protocol to follow when a person claims to have been aggrieved or affected by an administrative decision made in the administration or enforcement of this ordinance.

**(b) Applicability**

This section shall apply to all applications for the establishment or modification of a conditional use, as may be identified in this ordinance, and to the review and decisions on variances and appeals.

**(c) BZA Review Procedure**

The review procedure for a conditional use permit, variance, or appeal review shall be as follows:

**(1) Step 1 – Application**

- A. The applicant shall submit an application in accordance with Section [3.02: Common Review Requirements](#) and with the provisions of this section.
- B. For appeals, the request for an appeal must be filed with the Zoning Officer within 30 days of an administrative order, decision, determination, or interpretation the person is appealing. Appeals shall be initiated by the person aggrieved or affected by any order, decision, determination, or interpretation made by the authority having jurisdiction who is charged with the administration or enforcement of this ordinance.

**(2) Step 2 – Zoning Officer Review and/or Forwarding of the Record**

- A. Upon determination that a conditional use permit or variance application is complete, the Zoning Officer shall forward the application to the BZA and may distribute the application to other departments or agencies for review and comment. The Zoning Officer may consolidate any comments from the public received in advance of the hearing and comments from the Zoning Officer and other departments and agencies into a report for the Planning Commission to review as part of Step 3.

- B. For appeals, upon receiving the written appeal of an administrative order, decision, determination, or interpretation, the Zoning Officer shall transmit the written appeal with all papers, documents, and other materials related to the appealed order, decision, determination, or interpretation to the BZA. This material shall constitute the record of the appeal.

(3) **Step 3 – BZA Review and Decision**

- A. The BZA shall hold a public hearing on the application or appeal at its next regularly scheduled meeting or at a special meeting after the application is determined to be complete.
- B. Notification of the public hearing shall be provided in accordance with state law.
- C. In reviewing the application, the BZA shall, at a minimum, consider the review criteria for the applicable application or appeal specified in this section.
- D. The BZA shall make a decision on a conditional use permit or variance application within 60 days of the close of the public hearing where the application is reviewed. In making its decision, the BZA may approve, approve with modifications or supplementary conditions, or deny the application.
- E. For appeals, the BZA shall render a decision on the appeal. The BZA may reverse or affirm, wholly or in part, or modify any such order, decision, determination, or interpretation. The written decision by the BZA in relation to an appeal shall be rendered within 30 days after the hearing. If the board fails to render a written decision within 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.
- F. The decision on a conditional use permit or variance application shall be incorporated in a statement of conclusions relative to the request under consideration. The decision shall specify the basis for the decision and any conditions imposed.

(d) **Review Criteria**

(1) **Conditional Use Permits**

Decisions on a conditional use permit application shall be based on consideration of the following review criteria. All conditional use permit applications shall be subject to review under the criteria of this section, as applicable, and may also be subject to additional use-specific standards, as established in this ordinance.

- A. The proposed conditional use is established as an allowed conditional use in the applicable zoning district;
- B. The proposed use is consistent with the spirit, purposes, and intent of the Comprehensive Plan, the general purposes of this ordinance, and the purposes of the zoning district in which the conditional use will be located;
- C. The proposed use complies with any use-specific standards as may be established for the use in [Chapter 4: Zoning Districts](#);
- D. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public welfare, health, safety, comfort, and morals;
- E. The proposed use will comply with all applicable development standards unless a variance is approved in accordance with this ordinance;
- F. The proposed use will be harmonious with the existing or intended character of the general vicinity, and such use will not change the essential character of the same area;
- G. The conditional use will not be hazardous or disturbing to the existing and future use and enjoyment of property in the immediate vicinity for the uses permitted, nor substantially diminish or impair property values within the neighborhood;
- H. The proposed use will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
- I. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;



- J. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion on the surrounding public streets, and adequate consideration has been given to the proximity of access drives to street intersections relative to the anticipated volume of traffic;
- K. The design of the buildings, structures, and site will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance;
- L. The establishment of the conditional use will not be detrimental to the economic welfare of the community by creating excessive additional requirements at public cost for public facilities such as police, fire, or schools;
- M. There is minimal potential for future hardship on the conditional use that could result from the proposed use being surrounded by uses permitted by right that may be incompatible; and
- N. Wherever there are no use-specific standards for the proposed use related to the street frontage, height, setbacks, or other lot and site regulations, then such use shall be subject to the lot and site regulations for the applicable zoning district.

**(2) Area or Dimensional Variance Review Criteria**

Where an applicant is seeking an area or dimensional variance, the following factors shall be considered and weighed by the BZA to determine if a practical difficulty exists that would justify approval of the variance. However, no single factor listed below may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts. The application for a variance shall not be based exclusively upon a desire to increase the value or income potential of the parcel of land or any structures or uses thereupon. The BZA shall take into consideration the following:

- A. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or proximity to nonconforming and inharmonious uses, structures, or conditions;
- B. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- C. Whether the variance is the minimum necessary to make possible the reasonable use of the land or structures;
- D. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- E. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, or trash pickup;
- F. Whether special conditions or circumstances exist as a result of actions of the applicant (actions of the applicant shall not include the purchase or acquisition of the property);
- G. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- H. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice is done by granting a variance;
- I. Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district; and
- J. Whether a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.

**(3) Use Variance Review Criteria**

In order to grant a use variance, the BZA shall determine that strict compliance with the terms of this ordinance will result in unnecessary hardship to the applicant. The applicant must demonstrate such hardship by clear and convincing evidence that all of the following criteria are satisfied:

- A. The property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which the property is located;

- B. The variance requested stems from a condition that is unique to the property at issue and not ordinarily found in the same zone or district;
- C. The hardship condition is not created by actions of the applicant (actions of the applicant shall not include the purchase or acquisition of the property);
- D. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- E. There is an existing building on the lot, and such building, due to its design, cannot be reasonably reused for a permitted use in the district;
- F. The granting of the variance will not adversely affect the public welfare, health, safety, comfort, and morals;
- G. The variance will be consistent with the general spirit and intent of this ordinance; and
- H. The variance sought is the minimum that will afford relief to the applicant.

**(4) Appeals Review Criteria**

An administrative order, decision, determination, or interpretation shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the order, decision, determination, or interpretation fails to comply with either the procedural or substantive requirements of this ordinance.

**(e) Additional Criteria and Conditions**

The BZA may impose such conditions, guarantees, and safeguards as it deems necessary to protect the general welfare and individual property rights and to ensure that the approval will meet the intent and purposes of this ordinance.

**(f) Revocation of a Conditional Use Permit or Variance Approval**

The breach of any condition, safeguard, or requirement shall automatically invalidate the conditional use permit or variance approval and shall constitute a violation of this ordinance. Such violation shall be punishable as specified in [Chapter 13: Enforcement and Penalties](#).

**(g) Time Limit**

- (1) A conditional use approval shall be deemed to authorize only one particular conditional use, and said permit shall automatically expire if, for any reason, the conditional use shall cease for more than 12 months.
- (2) The applicant shall acquire the approval of zoning and building permits, where required, and shall commence use or construction within one year of the date the conditional use permit or variance was approved, or else the conditional use permit or variance approval, as applicable, shall expire.
- (3) The decision of the BZA on an appeal shall become effective immediately and shall not be subject to any time limits.
- (4) Upon expiration of a conditional use permit or variance approval, a new application, including all applicable fees, shall be required before a new conditional use permit or variance application will be reviewed.
- (5) Upon written request prior to the expiration of a conditional use permit or variance approval, one extension of six months such approval may be granted by the Zoning Officer if the applicant can show good cause for a delay.
- (6) As part of the conditional use permit or variance approval, the BZA may authorize alternative time limits for zoning and building permit issuance based on the scale of the proposed development.

**(h) Stay (for Appeals)**

A properly submitted appeal shall stay all administrative proceedings by the city in furtherance of the action appealed unless the Zoning Officer certifies to the BZA that a stay would cause imminent peril to life or property, in which case the administrative proceedings shall not be stayed unless a restraining order is granted by the BZA or by a court of competent jurisdiction, for good cause shown.

**(i) Appeals**

Any person or entity claiming to be injured or aggrieved by any final action of the BZA shall have the right to appeal the decision by petition for writ of certiorari in accordance with WVC 8A-9-1 *et. seq.*

## 3.06 ZONING CERTIFICATE

### (a) Purpose

A zoning certificate shall be required in accordance with the provisions of this section in order to ensure that proposed development and uses comply with the standards of this ordinance and to otherwise protect the public welfare, health, safety, comfort, and morals of the citizens of the City of Logan.

### (b) Terminology

For the purposes of this ordinance, the zoning certificate review shall be an administrative review that may be applied to permits or certificates of other names (e.g., sign permits, temporary use permits, fence permits, etc.) if stated in this ordinance or on the application for the permit or certificate. In such cases, the procedure of Section [3.06\(d\)](#) below shall still apply, including the applicability of administrative waiver requests.

### (c) Applicability

- (1) No building or other structure shall be erected, moved, structurally altered, or added to, in whole or in part, nor shall any building, structure, or land be used or changed in use without a zoning certificate issued by the Zoning Officer. A change in tenancy or ownership of a residential dwelling unit shall be exempt from the zoning certificate requirement unless such change in tenancy changes the classification of the use.
- (2) A zoning certificate may be required for the establishment of certain temporary or accessory use as established in [Chapter 6: Accessory and Temporary Uses](#).
- (3) A zoning certificate shall be required for any changes to any site element, vehicular use area, landscaping, patio, or other improvements to land as may be established under the applicability sections of individual sections or chapters in this ordinance.
- (4) The establishment of a use of vacant land or building shall require the issuance of a zoning certificate.
- (5) A change in use or business establishment shall require a zoning certificate approval.
- (6) Changes in a building or structure's appearance that is regulated by this ordinance shall require a zoning certificate unless the change is a replacement of the same-for-same materials and colors, etc.
- (7) Unless otherwise specifically exempted in [Chapter 11: Signs](#), signs shall require a zoning certificate approval.
- (8) Zoning certificate approval shall be issued only in conformity with the provisions of this ordinance unless the application is subject to an approval by the BZA or Planning Commission providing for additional standards, conditions, or modifications, in which case, the zoning certificate shall be issued in conformity with the provisions of those approvals, as applicable.
- (9) Failure to obtain a zoning certificate shall be a violation of this ordinance subject to the provisions of [Chapter 13: Enforcement and Penalties](#).

### (d) Zoning Certificate Review Procedure

The review procedure for a zoning certificate shall be as follows:

#### (1) Step 1 – Application

The applicant shall submit an application in accordance with Section [3.02: Common Review Requirements](#) and with the provisions of this section.

#### (2) Step 2 – Zoning Officer Review and Decision on a Zoning Certificate

- A. The Zoning Officer may distribute the application to other staff members and other City departments to solicit comment on the zoning certificate application.
- B. Within 30 days after the application is determined to be complete, or an extended timeframe approved by the applicant, the Zoning Officer shall make a decision on the zoning certificate application. In making its decision, the Zoning Officer may approve or deny the application. The Zoning Officer may also approve with modifications or supplementary conditions necessary to ensure the proposed activity will be in full compliance with this ordinance.
- C. Prior to making a decision, the Zoning Officer shall have the authority to provide comments to the applicant regarding necessary revisions to bring the application into full compliance.

- D. If the Zoning Officer fails to act within 30 days from the date the application is determined to be complete, or an extended period as may be agreed upon by the Zoning Officer and applicant, then the application shall be considered denied.
- E. Where revisions are necessary for approval, the application shall not be deemed formally approved until the applicant makes all of the appropriate changes and submits all necessary revised forms, maps, and documents to the Zoning Officer.
- F. When the Zoning Officer denies an application, the Zoning Officer shall inform the applicant of the reason for the denial, including the regulation(s) which would be violated by the proposed use or development.

**(e) Review Criteria for a Zoning Certificate**

In order to approve any zoning certificate, the Zoning Officer shall determine the following:

- (1) The application complies with all applicable provisions of this ordinance and the applicable zoning district;
- (2) That the application demonstrates compliance with applicable standards from the International Building Code (IBC), International Residential Code (IRC), and International Property Maintenance Code (IPMC); and
- (3) The application complies with all approved plans, conditions, or other development approvals issued pursuant to the rules of this ordinance (e.g., variances, conditional uses, etc.).

**(f) Time Limits**

- (1) The applicant shall obtain an approved building permit, where required, and have initiated work within one year of the approval of a zoning certificate, or the certificate shall be revoked. The initiation of work shall be when the ground has been broken, construction on site improvements has begun, or construction of structures has begun.
- (2) For activities that do not require a building permit, the activity shall have been substantially begun within one year of approval and is thereafter pursued to completion, as determined by the Zoning Officer.
- (3) All work authorized by a zoning certificate shall have been completed within two years of the approval of a zoning certificate.
- (4) Time limits for permitted temporary uses and structures shall be as authorized in Section [6.02](#). Approval of a zoning certificate for temporary uses shall include the approved start and end dates for the proposed temporary use.
- (5) If construction activities for which a zoning certificate has been issued are abandoned or suspended for a period of six months after the time of commencing the work, the zoning certificate shall be revoked. Abandonment shall be defined as the lack of building activity or progress toward achieving the scope of work defined in the zoning certificate.
- (6) Upon written request, up to two extensions of six months may be granted by the Zoning Officer if the applicant can show good cause for a delay.
- (7) The Zoning Officer shall notify the application of the revocation of a zoning certificate, including notice that further work as described in the canceled certificate shall not proceed unless and until a new zoning certificate has been obtained or an extension granted.
- (8) Upon revocation of a zoning certificate, a new application, including all applicable fees, shall be required before a new zoning certificate application will be reviewed.
- (9) The above time limits shall not apply if alternative time limits that have been approved by the Zoning Officer, Planning Commission, or BZA in accordance with the applicable review procedure.

**(g) Revoking a Zoning Certificate**

A zoning certificate shall be revocable if, among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the BZA in accordance with Section [3.05](#) of this ordinance.

**(h) Appeals**

Any person or entity claiming to be injured or aggrieved by any final action of the Zoning Officer shall have the right to appeal the decision to the BZA as established in Section [3.05](#).

### **3.07 INTERPRETATION OF THE CODE**

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It is the intent of this ordinance that all questions of interpretation related to the administration and enforcement of this ordinance shall be first presented to the Zoning Officer and that such questions shall be presented to the BZA only on appeal from the decision of the Zoning Officer. Such appeals shall be in accordance with Section [3.05](#).

## Chapter 4: Zoning Districts and Principal Uses

### 4.01 PURPOSE

The purpose of this chapter is to set out the individual purpose statements for each of the City’s zoning districts as well as the list of uses that are allowed within each zoning district. The uses are either allowed or prohibited, and where they are allowed, they may be permitted, permitted with additional standards, or conditionally permitted with additional review. This chapter includes use-specific standards for a variety of uses that apply to those uses alone, in addition to all other applicable standards of this ordinance. Finally, this chapter includes the lot and building standards for each district.

### 4.02 ESTABLISHMENT OF ZONING DISTRICTS

- (a) The City hereby establishes the zoning districts in [Table 4-1](#) to carry out the purposes of this ordinance and to assist in the implementation of the Comprehensive Plan. All such regulations are uniform for each class or kind of building, structure, or use throughout each individual district.

TABLE 4-1: CITY OF LOGAN ZONING DISTRICTS	
Abbreviation	District Name
<b>Residential Zoning Districts</b>	
R-1	Conservation Residential District
R-2	Residential Core District
R-3	Multi-Family Residential District
<b>Nonresidential Zoning Districts</b>	
B-1	Local Business District
B-2	General Business District
B-3	Central Business District
I-1	General Industrial District
P-I	Public and Institutional District
<b>Special Zoning Districts</b>	
PUD	Planned Unit Development District
NCO	Neighborhood Conservation Overlay District

- (b) Whenever abbreviated terms such as P-I, R-1, B-3, etc., are used in the ordinance, they shall be construed as referring to their corresponding district name.

### 4.03 RELATIONSHIP OF OVERLAY ZONING DISTRICTS TO BASE ZONING DISTRICTS

- (a) Where land is classified into an overlay zoning district as well as another zoning district, the regulations governing development in the overlay zoning district shall apply in addition to the regulations governing the underlying base district.
- (b) In the event of an express conflict between the standards of the overlay zoning district and the base zoning district, the standards governing the overlay district shall control.

### 4.04 ZONING DISTRICT MAP AND DISTRICT BOUNDARIES

(a) **Zoning District Map**

All land within the City of Logan shall be placed into at least one of the zoning districts established in [Table 4-1](#). Such zoning shall be shown on the Official Zoning Map of Logan, West Virginia, hereafter referred to as the “zoning map.” The zoning map, including any notations, shall be incorporated and made a part of this ordinance.

**(b) Interpretation of Zoning District Boundaries**

Where uncertainty exists with respect to the boundaries of the various districts, as shown on the zoning map, the following rules apply:

- (1) Where zoning district boundary lines are indicated as approximately following a lot line, such lot line shall be the zoning district boundary.
- (2) Where zoning district boundary lines are indicated as approximately following a center line of a street or highway, alley, railroad easement, or other rights-of-way, or a river, creek, or other watercourses, such centerline shall be the zoning district boundary. In the event of a natural change in the location of such streams, rivers, or other water courses, the zoning district boundary shall be construed as moving with the channel centerline.
- (3) Where zoning district boundary lines are indicated as approximately following City limits, such City limits shall be the zoning district boundary.
- (4) When the actual street, right-of-way, property line boundary, or other existing ground condition is in conflict with that shown on the zoning map, the Zoning Officer shall provide the necessary interpretation. The person contesting the location of the district boundary shall be given a reasonable opportunity to submit technical evidence to illustrate the boundary.

**(c) Zoning of Vacated Properties**

Whenever any street, alley, or other public right-of-way is vacated in a manner authorized by law, the zoning district adjoining each side of such street, alley, or public right-of-way shall be automatically extended to the center of such vacation, and all areas included in the vacation shall then and henceforth be subject to all regulations of the extended district.

**(d) Zoning of Annexed Territories**

All territory that may hereinafter be annexed to the City, if already zoned, shall be continued in its existing zoning classification until amended in conformance with the procedures outlined in Section [3.03](#).

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## 4.05 ZONING DISTRICT PURPOSE STATEMENTS

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In addition to the overall purpose of this ordinance, as established in Section [1.01](#), the following are the purpose statements for the individual base zoning districts in the City of Logan. The purpose statement for Planned Unit Developments (PUDs) is established in [Chapter 5: Planned Unit Developments](#).

**(a) Conservation Residential District (R-1)**

The purpose of the R-1 District is to allow for conservation uses and low-density residential uses within the City limits in areas where steep topography naturally limits development. The regulations of this District as specifically designed to protect the natural areas of the topography to prevent erosion and also to maintain the natural character of the areas surrounding the central neighborhoods of Logan.

**(b) Residential Core District (R-2)**

The purpose of the R-2 District is to provide for the development and use of land for primarily single-family, detached residential uses, and some limited intensity attached residential uses at a range of densities that are found in the built neighborhoods that existed at the effective date of this ordinance. Furthermore, the purpose of these districts is to continue to support the continued development of the existing neighborhood character to encourage a continued range of housing choices in Logan.

**(c) Multi-Family Residential District (R-3)**

The purpose of the R-3 District is to provide for residential areas in the City that provide attached housing options in order to promote more diverse housing choices, and that may serve as a transitional use between lower-density residential uses and the City's business activity areas.

**(d) Local Business District (B-1)**

The purpose of the B-1 District is to provide areas for small-scale commercial development designed to provide a limited range of convenience goods and services to serve the day-to-day needs of those living in the City and surrounding areas.

(e) **General Business District (B-2)**

The purpose of the B-2 District is to accommodate professional offices, general commercial uses, and larger-scale businesses that sell goods and provide services to the general public in a setting that is focused on nonresidential activity areas. While pedestrian-level activity and access are highly encouraged, the City recognizes that vehicular access is also important to the businesses in the City's large-scale business areas.

(f) **Central Business District (B-3)**

The purpose of the B-3 District is to sustain the historic downtown core and to augment and increase its viability and prosperity by allowing the development and redevelopment of a variety of uses and activities made compatible through the enforcement of design standards. It is intended to allow for a wide mixture of shopping, office, professional services, government, institutional, entertainment, residential, and hospitality uses within a compact, pedestrian-oriented environment. The district standards shall also facilitate the creation of a strong, distinctive sense of place through pedestrian orientation and preservation of an urban streetscape.

(g) **General Industrial District (I-1)**

The purpose of the I-1 District is to provide an area to accommodate manufacturing, general businesses, offices, service and repair businesses, and warehousing uses in a form that largely takes place within enclosed buildings to allow for quiet and clean industrial areas. It is the intent of this district to allow for a broad range of these light industrial-type uses that are subject only to those regulations that will help protect adjacent residential and business activities.

(h) **Public and Institutional District (P-I)**

The purpose of the P-I District is to:

- (1) Provide proper zoning classification for government, civic, welfare, and recreation facilities in the proper locations and extents so as to promote public welfare, health, safety, comfort, and morals;
- (2) Protect public and semi-public facilities and institutions from the encroachment of certain other uses and make such uses compatible with adjoining residential uses; and
- (3) Provide an environment for the proper functioning of public facilities in relation to the Comprehensive Plan and other plans for community facilities.

## 4.06 ALLOWED PRINCIPAL USES

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(a) [Table 4-2](#) lists the principal uses allowed within the various base zoning districts in the City of Logan. [Chapter 5: Planned Unit Developments](#) identifies the uses that are allowed in PUDs.

(b) **Explanation of Permitted Uses Table**

(1) **Permitted Uses (P)**

- A. A "P" in a cell indicates that a use type is allowed in the respective zoning district with administrative approval. Permitted uses are subject to all other applicable standards of this ordinance.
- B. Permitted uses are approved administratively by the Planning Commission through the site plan review process (See [Section 3.04.](#)) or by the Zoning Officer through the zoning certificate procedure (See [Section 3.06.](#)), unless subject to additional reviews (e.g., variance, etc.).

(2) **Permitted Uses with Standards (PS)**

- A. A "PS" in a cell indicates that a use type is allowed in the respective zoning district with administrative approval if it meets the additional standards as identified in the last column of [Table 4-2](#). Permitted uses with standards are subject to all other applicable standards of this ordinance.
- B. Uses permitted with standards are approved administratively by the Planning Commission through the site plan review process (See [Section 3.04.](#)) or by the Zoning Officer through the zoning certificate procedure (See [Section 3.06.](#)), unless subject to additional reviews (e.g., variance, etc.).



**(3) Conditional Uses (C)**

- A. A “C” in a cell indicates that a use may be permitted if approved by the BZA through the conditional use review procedure (See Section [3.05](#)). Conditional uses may be subject to use-specific standards as identified in the last column of [Table 4-2](#). Conditional uses are subject to all other applicable standards of this ordinance.
- B. The existence or lack of additional use-specific standards for conditional uses in this ordinance shall not be implied to be the only standards the conditional use is required to meet. Any conditional use listed in the table shall be subject to the general review standards for all conditional uses established in Section [3.05\(d\)](#).

**(4) Prohibited Uses (XX)**

- A. An “XX” in a cell indicates that a use is specifically prohibited in the applicable zoning district.
- B. Any use not specifically listed in the table shall be considered prohibited unless approved as a similar use (See Section [4.06\(d\)](#).) or through an ordinance text amendment.
- C. There may be districts where the specified use is prohibited or restricted, under special conditions, by the use-specific standards referenced in the last column of [Table 4-2](#).
- D. The following uses are specifically prohibited in the City of Logan and may not be approved as a similar use in accordance with Section [4.06\(d\)](#):
  - i. Any gambling activity that is not expressly allowed by state law within a building or use allowed under this code;
  - ii. Battery reclamation or manufacturing, the manufacturing or processing of hazardous materials, or any similar type of use that could potentially create a brownfield site;
  - iii. Transfer, storage, or disposal facilities requiring a permit under the Resource Conservation and Recovery Act of 1976;
  - iv. Junk and scrap metal/auto salvage and recycling yards;
  - v. Sanitary/solid waste landfills; and
  - vi. Construction and demolition debris landfills.

**(5) Use-Specific Standards**

- A. The column titled “Use-Specific Standards” includes cross-references to a section containing standards that apply specifically to the listed use.
- B. Use-specific standards shall only apply if the use is permitted with standards (PS) or is a conditional use (C) in the zoning district.
- C. Standards referenced in the “Use-Specific Standards” column apply in all zoning districts unless otherwise expressly stated.
- D. The land uses and activities covered by this section shall comply with the applicable use-specific standards in all districts unless otherwise specified, in addition to all other applicable provisions of this ordinance.

**(c) Multiple Uses**

If multiple uses are proposed on a single lot or in a single building, then each of the individual uses shall be allowed in the applicable zoning district and reviewed in accordance with how the individual use is allowed in the district (i.e., permitted, permitted with standards, or conditional use).

**(d) Similar Use Determination and Unlisted Uses**

- (1) The Zoning Officer shall make the determination if a proposed use is permitted, permitted with standards, conditional, or prohibited under the provisions of this chapter.
- (2) The Zoning Officer may determine that a proposed use is substantially similar to a use that is permitted, permitted with standards, conditional, or prohibited as established in [Table 4-2](#) based on the following:
  - A. The proposed use activities;
  - B. The character of the proposed use as compared to other uses;
  - C. Similarity to existing uses within the City; and/or

- D. Information on the use that may be available from third-party or governmental land use resources such as documentation from the American Planning Association, Urban Land Institute, the U.S. Census Bureau, or similar organizations.
- (3) If the Zoning Officer determines that the proposed use is substantially similar to a use established in [Table 4-2](#), the application shall be processed in the same manner as the similar use.
  - (4) In finding that a proposed use is similar to a use established in [Table 4-2](#), the Zoning Officer shall make a note of the similar use on the application form submitted by the applicant (e.g., zoning certificate, site plan review, conditional use, etc.).
  - (5) If the Zoning Officer makes the determination that a use is not allowed, the application shall be denied. Such a decision may be appealed to the BZA pursuant to Section [3.05](#).

TABLE 4-2: PRINCIPAL USES									
P=Permitted Use	PS=Permitted Use with Standards			C=Conditional			XX=Prohibited Use		Use-Specific Standards See Section:
Principal Land Uses	R-1	R-2	R-3	B-1	B-2	B-3	I-1	P-I	
<b>Agricultural Uses</b>									
Agricultural - Raising of Crops	P	XX	XX	XX	XX	XX	XX	XX	
<b>Residential Uses</b>									
Dwelling, Four Family	XX	P	P	XX	XX	XX	XX	XX	
Dwelling, Multi-Family	XX	XX	P	XX	XX	XX	XX	C	<a href="#">4.07(a)</a>
Dwelling, Single-Family	P	P	P	XX	XX	XX	XX	XX	
Dwelling, Three-Family	XX	P	P	XX	XX	XX	XX	XX	
Dwelling, Two-Family	XX	P	P	XX	XX	XX	XX	XX	
Group Residential Facilities	XX	PS	PS	XX	XX	XX	XX	PS	<a href="#">4.07(b)</a>
Halfway Houses	XX	C	C	C	C	XX	XX	P	
Manufactured Housing	PS	PS	PS	PS	XX	XX	XX	XX	<a href="#">4.07(c)</a>
Skilled Nursing or Personal Care Facilities	XX	XX	PS	PS	PS	XX	XX	PS	<a href="#">4.07(d)</a>
Transitional Housing	XX	XX	XX	C	C	XX	XX	P	
<b>Public and Institutional Uses</b>									
Active Recreational Facilities	C	C	C	PS	PS	C	PS	PS	<a href="#">4.07(e)</a>
Cemeteries	P	XX	XX	XX	XX	XX	XX	P	
Cultural Facilities	C	C	C	P	P	P	XX	P	
Educational Institutions (Higher Education)	C	C	C	XX	P	P	XX	P	
Educational Institutions (Preschool and K-12)	C	C	C	XX	XX	XX	XX	P	
Essential Services	P	P	P	P	P	P	P	P	
Fraternal, Charitable, and Service-Oriented Clubs	XX	XX	XX	PS	PS	PS	XX	PS	<a href="#">4.07(f)</a>
Government Offices and Buildings	XX	XX	XX	P	P	P	P	P	
Hospitals	XX	XX	XX	XX	XX	XX	XX	P	
Memorials and Monuments	P	P	P	P	P	P	P	P	
Passive Parks, Open Spaces, and Natural Areas	P	P	P	P	P	P	P	P	
Places of Worship	P	P	P	P	P	P	XX	P	
Public Parking Lots or Garages	XX	XX	XX	XX	P	P	XX	P	
Public Utility Buildings and Facilities	C	C	C	C	P	XX	P	P	
Residential Community Centers	PS	PS	PS	XX	XX	XX	XX	XX	<a href="#">4.07(g)</a>
Wireless Communications Towers and Antenna	PS or C	PS or C	PS or C	PS or C	PS or C	PS or C	PS or C	PS or C	<a href="#">4.07(h)</a>
<b>Commercial and Office Uses</b>									
Administrative, Business, or Professional Offices	XX	XX	XX	P	P	P	P	P	
Adult Uses	XX	XX	XX	XX	C	XX	C	XX	<a href="#">4.07(i)</a>

TABLE 4-2: PRINCIPAL USES										
Principal Land Uses	P=Permitted Use			PS=Permitted Use with Standards			C=Conditional			XX=Prohibited Use
	R-1	R-2	R-3	B-1	B-2	B-3	I-1	P-I	Use-Specific Standards See Section:	
Animal Boarding Facilities	C	XX	XX	XX	XX	XX	PS	XX	<a href="#">4.07(j)</a>	
Animal Hospitals/Clinics and Animal Grooming	XX	XX	XX	P	P	P	P	XX		
Assembly Halls or Conference Centers	XX	XX	XX	P	P	P	XX	P		
Automotive Repair and Service (Minor)	XX	XX	XX	PS	PS	XX	PS	XX	<a href="#">4.07(k)</a>	
Automotive Repair and Service (Major)	XX	XX	XX	XX	C	XX	PS	XX	<a href="#">4.07(l)</a>	
Bed and Breakfast Establishments	C	C	C	PS	XX	PS	XX	XX	<a href="#">4.07(m)</a>	
Commercial and Business Support Services	XX	XX	XX	P	P	P	P	XX		
Commercial Greenhouses	XX	XX	XX	XX	P	XX	P	XX		
Commercial Recreational Facilities (Indoors)	XX	XX	XX	C	P	C	P	XX		
Commercial Recreational Facilities (Outdoors)	C	XX	XX	C	C	XX	C	XX	<a href="#">4.07(e)</a>	
Financial Institutions	XX	XX	XX	P	P	P	P	XX		
Fuel Stations	XX	XX	XX	PS	PS	XX	XX	XX	<a href="#">4.07(k)</a>	
Funeral Homes and Mortuaries	XX	XX	XX	PS	PS	PS	PS	XX	<a href="#">4.07(n)</a>	
Gambling Facilities	XX	XX	XX	C	C	XX	C	XX	<a href="#">4.07(o)</a>	
Hotels	XX	XX	XX	P	P	P	XX	XX		
Medical/Dental Clinics and Health Centers	XX	XX	XX	C	P	P	XX	P		
Microbrewery, Microdistillery, or Microwinery	XX	XX	XX	PS	PS	PS	PS	XX	<a href="#">4.07(p)</a>	
Mixed-Use Buildings	XX	XX	XX	P	P	P	XX	P		
Multi-Tenant Uses	XX	XX	XX	P	P	P	P	XX		
Nursery Schools and Day Care Centers (Adult or Child)	XX	C	XX	P	P	P	XX	P		
Personal Services	XX	XX	XX	P	P	P	XX	XX		
Restaurants, Taverns, or Bars	XX	XX	XX	P	P	P	XX	XX		
Retail Businesses	XX	XX	XX	P	P	P	XX	XX		
Theaters	XX	XX	XX	P	P	P	XX	XX		
Vehicle Sales and Leasing	XX	XX	XX	PS	PS	XX	XX	XX	<a href="#">4.07(q)</a>	
Vehicle Washing Establishments	XX	XX	XX	C	PS	XX	C	XX	<a href="#">4.07(r)</a>	
<b>Industrial Uses</b>										
Contractor Equipment and Storage Yards	XX	XX	XX	XX	XX	XX	P	XX	<a href="#">4.07(s)</a>	
Food Services	XX	XX	XX	XX	XX	XX	P	XX		
Industrial Service Uses	XX	XX	XX	XX	XX	XX	P	XX		
Machinery and Heavy Equipment Sales, Leasing, Storage, and Service	XX	XX	XX	XX	XX	XX	P	XX		
Manufacturing and Production (Heavy or Outdoors)	XX	XX	XX	XX	XX	XX	C	XX		
Manufacturing and Production (Indoors)	XX	XX	XX	XX	XX	C	P	XX		
Research and Development Facilities	XX	XX	XX	XX	XX	P	P	XX		
Self-Storage Facilities	XX	XX	XX	XX	C	XX	PS	XX	<a href="#">4.07(t)</a>	
Warehouses	XX	XX	XX	XX	XX	XX	P	XX		
Wholesale Establishments	XX	XX	XX	XX	XX	XX	P	XX		

## 4.07 USE-SPECIFIC STANDARDS

(a) **Multi-Family Dwellings**

Multi-family dwellings may be considered as a conditional use in the P-I District when related to a public or institutional use on the same lot or in the same development.

(b) **Group Residential Facilities**

Group residential facilities shall only be permitted in buildings that were designed as a single-family dwelling or building where the facility operates as a single housekeeping unit, regardless of the number of unrelated people.

(c) **Manufactured Housing**

(1) Manufactured homes that are not permanently sited or that are defined as mobile homes are prohibited.

(2) Unless otherwise stated, permanently sited manufactured homes that comply with this section and with all standards applicable to single-family dwellings, including, but not limited to, minimum floor area, minimum lot size, etc., shall be allowed where single-family dwellings are permitted.

(3) Permanently sited manufactured homes shall also comply with the following:

A. The home shall be affixed to a permanent foundation meaning a permanent masonry, concrete, or a footing or foundation to which a manufactured home may be affixed;

B. The permanently sited manufactured home shall be connected to electricity, public water, and public sewer;

C. The structure, excluding any addition, has a width of at least twenty-two feet at one point, a length of at least twenty-two feet at one point, and a total living area, excluding garages, porches, or attachments, of at least 900 square feet;

D. The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering; and

E. The structure was manufactured after January 1, 1995;

(d) **Skilled Nursing or Personal Care Facilities**

(1) The principal building shall be set back a minimum of 50 feet from any adjacent residential zoning district or lot that contains a single-family dwelling.

(2) Skilled nursing or personal care facilities shall be located so as to provide direct access from a major or minor arterial.

(e) **Active Recreational Facilities and Commercial Recreational Facilities (Outdoors)**

(1) All structures, viewing areas, or seating areas shall be set back at least 100 feet from any residential zoning district.

(2) All outdoor lighting shall project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets. See Section [7.02](#) for additional information on outdoor lighting.

(3) The hours of operation may be regulated by the Planning Commission, if necessary, to mitigate adverse impacts on adjacent residential uses.

(4) No use that involves the discharge of firearms is permitted.

(f) **Fraternal, Charitable, and Service-Oriented Clubs**

Accessory uses necessary to the operation of such use, such as clubhouses, restaurants, bars, swimming pools, and similar activities, shall be permitted if they comply with the applicable standards in Section [6.01](#). However, such uses, where the conduct of business is the principal activity, shall be prohibited unless permitted in the applicable zoning districts.

(g) **Residential Community Centers**

(1) One residential community center shall be allowed within an individual subdivision or for a multi-family dwelling development with more than 12 dwelling units.

(2) Additional residential community centers may be approved as part of a development that is approved as a PUD.

- (3) The residential community center shall only be for the use of residents of the individual subdivision, multi-family dwelling development, or PUD, as applicable, and their guests.

(h) **Wireless Communications Towers and Antenna**

The location of wireless communication towers shall be approved using the following criteria:

- (1) First priority consideration should be given to collocating new wireless antennas on existing towers or placing them on existing structures that have been constructed for other purposes (water towers, church steeples, chimneys, cooling towers). Where such co-location occurs, the antenna shall be allowed as a permitted use.
- (2) Any new wireless communication tower shall be reviewed as a conditional use.
- (3) New towers shall be located, to the maximum extent possible, in a manner that will minimize any adverse impacts on adjacent residential property.
- (4) A newly constructed tower shall not exceed 200 feet in height, and further, the applicant shall demonstrate that the proposed tower is the minimum height necessary to accommodate the antennae and is no higher than existing towers housing similar antennae.
- (5) New towers shall be single monopoles (tubular structures). Lattice-type towers are prohibited.
- (6) The minimum setback from all lot lines and existing residences shall be the height of the tower plus 20 feet unless it can be demonstrated, because of its design and construction, that, in the case of a collapse, the adjacent properties shall not be affected.
- (7) Prior to approving a new tower, a tower height greater than those prevailing in the area, or a tower in a location not in compliance with these regulations, the applicant shall demonstrate to the city that such new tower or additional height is needed to meet the reasonable service requirements of the applicant.
- (8) The base of the tower, including any guy wires, shall be completely enclosed with a secure fence a minimum of 8 feet in height and also screened from adjacent property in accordance with [Chapter 9: Landscaping and Screening](#).
- (9) Any accessory buildings or equipment constructed with a new tower shall not exceed 500 square feet in floor area.
- (10) Lighting shall be in compliance with Section [7.02](#).

(i) **Adult Uses**

(1) **Purpose and Findings**

- A. It is the purpose of this section to regulate adult uses in order to promote the health, safety, morals, and general welfare of the citizens of the City of Logan and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult uses within the city. The provisions of this section do not have the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Further, it is not the intent of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.
- B. City Council has received substantial evidence concerning the adverse secondary effects of adult uses on community findings incorporated in the cases of *Village of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young V. American Mini Theaters*, 426 U.S. 50 (1976) and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), and on studies in other communities, including, but not limited to Phoenix, Arizona; Tucson, Arizona; Garden Grove, California; Los Angeles, California; Whittier, California; Indianapolis, Indiana; Minneapolis, Minnesota; St. Paul, Minnesota; New York, New York; Cleveland, Ohio; Oklahoma Village, Oklahoma; Amarillo, Texas; Austin, Texas; Beaumont, Texas; Houston, Texas; and Seattle, Washington.

(2) **Classification**

Adult uses shall be classified as follows:

- A. Adult arcades;
- B. Adult bookstores, adult novelty stores, or adult video stores;

- C. Adult cabarets;
- D. Adult motion picture theaters;
- E. Adult entertainment businesses; and
- F. Adult theaters.

**(3) Locational Requirements**

All adult uses shall meet the following location requirements.

- A. No adult use shall be established within 500 feet of any lot upon which the following uses exist:
  - i. A place of worship;
  - ii. A hotel;
  - iii. A publicly owned active recreational facility or a passive park, open space, or natural area;
  - iv. A day care center, nursery school, educational institution, or cultural institution, whether public or private, governmental or commercial, which use is regularly attended by persons under 18 years of age; or
  - v. A lot with a residential use of any type, as established in [Table 4-2](#).
- B. No adult use shall be established within 1,000 feet of any other adult use.

- (4)** The distances specified in this section shall be measured in a straight line, without regard to intervening structures, from the nearest point of the premises in which the proposed adult use is to be established to the nearest lot line of a use or zoning classification listed above or another adult use. The presence of a City, County, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

**(j) Animal Boarding Facilities**

- (1)** All structures and outdoor run areas designed to house or accommodate animals, either permanently or temporarily, shall be set back a minimum of 200 feet from all lot lines in a residential zoning district. All other structures related to the use of the property shall be set back in accordance with the applicable zoning district.
- (2)** Care and boarding of animals shall be limited to domestic animals and may not include cattle, horses, swine, or other similarly sized animals.
- (3)** A solid wood fence or masonry wall with a minimum height of six feet shall be constructed where a kennel or animal boarding facility is located adjacent to a residential zoning district.

**(k) Automotive Repair and Service (Minor) and Fuel Stations**

- (1)** Any repair work on vehicles that do not fall under Class 1, 2, or 3 vehicles, as defined by the Federal Highway Administration (FHWA), shall be defined as “automotive repair and service (major)” and subject to the applicable provisions of this chapter.
- (2)** Fuel pumps shall be set back a minimum of 35 feet from all lot lines and 50 feet from all adjacent lot lines of lots in residential zoning districts.
- (3)** Canopies and principal buildings shall be set back a minimum of 20 feet from all lot lines and 50 feet from all adjacent lot lines of lots in residential zoning districts.
- (4)** All hydraulic hoists, oil pits, and all lubricants, greasing, vehicle washing, and repair equipment shall be enclosed entirely within a building. No outdoor disassembly or repair of motor vehicles shall be permitted.
- (5)** All repair work must be performed in a fully enclosed building.
- (6)** Activities shall be limited to:
  - A. The sale of automotive fuel;
  - B. The servicing of motor vehicles with minor repair work;
  - C. Hand washing of vehicles within an enclosed building;
  - D. The retail sale of vehicle parts and products relating to minor repair work, such as, but not limited to, oil, grease, tires, antifreeze, batteries, and windshield wipers. The storage and sales of such products shall take place entirely within an enclosed building.

- (7) Space for overnight parking, overnight accommodations, or the inclusion of showers within the building shall be prohibited.
- (8) Any major repair work, including but not limited to automobile body repair and painting, automobile glass work, automobile transmission work, automobile engine overhaul and repair, and radiator repair work, shall be classified as “automotive repair and service (major)” and shall be subject to Section [4.07\(l\)](#).
- (9) Vehicles being serviced or awaiting service shall be stored for no longer than seven calendar days on the site if in unenclosed areas or areas not screened from view.
- (10) The storage and disposal of solid waste and recyclable materials, including used or discarded motor vehicle parts or equipment and fluids, shall comply with all applicable Federal, State, and local requirements.
- (11) Outdoor solid waste, storage areas, and recyclable storage areas shall be screened in accordance with Section [9.04](#).
- (12) Gasoline and other flammable mixtures shall not be used to wash down the premises.
- (13) Sanitary drains located on the premises without approved separators in the trap are prohibited.

**(l) Automotive Repair and Service (Major)**

- (1) An automotive repair and service (major) establishment shall be subject to the same requirements as an automotive service station (minor) as established in Section [4.07\(k\)](#) above.
- (2) The principal structure shall be set back a minimum of 150 feet from any lot line of a lot in a residential zoning district. Parking for the storage of vehicles, whether operational or non-operational, shall be set back a minimum of 50 feet from any adjacent lot line in a residential district.
- (3) The storage of non-operational vehicles for longer than 14 days shall be permitted if stored in the rear yard and screened by a solid wall or fence with a minimum height of six feet.
- (4) The use may be subject to additional screening requirements in accordance with [Chapter 9: Landscaping and Screening](#).
- (5) Vehicles awaiting repair shall be parked in designated parking spaces and shall not encroach on driving aisles, landscaped areas, and drive approaches. No part of the street right-of-way shall be used for parking of vehicles awaiting service.
- (6) Damaged or inoperable vehicles shall not be used for storage purposes.

**(m) Bed and Breakfast Establishments**

- (1) Bed and breakfast establishments shall only be permitted within a building designed as a single-family, detached dwelling.
- (2) The owner of the premises shall reside full-time in the dwelling or in a dwelling on an adjoining lot.
- (3) No more than five bedrooms in any dwelling may be used for bed and breakfast lodging, and at least one bathroom shall be dedicated to guest use.
- (4) One off-street parking space shall be provided for each bedroom used for guest lodging in addition to those normally required for the single-family dwelling.
- (5) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of the bed and breakfast establishment that will indicate from the exterior that the building is being utilized in part for any purpose other than a dwelling unit.
- (6) Meals provided for cost in a bed and breakfast establishment shall only be served to the guests who are lodging at the bed and breakfast establishment.
- (7) Guests shall be permitted to reside at the facility for not longer than three continuous weeks.

**(n) Funeral Homes and Mortuaries**

- (1) Vehicular use areas shall be designed to allow for the queuing of vehicles if funeral processions are intended to originate or terminate at the establishment.
- (2) One dwelling unit may be provided within the principal building for the use by the owner or an employee of the use.
- (3) All funeral homes shall be located so as to provide direct access from an arterial or collector street.
- (4) Cremation services shall be permitted only in the B-2 and I-1 Districts and shall be set back a minimum of 250 feet from any lot line in a residential zoning district.

(o) **Gambling Facilities**

No gambling or casino-type game of chance (video or mechanical) that provides any type of payoff or remuneration shall be permitted anywhere in the City of Logan unless expressly and explicitly permitted and authorized by the West Virginia Code, as amended, and approved by the BZA through the conditional use review process.

(p) **Microbrewery, Microdistillery, or Microwinery**

- (1) A microbrewery, microdistillery, and microwinery shall be allowed in the B-1, B-2, and B-3 Districts when the majority of the floor area is dedicated to being used for restaurant service or for the serving of drinks made on-site so that the use fits into the retail character of the districts. Drinks made off-site may also be permitted, provided the majority of drinks offered for sale are made on-site.
- (2) A microbrewery, microdistillery, and microwinery in the I-1 Districts may include a taproom area to serve customers drinks made on-site, provided the floor area of the taproom does not exceed 60 percent of the total footprint of the use. Food service may be included within the 60 percent total footprint. Drinks made off-site may also be permitted, provided the majority of drinks offered for sale are made on-site.

(q) **Vehicle Sales and Leasing**

- (1) Display of vehicles for sale or lease outdoors shall be located on a paved surface and within striped parking spaces that all comply with the parking requirements of [Chapter 10: Parking, Access, and Connectivity](#).
- (2) All work on vehicles, including, but not limited to, cleaning, servicing, and repair, shall be done only in an enclosed building and shall be subject to the same standards as an automotive repair and service establishment (minor) or automotive repair and service (major) establishment, as applicable.

(r) **Vehicle Washing Establishments**

- (1) All structures shall be set back a minimum of 50 feet from any residential zoning districts. Any self-service washing establishment or portion of a building used for self-service washing shall be set back a minimum of 150 feet from any residential zoning districts.
- (2) In order to prevent excessive pooling of water in the street right-of-way, the facility must be equipped with a dryer or must demonstrate adequate drainage on-site to accommodate all water used for cleaning.
- (3) There shall be adequate provision for the disposal of wastewater and the prevention of surface runoff.
- (4) Vacuuming and/or steam cleaning equipment may be located outside but shall not be placed in the yard adjoining a residential zoning district.
- (5) The use shall be subject to the vehicle stacking space requirements of Section [10.07](#).

(s) **Contractor Equipment and Storage Yards**

- (1) Outdoor storage must be associated with a principal building that contains the contracting or construction business associated with the stored materials.
- (2) All storage of equipment and materials must be located in the rear yard and screened in accordance with [Chapter 9: Landscaping and Screening](#).

(t) **Self-Storage Facilities**

- (1) The leases for all self-storage units shall include clauses related to the following:
  - A. The storage of flammable liquids or radioactive, highly combustible, explosive, or hazardous materials is prohibited; and
  - B. The property may not be used for any uses other than for the storage of unused or seldom-used items.
- (2) All access to any self-storage facility shall be from an arterial or collector street.
- (3) There shall be no retail sales on the property, with the exception that the owner or their designee may hold an auction on the site up to four times a year for the purpose of selling goods stored in units.
- (4) The maximum height of buildings for outdoor self-storage shall be one story.



- (5) The Logan Fire Department shall be provided with 24-hour access to the grounds and buildings. A lockbox shall be provided for its use.
- (6) Sale, repair, fabrication, or servicing of goods, motor vehicles, appliances, equipment, materials, or similar activities shall be prohibited in or from self-service storage facilities.
- (7) Self-storage facilities may not be used for residential purposes.
- (8) Except for sinks and restroom facilities provided solely for the use of the managers or security personnel of self-storage facilities containing more than ten individual storage units, neither sinks nor restroom facilities shall be permitted within self-storage facilities.
- (9) No storage unit door opening in a self-storage facility (outdoor) shall face a residential district.

## 4.08 LOT AND PRINCIPAL BUILDING REGULATIONS

### (a) Number of Principal Buildings Per Lot

- (1) In the R-1 and R-2 Districts, only one principal building shall be permitted on any single lot unless approved as a condominium.
- (2) There can be more than one principal building on an individual lot in all other zoning districts.
- (3) The number of principal buildings per lot in a PUD shall be as approved by City Council as part of the PUD review procedure.

### (b) Minimum Lot Area and Lot Width

#### (1) Measurements

- A. The area of a lot includes the total horizontal surface area within the lot's boundaries (lot lines).
- B. No lot shall be reduced in area or dimensions so as to make said area or dimensions less than the minimum required by this ordinance, and if already less than the minimum required by this ordinance, said area or dimensions shall not be further reduced. Exceptions to this standard shall only be granted if a reduction is approved as part of a PUD or variance approval.
- C. Unless otherwise stated, the lot width is the distance between the side lot lines measured along the minimum front yard setback line.

#### (2) Lot Area Requirements

- A. [Table 4-3](#) establishes the minimum lot area and lot width requirements for individual residential zoning districts.
- B. There are no minimum lot area or lot width requirements for the B-1, B-2, B-3, I-1, or P-I Districts. Such lots shall be of a size large enough to allow for all proposed buildings and required setbacks, off-street parking, loading, and stacking spaces, and all landscaping and screening requirements established in this ordinance.
- C. Minimum lot areas and lot widths in a PUD District shall be as established in the PUD approval process.

TABLE 4-3: MINIMUM LOT AREA AND LOT WIDTH REQUIREMENTS			
District	Use	Minimum Lot Area	Minimum Lot Width
R-1	All Uses	43,560 Square Feet	70 Feet
R-2	Single-Family Dwelling	4,500 Square Feet	45 Feet
	Two-Family and Three-Family Dwellings	7,500 Square Feet	55 Feet
	Four-Family Dwelling	10,000 Square Feet	60 Feet
R-3	Residential Dwellings	2,000 per dwelling unit	70 Feet
	All Other Uses	None. The lot shall be large enough to accommodate the building, as well as the required setback, parking, and landscaping.	None

**(c) Minimum Setbacks and Yards**

**(1) Setbacks and Yards Required for Buildings**

- A. A yard is an open area created by the required setbacks. Where required, a yard for any structure shall be located on the same lot as the structure and shall not include any yard or open space areas from an adjacent lot.
- B. While a yard is defined as an open area, certain structures and uses may be permitted in required yards as specified in this ordinance.
- C. Where the term “required” is used before any yard type, that required yard shall be the area of the yard between the applicable lot line and the required yard setback distance from the applicable lot line, regardless of the presence of a building. See [Figure 4-A](#).

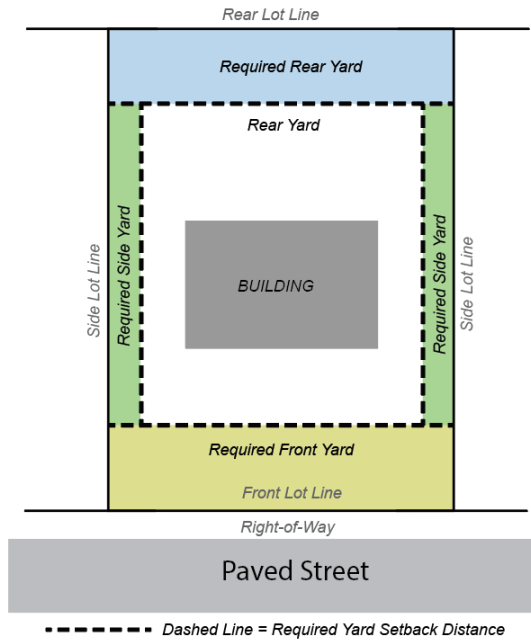


Figure 4-A: The above image illustrates the use of the term “required yards” on a typical interior lot versus the location of the full front, side, and rear yards as defined in the next sections of this ordinance.

**(2) Measurements and Exceptions**

- A. Setbacks refer to the unobstructed, unoccupied open area between the foundation or base of a structure and the property line (lot line) of the lot on which the structure is located. Setbacks shall not contain any structure except when in conformance with this ordinance.
- B. A setback shall not be reduced in any manner to less than the required dimensions for the district in which it is located, and a setback of less than the required dimensions shall not be further reduced in any manner unless otherwise noted in this ordinance (e.g., nonconforming structures or by variances).
- C. **Front Yard Exception for Partially Built-Up Blocks**  
Where 50 percent or more of the block face on which a principal building is to be constructed is occupied by buildings of the type and use permitted in the district before the effective date of this ordinance, with a front yard setback of less than required by this ordinance, the minimum front yard for new buildings shall be no less than the average setback distance of existing buildings located within 100 feet on either side of the applicable lot. However, the front yard setback resulting therefrom shall not be less than one-half of the dimensions specified in the schedule in [Table 4-4](#). See [Figure 4-B](#).

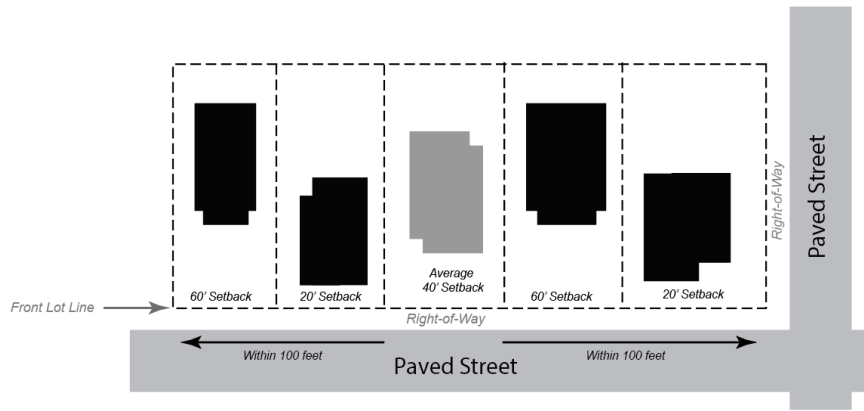


Figure 4-B: Illustrative example of the provision for a front yard exception where structures on nearby lots do not meet the minimum front yard setback.

**D. Projections into Required Yards**

- i. Every part of a required yard shall be open to the sky and unobstructed except:
  - a) As otherwise provided in this section;
  - b) For accessory and temporary uses as allowed in [Chapter 6: Accessory and Temporary Uses](#);
  - c) For landscaping, as allowed in this ordinance;
  - d) For parking and circulation as allowed in this ordinance;
  - e) For signage as allowed in this ordinance;
  - f) Walls and fences as permitted in accordance with Section [7.04](#);
  - g) For the ordinary projections of skylights, sills, belt courses, cornices, and ornamental features projecting into the yard a distance not to exceed 12 inches;
  - h) Open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers projecting into a yard not more than five feet; and
  - i) The ordinary projections of chimneys and flues may be permitted when placed so as not to obstruct light and ventilation but not closer than two feet to any lot line.
- ii. Terraces, uncovered porches, platforms, and ornamental features which do not extend more than three feet above the floor level of the ground (first) story may project into a required front, side, or rear yard but shall maintain a minimum of seven feet in setback from the front lot line and three feet from all other lot lines.
- iii. Awnings and canopies may extend into any required setback but shall maintain a minimum setback of one foot from all lot lines.

(3) **Lot Configurations and Rules for Setbacks and Yards**

A. **Interior Lots**

- i. Unless otherwise stated, the required minimum front yard setback shall be measured from the street right-of-way or, where a right-of-way is not identified, the front lot line. See [Figure 4-C](#).
- ii. The lot line located directly behind the rear of the structure, as determined by the Zoning Officer, shall be the rear lot line, and the rear yard setback shall be applied. See [Figure 4-C](#).
- iii. All other lot lines shall be considered the side lot line, and the side yard setback shall be applied. See [Figure 4-C](#).

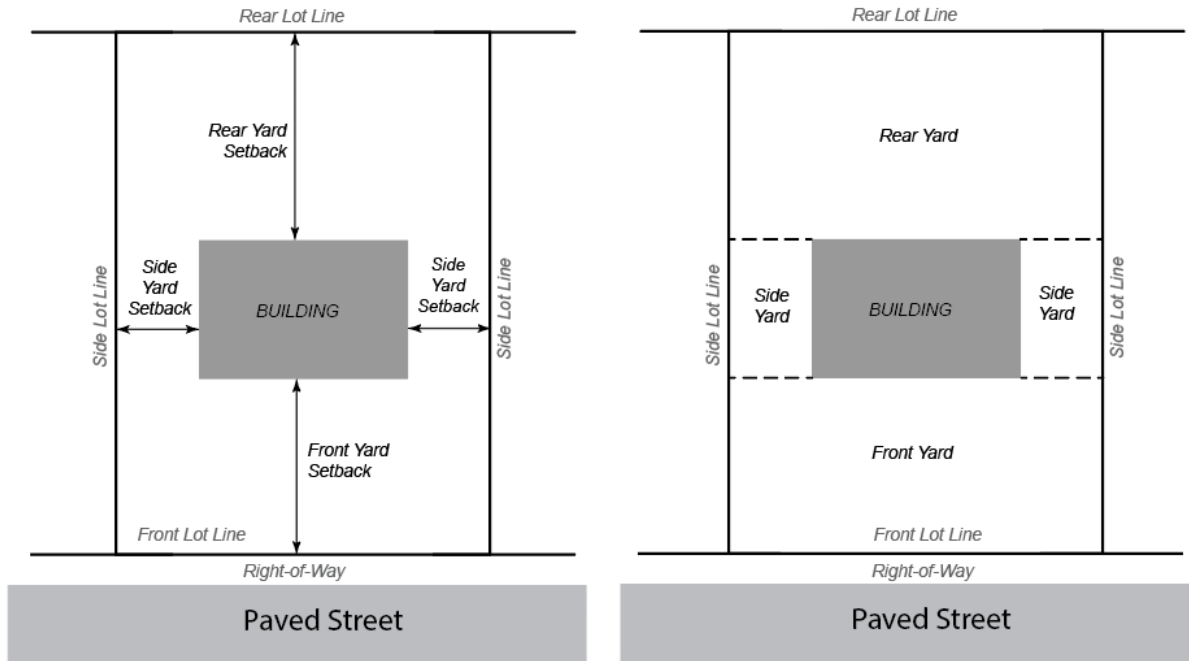


Figure 4-C: Typical setback and yard locations for an interior lot.

**B. Corner Lots**

Lots that have street frontage on two intersecting streets shall be considered a corner lot, subject to the following:

- i. The required minimum front yard setback shall be provided from each of the lot lines adjacent to the street. See [Figure 4-D](#).
- ii. An alley shall not be considered a street for the purposes of determining a corner lot.
- iii. The lot line that runs parallel with the lot line along the narrowest street frontage shall be the rear lot line, and the minimum rear yard setback shall be applied from such lot line. See [Figure 4-D](#).
- iv. The principal building is encouraged to be oriented toward the front lot line with the narrowest street frontage, in which case, all other lot lines that are not the rear and front lot lines shall be a side lot line, and the minimum side yard setback shall be applied from such lot lines. See [Figure 4-D](#).

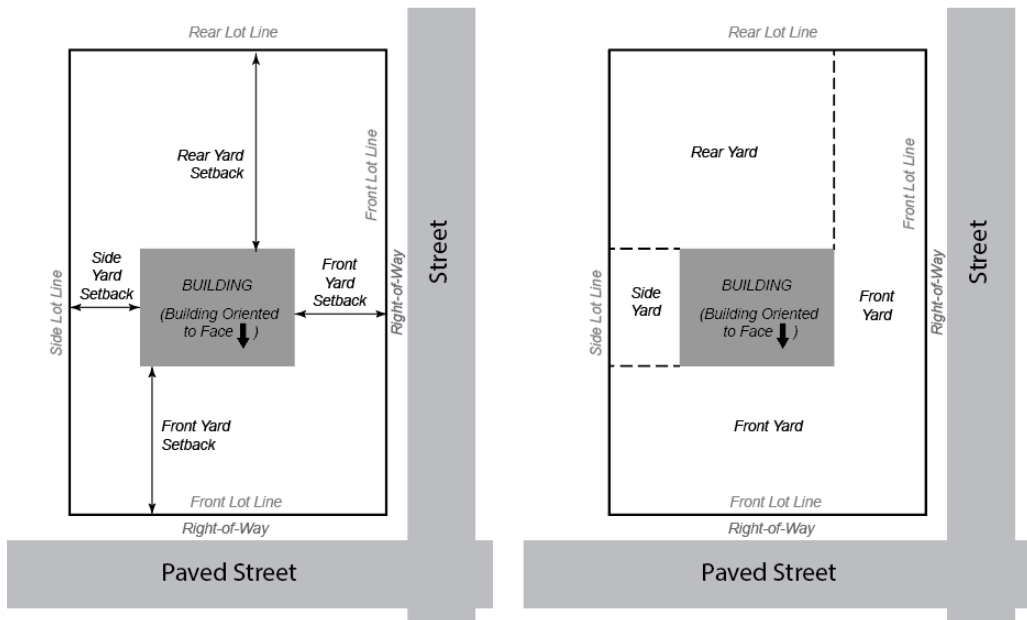


Figure 4-D: Typical lot lines and setback locations for a corner lot with the building oriented toward the narrow street frontage (left image) and typical yard locations (right image).

- v. If the principal building is situated so the main entrance and/or primary façade is oriented toward the lot line along the widest street frontage, then the principal structure shall be set back a minimum distance equal to the rear yard setback for the applicable district from all lot lines that are not the front lot lines. See [Figure 4-E](#).

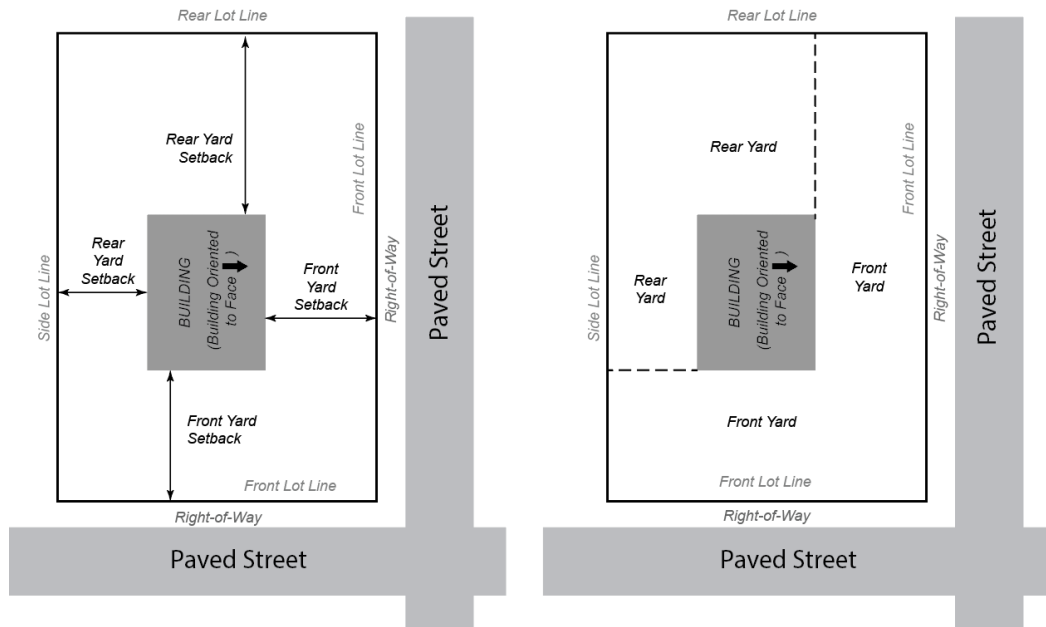


Figure 4-E: Typical lot lines and setback locations for a corner lot with the building oriented toward the wider street frontage (left image) and typical yard locations (right image).

**C. Double Frontage (Through) Lots**

Double frontage lots shall be discouraged and shall only be approved if necessitated by unique topographic features or other special physical conditions as deemed necessary by the Planning Commission. Double frontage lots shall be subject to the following regulations:

- i. Where a lot is considered a double frontage (through lot) lot, the required minimum front yard setback shall be provided on all lot lines that abut a street. See [Figure 4-F](#).

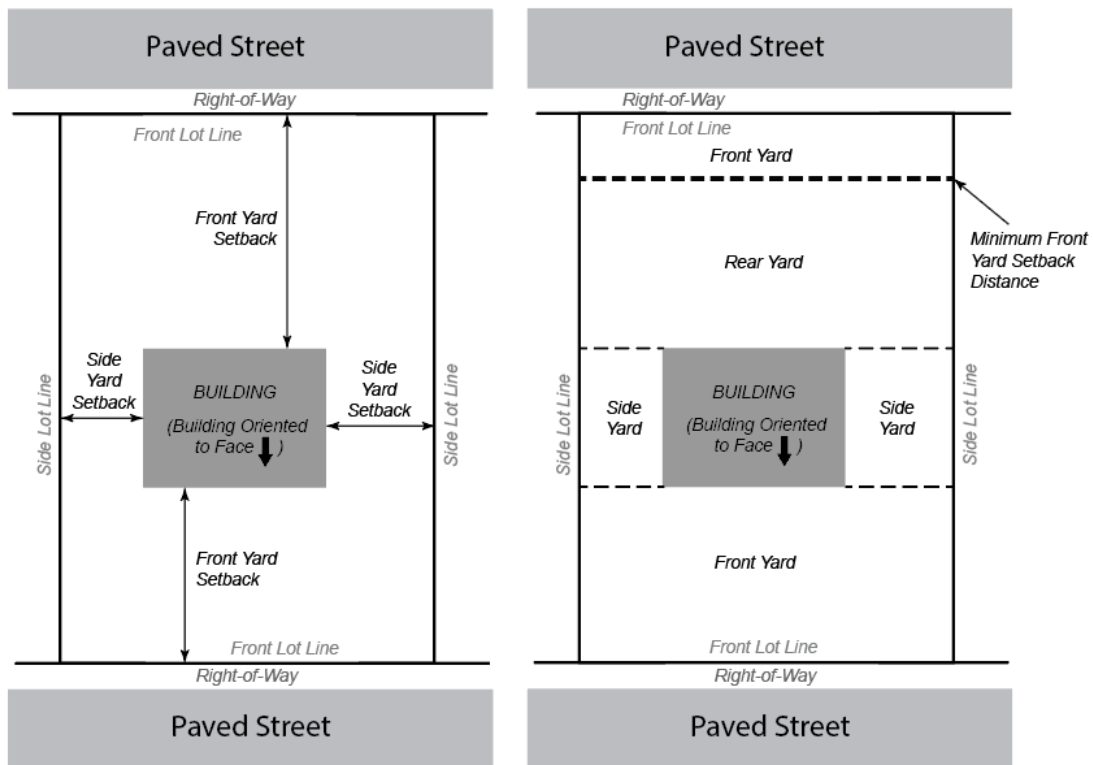


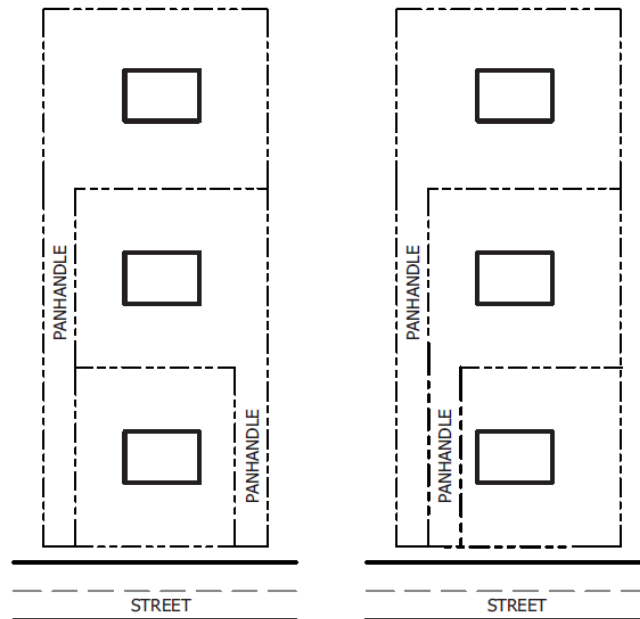
Figure 4-F: Typical setback and yard locations for a double frontage (through) lot.

- ii. The remaining lot lines not abutting a public road right-of-way shall be considered as side yards and shall have the required minimum side yard setback provided for each side lot line. See [Figure 4-F](#).
- iii. For the purposes of allowing accessory uses and fences, which are allowed in a rear yard, the yard that is located to the rear of the principal building shall be considered the rear yard, and the setbacks of Section [4.08\(c\)](#) shall apply to all accessory uses or structures. Such accessory uses, or structures shall not be permitted in the required front yard areas adjacent to each street.
- iv. Where alleys exist in the City, any lots that have frontage along the alley shall not be considered a double frontage (through) lot and shall either be regulated as an interior lot or corner lot depending on the location of the subject lot within the block.

**D. Panhandle (Flag) Lots**

Panhandle lots (flag) lots shall be discouraged and shall only be approved if necessitated by unique topographic features or other special physical conditions as deemed necessary by the Planning Commission. Panhandle (flag) lots shall be subject to the following regulations:

- i. Panhandle (flag) lots shall not be used to avoid the construction of a street.
- ii. The area of the “panhandle” portion of the lot connecting the lot to the public street shall not be included in the area of the lot for the purposes of determining compliance with the required minimum lot area for the district in which the lot is located.
- iii. The stacking of panhandle (flag) lots shall be prohibited. See [Figure 4-G](#).



*Figure 4-G: The above illustration shows the stacking of panhandle lots, which is prohibited.*

- iv. The panhandle shall have a minimum width of 10 feet along the entire width of the panhandle. The maximum width shall be 40 feet, and anything with a width of 40 feet or greater shall be considered an interior, corner, or double frontage lot as may be applicable.
- v. No structures, except for fences and walls allowed by this ordinance, shall be permitted in the panhandle portion of the lot.
- vi. The minimum front yard setback requirement shall be measured from the lot line that creates the rear lot line of the adjacent lot, as illustrated in [Figure 4-H](#).



Figure 4-H: Typical setback and yard locations for a panhandle lot.

**E. Cul-de-Sac or Curved-Street Lot**

- i. For a cul-de-sac lot or a lot abutting a curved street, the front-yard setback shall follow the curve of the front property line (lot line). See [Figure 4-I](#).
- ii. On a cul-de-sac roadway, knuckle, or eyebrow, the required street frontage shall be required and measured at the street right-of-way on the curve of the cul-de-sac, knuckle, or eyebrow.

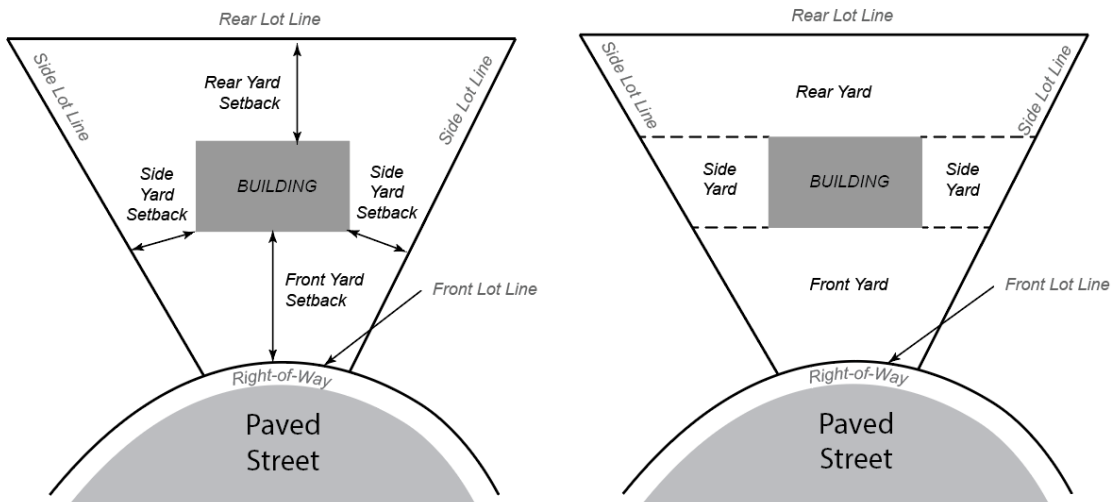


Figure 4-I: Typical setback and yard locations for a curved street or cul-de-sac.

**F. Other Lot Configurations**

Where there is an instance of a lot configuration not addressed in the previous sections (e.g., interior, corner, panhandle, etc.) or where there is an atypical building orientation on any lot, the Zoning Officer shall have the authority to make a determination regarding where front, rear, and side yard setbacks are required.



(4) **Minimum Setback Requirements**

- A. Setbacks required for accessory uses are established in Section 6.01.
- B. [Table 4-4](#) establishes the minimum setback requirements for principal buildings in all zoning districts.

TABLE 4-4: MINIMUM SETBACK REQUIREMENTS			
District	Setback Requirements (Feet)		
	Front Yard	Side Yard (Each Side)	Rear Yard
<b>Residential Zoning Districts</b>			
R-1	35	10	20
R-2	15	5	20
R-3	15	5	20
<b>Nonresidential Zoning Districts</b>			
B-1	15	5	20
B-2	35	20	20
B-3	0	0	0
GI	15	15	20
P-I	15	15	15

(d) **Maximum Building Height**

(1) **Measurement**

Where specified in feet, building height shall be measured as the vertical distance from the average grade at the base of the structure to the mid-point between the eaves and the peak line for any sloped roof or to the highest point of a flat roof, excluding architectural features (e.g., vents, cupolas, weather vanes, chimneys, etc.), roof embellishments, or chimney extensions. See [Figure 4-J](#).

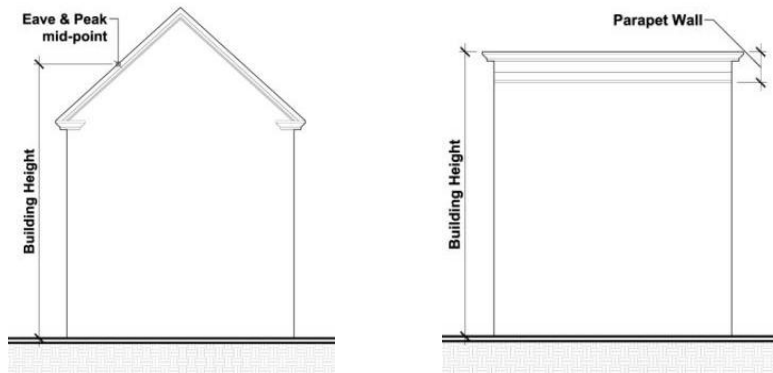


Figure 4-J: Example of building height measurement for a sloped roof (left) and a flat roof (right).

(2) **Exceptions to Height Limits**

The maximum height limits established in this ordinance shall not apply to:

- A. Spires, belfries, cupolas and domes, monuments, chimneys, smokestacks, towers, water tanks or other tanks for liquids, radio or television antennae, monuments, and other permitted mechanical appurtenances located upon or constructed as an integral part of the principal building for all nonresidential uses provided the height of the feature does not exceed two times the lot width; and
- B. Governmentally-owned freestanding water tanks, towers, radio or television antennae, and flag poles.

**(3) Maximum Height Standards**

- A. [Table 4-5](#) establishes the maximum building height for principal buildings.
- B. The maximum height of accessory structures is established in Section [6.01](#).

TABLE 4-5: MAXIMUM HEIGHT OF PRINCIPAL BUILDING	
District	Maximum Height (Feet)
R-1 and R-2	35
R-3	45
B-1	35
B-2	45
B-3	60
I-1	35
P-1	60

**(e) Minimum Floor Area for Dwelling Units**

**(1) Calculation**

- A. The minimum floor area of a dwelling unit shall include all finished and habitable spaces, including the basement floor area, when more than one-half of the basement height is above the finished lot grade level at the front of the building.
- B. Garages, outdoor patios, porches, decks, and accessory buildings shall not be included in the minimum floor area of a dwelling.
- C. Such requirements shall only apply to single-family dwellings, two-family dwellings, three-family dwellings, four-family dwellings, multi-family dwellings, and dwelling units located in mixed-use buildings. These requirements shall not apply to hospitals, nursing homes, or similar types of residential uses that are institutional in nature.

**(2) Minimum Floor Area Requirements**

- A. The minimum floor area for single-family dwellings shall be 900 square feet.
- B. The minimum floor area for all other dwelling units shall be 600 square feet per dwelling unit.
- C. There shall be no minimum floor area requirement for dwelling units in the B-3 District.

**4.09 NEIGHBORHOOD CONSERVATION OVERLAY (NCO) DISTRICT**

**(a) Purpose and Intent**

The purpose of the Neighborhood Conservation Overlay District is to protect the character of certain existing residential neighborhoods in instances where there is a proposed infill development or a redevelopment project. The primary focus of these compatibility standards is to ensure that new infill development or development in the NCO District relates to the massing and scale of the surrounding structures.

**(b) Applicability**

- (1) Except where exempted below, these standards shall apply to the development, expansion, or redevelopment of principal buildings in the NCO districts.
- (2) For the purposes of these standards, “expansion” shall mean the expansion of the building floor area of the ground floor by more than 15 percent of the building’s footprint that existed at the effective date of this ordinance.

**(c) Exemptions**

The following forms of development shall be exempt from the standards of this section:

- (1) A change of use, with no structural changes, that is permitted in the base zoning district; and
- (2) The complete redevelopment of an entire block where all existing structures are removed. Such redevelopment shall be subject to the standards of the applicable zoning district.

(d) **Standards for all Development**

- (1) All development and activities within the NCO District shall comply with the standards of this subsection.
- (2) Compliance with these standards shall be shown in the zoning certificate application for principal buildings in the NCO District.

(3) **Prohibited Uses**

While manufactured housing may be allowed in the underlying residential zoning district, manufactured housing is prohibited on any lots in an NCO District.

(4) **Design Standards**

**A. Setbacks**

- i. For new development or expansion of an existing building, the applicant shall demonstrate that the new building will meet the average front setbacks of residential buildings along the same block face.
- ii. All new development or expansion of an existing building shall demonstrate that the construction meets the average side yard setbacks along the block face.
- iii. All development shall comply with the rear yard setback of the applicable zoning district

**B. Building Height and Massing**

- i. No principal building shall be constructed which is more than 20 percent taller or shorter than the average height of principal buildings along the same block face.
- ii. No principal building shall be constructed where the front facade is more than 20 percent wider or narrower than the average width of principal buildings along the same block face.
- iii. The roof type shall generally reflect the predominant roof types of the buildings along the same block face (e.g., the building should not have a flat roof where the predominant roof type is a gable).



*Figure 4-K: The detached dwelling in the foreground exhibits compatibility with the surrounding dwellings in regard to design, scale, setbacks, and materials.*

**C. Front Porches**

Where the majority of buildings along the same block face have front porches, the building subject to this subsection may also include a front porch that has a width and depth generally similar to the average width and depth of porches along the same block face.

## Chapter 5: Planned Unit Developments

### 5.01 PURPOSE

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The purpose of the Planned Unit Development (PUD) District is to provide a means for encouraging ingenuity, imagination, and flexibility in the planning and designing of medium and large-scale developments where traditional base zoning districts may be too restrictive for the range of proposed uses or design. The PUD regulations provide controlled flexibility by utilizing objectives and performance standards rather than rigid design requirements. The intent is to encourage developments that possess greater amenities and/or provide greater environmental protection than standard zoning district requirements. It is not the intent of the PUD to allow applications to circumvent the intent of this ordinance or to permit residential density, uses, housing types, or street and utility layouts that conflict with the Comprehensive Plan, other adopted plans and policies, or the character of the area. It is, furthermore, the purpose of the PUD regulations to:

- (a) Provide more desirable living, shopping, and working environments by helping to achieve the goals of the Comprehensive Plan in a manner that allows for the comprehensive review of a medium to large-scale development;
- (b) Encourage creative and high-quality developments that are compatible with surrounding land uses, achieve a high degree of pedestrian-vehicular separation, and contribute to the overall quality of Logan;
- (c) Provide for a flexible arrangement of buildings, densities, and a variety of housing types to meet the needs of the residential market;
- (d) Encourage the creation of open space and the development of recreational facilities and neighborhood commercial facilities in a generally central location within a reasonable distance of any residential components of the development;
- (e) Promote a harmonious design amongst the various elements and uses within the development while mitigating any potential negative impact on surrounding properties;
- (f) Allow phased construction with the knowledge that subsequent phases shall be approved as originally planned and approved by the City;
- (g) Ensure that there are adequate services and infrastructure to serve the proposed development; and
- (h) Reserve adequate land areas for schools, parks, and other public uses.

### 5.02 SCOPE AND APPLICABILITY

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- (a) The intent of the PUD regulations is to provide a means for applying comprehensive and flexible planning and design techniques on properties substantially sized to accommodate such a plan. As such, the minimum size of any PUD project or plan shall be five acres. PUD proposals should not be applied to small areas as a means of bypassing traditional district regulations.
- (b) A PUD of less than 10 acres may be considered for medium or high-density residential areas as defined by the Comprehensive Land Use Plan. The Planning Commission and City Council must approve such a reduction in size.

### 5.03 PUD REVIEW PROCESS

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(a) **Ownership**

In order to submit an application for PUD review, the tract or tracts of land included within the proposed PUD shall be in one ownership or control or shall be subject to a joint application by the owners of all properties included within the proposal.

(b) **PUD Submission and Review Procedure**

(1) **Step 1 – Pre-Application Meeting (Required)**

An applicant shall be required to have a pre-application meeting with the Planning Commission to informally discuss the application and any concept plans. Such meeting shall be subject to Section [3.02\(f\)](#).

(2) **Step 2 – Application**

The applicant shall submit an application in accordance with Section [3.02](#) and the provisions of this section.

(3) **Step 3 – Development Plan and Zoning Map Amendment**

- A. The PUD Development Plan approval procedure involves a zoning map amendment to rezone the subject property to a PUD with an approved PUD Development Plan.
- B. The procedure for this stage shall comply with the requirements of Section [3.03](#).
- C. In accordance with the zoning map amendment review procedure, the Planning Commission shall hold a public hearing to review the PUD Development Plan and make a recommendation to City Council to approve, approve with modifications, or deny the application. The recommendation shall be made based on a review of the application using the criteria contained in Section [5.04](#). The Planning Commission may, in its recommendation to City Council, require that any subdivision process related to the PUD be submitted in stages upon evidence assuring completion of the entire development in accordance with the PUD Development Plan and phased development schedule.
- D. In accordance with the zoning map amendment review procedure, City Council shall hold a public hearing on the PUD Development Plan and PUD zoning map amendment and decide to approve, approve with modifications, or deny the recommendation of the Planning Commission using the criteria contained in Section [5.04](#), of this chapter.
- E. In making its recommendations or decisions, the Planning Commission and/or City Council may impose such conditions of approval as are in its judgment necessary to insure conformity to the applicable criteria and standards of this zoning ordinance and to the Comprehensive Plan. In so doing, the Planning Commission and/or City Council may permit the applicant to revise the plan and resubmit it as a PUD Development Plan within 60 days of such action.

(4) **Step 4 – Zoning Certificate Issuance**

A zoning certificate shall not be issued until the lot or applicable subdivision has been fully recorded in the office of the Clerk of the Logan County Commission and public improvements have been installed in accordance with the applicable subdivision regulations.

(c) **Time Limit**

- (1) Approved PUD Development Plans shall be valid for a period of two years after the date of approval by the Planning Commission. If no development has begun (development is defined as the start of construction of the required public/private improvements as shown on the approved PUD Development Plan for one or more phases of the project) within two years from the date of approval, such approval shall lapse and be of no force and effect.
- (2) Two one-year extensions of the time limit set forth in section [5.03\(c\)\(1\)](#) above may be granted by the Planning Commission if such extension is not in conflict with the most current comprehensive plan and if such extension is in the best interests of the entire community. The developer/owner shall apply for an extension and shall state the reason for the extension.
- (3) If an approved PUD Development Plan lapses, as provided in this section, the originally approved PUD Development Plan shall also be considered void. Notice of such lapse shall be filed by the Planning Commission and forwarded to the City Council.
- (4) Voiding of the PUD Development Plans shall not rezone the property. After such plans are voided, the Planning Commission, City Council, or property owners may initiate a rezoning to a base zoning district in accordance with Section [3.03](#), or the property owner or their agent may resubmit a PUD Development Plan in accordance with the procedures of this chapter.

(d) **Changes to Approved PUDs**

- (1) A PUD shall be constructed and completed in accordance with the approved PUD Development Plan, including all supporting data and conditions. The PUD Development Plan and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees, and assignees and shall limit and control the use of premises (including the internal use of buildings and structures) and the location of structures in the PUD as set forth therein.

- (2) Where a property owner on a lot in a PUD seeks a variance from the applicable standards for an individual property that will not apply to any other property in the PUD, the property owner shall request such variance in accordance with Section [3.05](#).
- (3) Any request to change or otherwise modify the approved PUD Development Plan, as it applies to more than one property owner, shall be reviewed based on whether the change is considered major or minor, in accordance with this subsection.

**A. Major Change**

- i. Major changes to a PUD require the prior approval of the Planning Commission and the City Council in the same process and with the same hearings as was used to review the PUD Development Plan. The Zoning Officer shall have the authority to determine if a proposed change is a major change. Major changes include, but are not limited to:
  - a) Expansion of the PUD project beyond the original tract coverage;
  - b) Removal or subtraction of land from the original tract coverage; and
  - c) Proposed changes that will result in an increase in residential dwelling units of more than five percent of the total dwelling units proposed or an aggregate increase of more than 10 percent in nonresidential square footage.
- ii. Changes that require the approval of only the Planning Commission at a public hearing include, but are not limited to, the following:
  - a) Changes in the development plan relative to the size and arrangement of buildings, the layout of streets or circulation patterns, the size, configuration, and location of common open space, and changes in any approved elements of the PUD; and
  - b) Amendments to the conditions that were attached to the PUD Development Plan.

**B. Minor Changes**

- i. Minor changes are those proposed by the developer/owner which do not disturb or affect the basic design and approved PUD Development Plan and which are essentially technical in nature, as determined by the Zoning Officer.
- ii. Examples of minor changes include, but are not limited to, changes in the intensity of lighting, changes in the size or location of water and sewer lines within approved easements, and changes in the location or number of fire hydrants.
- iii. Additionally, the Zoning Officer shall have the authority to approve structural dimensional changes that do not increase density, that does not change building height by more than 10 feet, or that do not change building or perimeter setbacks by more than 15 feet when necessary to accommodate minor shifts in the location of improvements or infrastructure.
- iv. The Zoning Officer shall notify the Planning Commission of all such approved minor changes.

**(e) Revocation**

- (1) In the event of a failure to comply with the approved plan or any prescribed condition of approval, including failure to comply with the stage development schedule, the Planning Commission may, after notice and hearing, revoke the approval of the PUD Development Plan. The Planning Commission shall, at the same time, recommend whether to maintain the PUD zoning district or to rezone the properties to another zoning district.
- (2) The revocation shall become final 30 days after City Council passes an ordinance to rezone the property to a base zoning district, other than a PUD, or a decision by the Planning Commission to revoke the approved plans but retain the PUD zoning.
- (3) Where the PUD zoning remains without an approved PUD Development Plan, the property owner or agent shall be required to submit a new PUD Development Plan in accordance with the review procedures of this chapter.

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## 5.04 REVIEW CRITERIA

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All PUD applications shall be reviewed based on the following general criteria, and the applicable review body shall consider such criteria in the creation of its specific findings when making recommendations and decisions regarding PUD applications, especially for the review of the PUD Development Plan:

- (a) The proposed development is in conformity with the goals, policies, and any applicable recommendations of the Logan Comprehensive Plan;
- (b) The proposed development meets the intent and spirit of this ordinance and all other applicable City ordinances or adopted plans;
- (c) The development provides an environment of stable character that promotes a harmonious relationship between land uses within the site and a harmonious relationship with surrounding development, utilizing adequate screening where necessary;
- (d) The proposed development provides a development pattern that preserves and utilizes the natural topography, geologic features, scenic vistas, natural vegetation, and natural drainage patterns of the site;
- (e) The proposed development maximizes the opportunity for privacy within residential areas and minimizes nuisances between residential areas and other land uses;
- (f) The proposed development, while compatible with its surroundings, provides a more diverse environment for living, shopping, and/or working than would be possible under strict application of the standard minimum design requirements of other districts provided within this ordinance;
- (g) The proposed development promotes greater efficiency in the use of land and does not impose an undue burden on public services and facilities such as fire and police protection, public works, schools, water supply, and wastewater disposal due to excessive population densities;
- (h) The proposed development is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- (i) The proposed development is accessible from public thoroughfares adequate to accommodate the traffic which will be imposed on them by the proposed development, and the proposed streets and parking areas within the site are adequate to serve the proposed arrangement and densities of land uses;
- (j) The internal connectivity will assist in creating safe traffic patterns for pedestrians and cars while also minimizing the need for multiple curb cuts;
- (k) The proposed development minimizes pedestrian, bicycle, and vehicle conflicts;
- (l) The proposed development provides a higher quality and more useful design of landscaping and open space and amenities than would normally be required under the strict application of existing zoning and subdivision requirements;
- (m) The proposed development contains such proposed covenants, easements, association by-laws, and other such provisions as may reasonably be required for the public health, safety, convenience, comfort, prosperity, and general welfare;
- (n) The proposed development is designed in such a way that each individual section of the development, as well as the total development, can exist as an independent section capable of creating an environment of sustained desirability and stability or that adequate assurance has been provided that such an objective shall be attained;
- (o) The proposed development can be substantially completed within the time specified in the schedule of development submitted by the developer; and
- (p) The PUD plans have been transmitted to all other agencies and departments charged with the responsibility of review, and any identified issues have been reasonably addressed by the applicant.

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## 5.05 PERMITTED USES

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### (a) Principal Uses

- (1) Only those uses listed in this ordinance (See Section [4.06](#).) as a permitted use, whether permitted as-of-right, permitted with standards, or permitted as a conditional use, may be considered in the application of a PUD.

- (2) In general, any standards that apply to a specific use in this ordinance shall also apply to those same uses in a PUD. However, the Planning Commission and City Council may adjust or waive any of those use-specific standards (See Section [4.07.](#)) based on unique circumstances specific to the applicable development.
- (3) As part of any approval, the Planning Commission and/or City Council may restrict the uses permitted within an individual PUD by adopting a list of uses permitted within the PUD.
- (4) Any changes in uses within an approved PUD shall be required to be reviewed as part of a major PUD amendment.

**(b) Accessory Uses**

- (1) Unless otherwise allowed for in the approved plans, accessory uses associated with development in a PUD shall be allowed in accordance with the following:
  - A. Accessory uses permitted in the R-2 District shall be allowed on lots with any single-family dwelling.
  - B. Accessory uses allowed in the R-3 District shall be allowed on lots with any two-family or multi-family dwelling.
  - C. Accessory uses allowed in the B-2 Districts shall be allowed on lots with nonresidential uses.
  - D. Any allowed accessory uses shall still comply with the applicable accessory use-specific standards established in this ordinance in Section [6.01.](#)
- (2) As part of any approval, the Planning Commission and/or City Council may restrict the accessory uses permitted within an individual PUD.

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## 5.06 DEVELOPMENT STANDARDS

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**(a) Lot and Density Regulations**

- (1) The Planning Commission and City Council shall have the authority to restrict densities based on the compatibility of the development with surrounding development, the scale of the overall project, traffic impacts, and recommendations from the Comprehensive Plan
- (2) Each principal building shall have its own private yard.
- (3) The maximum gross density of a PUD with only residential uses shall be 12 units per acre.
- (4) Every building in a PUD shall have access either to a street, walkway, or other area dedicated to common use.
- (5) In PUDs with residential dwelling units, the privacy of future residents shall be assured by yards, creative building arrangements, screening, and other design elements.

**(b) Design and Development Standards**

Where this ordinance provides for design and development standards (e.g., parking, landscaping, architectural standards, etc.) not specifically addressed in this chapter, development within a PUD shall comply with the applicable standard found elsewhere in the ordinance.

**(1) Illumination**

All development shall comply with the outdoor lighting standards of Section [7.02](#) unless the Planning Commission and City Council allow for modification of the standards.

**(2) Off-Street Parking and Loading**

All development shall comply with the requirements of [Chapter 10: Parking, Access, and Connectivity](#) unless otherwise approved by the Planning Commission and City Council, where shared parking, on-street parking, or other arrangements will not necessitate as much parking.

**(3) Landscaping and Screening**

- A. All uses in a PUD shall comply with the applicable landscaping and screening requirements of [Chapter 9: Landscaping and Screening](#), which shall be established as the minimum landscaping and screening requirements.



- B. All development and common open space shall be landscaped according to an overall coordinated plan, utilizing a variety of trees, including evergreen-type trees, whenever possible to maximize screening potential year-round. Plantings, walls, fencing, and screens shall be so designed and located as to optimize privacy and aesthetic quality without encroaching upon required automobile sight distances.
- C. The amount of landscaping shall be comparable to the intensity of the development proposed to soften the developed areas. Particular care shall be taken to introduce trees and other landscaping into parking and other paved areas that are sustainable, given the proximity to large expanses of pavement.
- D. Outdoor areas or containers holding or storing trash, garbage, and recycled or reused materials shall be screened on three sides from adjoining properties, streets, and other public areas. Such areas or containers shall be screened in accordance with this ordinance and shall include a decorative gate for access.
- E. **Project Buffer**
  - i. PUDs that contain nonresidential uses or residential uses of a higher density or intensity than adjacent residential uses shall be required to provide a permanent open space buffer consisting of mounding and vegetative plantings sufficient to protect the privacy and amenity of such adjoining areas. The buffer area shall be a minimum of 35 feet in width unless otherwise approved by the Planning Commission and City Council.
  - ii. The buffer area shall be maintained by the land owner or owners' association in such a manner as to insure its effectiveness.
  - iii. The project buffer area shall not be included in the calculation for the lot area of any private lot.

**(4) Common Open Space**

- A. Common open space shall be required in all applications where there is a proposed PUD that contains any residential uses.
- B. The common open space requirements for a PUD shall be based on the proposed residential density and shall be in accordance with [Table 5-1](#).
- C. In the case of phased developments, open space shall be provided in proportion to each developed phase.

TABLE 5-1: PUD COMMON OPEN SPACE REQUIREMENTS	
Proposed Residential Density (Gross Density)	Common Open Space Requirements
Under 4 Dwelling Units per Acre	10 Percent
4 to 8 Dwelling Units per Acre	15 Percent
Over 8 Dwelling Units per Acre	20 Percent

- D. The percentage of open space shall be based on the gross site area of the proposed project, including all rights-of-way.
- E. When open space is required, such space should be designed in a manner that is beneficial to the entire development and is not solely land that is not developable, or that appears to be an extension of proposed lots. Such design shall be as approved by the Planning Commission and City Council during the PUD Development Plan review.
- F. Retention or naturalized stormwater management areas that are designed to be an amenity (e.g., improved ponds, decorative features, etc.) may be considered as open space if approved by the Planning Commission and City Council during the PUD Development Plan review.
- G. The following areas shall not be counted toward compliance with open space requirements:
  - i. Private and public roads and associated rights-of-way;
  - ii. Public or private parking spaces, access ways, and driveways related to any residential use;

- iii. Required minimum spacing between buildings and required yard setbacks;
  - iv. Vehicular use areas;
  - v. Land that is subject to pre-existing conservation easements or other similarly protected open spaces;
  - vi. Above-ground buildings, pipes, apparatus, and other equipment for community or individual use, septic or sewage disposal systems;
  - vii. Stormwater areas that are not designed as an amenity pursuant to Paragraph [5.06\(b\)\(4\)F](#), above.
  - viii. Substations and public utility easements;
  - ix. Leftover land that has no value for development and is not a natural resource (e.g., river or stream corridor, large forest stand, wetland) that contributes to the quality of the overall project, as determined by the Planning Commission and City Council.
- H. All common open space shall be designed in accordance with the following:
- i. The location, shape, size, and character of common open space shall be suitable for the proposed residential uses in relation to the location, number, and types of dwelling units it is intended to serve. In any case, it shall be highly accessible to all residents or users of the PUD.
  - ii. The common open space shall be used for amenity and/or recreational purposes. Any uses and/or buildings authorized for the common open space must be appropriate to the scale and character of the PUD in relation to its size, density, expected population, topography, and type of dwellings.
  - iii. The common open space shall be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures, and improvements which are permitted in the common open space shall be appropriate to the uses which are authorized for the common open space and shall conserve and enhance the amenities of the common open space regarding its topography and unimproved condition.
  - iv. Where appropriate, open space should be arranged in order to provide connections to existing or future open space areas, trails, or similar features on adjoining parcels.

**(5) Protection and Maintenance of Common Open Space**

Adequate provision shall be made for the long-term maintenance and/or operation of all common open space in accordance with this section.

**A. Reclamation of Disturbed Open Space**

Any required land areas designated for use as open spaces that are disturbed during construction or otherwise not preserved in their natural state shall be landscaped with non-invasive vegetation that appeared in those respective areas prior to construction or with other native vegetation. The planting of invasive plant species is prohibited.

**B. Future Subdivision and Development of Open Space**

All required open space shall be restricted from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the City of Logan and duly recorded in the office of the Clerk of the Logan County Commission. Subject to permanent restrictions as set forth above, required open space in an open space residential subdivision shall be owned by a homeowners' association, a land trust or other conservation organization, or by a similar entity recognized by the City of Logan. Required open space may be held by the individual members of a homeowners' association as tenants-in-common or may be held in common ownership by a homeowners' association, community association, or other similar legal entity.

**C. Conservation Easements**

With the permission of the City of Logan, the owner(s) of the required open space may, in accordance with the applicable provisions of the West Virginia Code, grant or transfer a conservation easement to any entity described in the West Virginia Code, provided that the entity and the provisions of the conservation easements are acceptable to the City of Logan. When a conservation easement is proposed as the method of restricting further subdivision of land designated as open space, the City of Logan shall be named as a party to such conservation easement with approval authority over any changes thereto. The conveyance must contain appropriate provisions for the assignment of the conservation easement to another entity authorized to hold conservation easements under the West Virginia Code in the event that the original grantee becomes unwilling or unable to ensure compliance with the provisions of the conservation easement.

**D. Homeowners' Associations**

The following shall apply where a homeowners' association will be established to maintain any open space or other common areas as required by this article:

- i. A homeowners' association shall be established to permanently maintain all open space, common areas, and conservation easements related to the open space unless such open space is preserved in another manner allowed by this chapter.
- ii. All homeowners' association agreements shall be submitted for approval as part of a zoning certificate, conditional use, or planned unit development application, as applicable. Copies of the proposed covenants, articles of incorporation, and bylaws of the association shall be submitted with said agreements. No set of proposed covenants, articles of incorporation, or bylaws of a homeowners' association shall permit the abrogation of any duties set forth in this section.
- iii. All homeowners' associations shall guarantee the maintenance of all open spaces and common areas within the boundaries of the development. In the event of a failure to maintain such open space or common areas, the City may do any of the following:
  - a) If the open space or common area is owned by the City, a City-approved land trust, or other qualified organization, county, state, or park district, the City may remedy the failure to maintain it at its own cost and seek reimbursement from the homeowners' association, or seek to enforce the homeowners' association's duty to maintain through an injunction or any other civil remedy.
  - b) If the open space or common area exists pursuant to a conservation easement to which the City is a party, the City may seek to enforce the terms of the conservation easement as provided in [Section 5.06\(b\)\(5\)C.](#)
- iv. If the open space or common area is owned jointly or in common by the owners of the building lots or by any other owner of the property to be maintained, the City may seek to enforce the association's nonperformance of its obligations and duties through an injunction or any other civil remedy.

**(6) Signs**

- A. Signs shall be integrated into the building and landscaping plans to enhance the overall appearance while providing adequate identification of the development.
- B. The requirements of [Chapter 11: Signs](#) may only be waived as part of the approval of the PUD Development Plan when the applicant submits a master sign plan for the entire PUD. In such cases, the master sign plan shall not allow for more than a 10 percent increase in the total sign area allowed in [Section 11.08.](#)

**(7) Development Layout**

Dwelling units shall be grouped or clustered to provide interest and diversity in the arrangement, maximize privacy, collect and maximize the common open space and promote the individual character and coordinated layout of each lot, cluster, and grouping. Streets and cul-de-sacs shall be laid out so as to discourage through and high-speed traffic unless such through street is needed to be in compliance with the approved City plans.

**(8) Vehicular Access Points**

- A. Adequate and properly arranged facilities for internal pedestrian and traffic circulations shall be provided.
- B. Topography, landscaping, and existing vegetative clusters shall be utilized as necessary to make the project attractive and provide screening between areas of a substantially different character.
- C. The street and thoroughfare network shall be designed to minimize truck and through traffic passing through residential areas of the development.
- D. A minimum of two ingress and egress points shall be provided for any PUD. If a PUD is phased, each phase shall have a minimum of two ingress and egress points at the time of construction.
- E. Where a PUD is located adjacent to a vacant lot, connections shall be planned for the future connection to the future development of the vacant lot unless otherwise approved by the Planning Commission and City Council. Where such connections are made, a temporary turnaround may be established, and the future connection shall be noted on the PUD Development Plan. An easement shall be provided on the final plat of the subdivision to keep the land open in perpetuity for the connection.

**(9) Circulation Plan**

- A. The circulation system and parking facilities shall be designed to fully accommodate the automobile with safety and efficiency. Any driveway to arterial and collector streets shall be placed at locations where the traffic can be controlled and operated effectively with the minimum interference with the capacity and flow of the existing streets.
- B. An interconnecting walkway system shall be designed to promote easy and direct barrier-free access, using accepted criteria, to all areas of the development in a carefully conceived total service plan while also considering the security of the residents in the design. Wherever possible, the vehicular and pedestrian circulation patterns shall be completely separate and independent of one another.
- C. A PUD shall consider bicycle plans adopted by the City and/or a regional agency, where applicable, on or adjacent to the site. A component of the bike plan which is proposed within a planned unit development shall be assured for public access by easements, agreements, or covenants as may be appropriate after review by appropriate departments and approval by Council.

**(c) Improvement Standards**

**(1) Subdivision Compliance**

Unless alternative standards are approved as part of a subdivision modification, all PUDs shall comply with the applicable subdivision improvement and design standards.

**(2) Streets**

All streets proposed within a PUD shall be public streets dedicated to the City of Logan in accordance with the applicable subdivision regulations unless otherwise approved by the Planning Commission and City Council as part of the PUD Development Plan approval.

## Chapter 6: Accessory and Temporary Uses

### 6.01 ACCESSORY USES AND STRUCTURES

(a) **Purpose**

This section authorizes the establishment of accessory uses that are incidental and customarily subordinate to principal uses permitted in accordance with this resolution.

(b) **General Provisions**

- (1) Accessory structures and uses shall be incidental to and customarily found in connection with a principal building or use permitted in the district in which it is located.
- (2) An accessory structure and/or use shall be located on the same lot as the principal use for which it serves. The City may allow for the placement of accessory structures or uses in open space areas or protected common space as part of a PUD when there is sufficient language on the approved plans and in covenants that define the allowable structure or use and establishes responsibility for maintenance.
- (3) An accessory use may only be in use while a principal use exists and operates.
- (4) An owner shall be required to apply for and receive a zoning certificate unless specifically exempted by this resolution.
- (5) An accessory use or structure shall not be established unless a principal use has first been established on a lot in conformance with the applicable provisions of the zoning resolution.
- (6) Small garden structures, wood piles, and other accessory structures with a footprint of less than 50 square feet that are not specifically regulated by this article are permitted in the side or rear yards without a zoning certificate but shall be subject to the setback requirements of Section [6.01\(c\)](#) below.
- (7) No accessory building or structure shall be used to operate a business, store equipment, or supplies used for a business, or be a location where employees meet or park in any residential district or recorded residential subdivision, unless specifically allowed as a home occupation.

(c) **Size Requirements and Location**

(1) **Setbacks**

- A. Accessory uses, such as garages and carports that are attached or an integral part of the principal use, shall be regulated as part of the principal use and comply with all applicable setbacks.
- B. Unless otherwise specified in this section, detached accessory structures shall be set back from all lot lines a minimum distance of three feet from all lot lines. This setback shall not apply to fences, walls, or hedges that are regulated by Section [7.04](#).
- C. No detached accessory building shall be located less than ten feet from the principal building. If the separation of the accessory and principal building is less than ten feet, the accessory building shall be protected with fire-resistant material and shall conform to the same yard requirements as the principal building.

(2) **Number of Certain Accessory Structures Allowed**

[Table 6-1](#) below identifies the maximum number of certain accessory structures permitted on any single lot.

TABLE 6-1: LIMITS OF CERTAIN ACCESSORY STRUCTURES	
Accessory Structure	Maximum Number of Structures per Lot
Detached Accessory Buildings, including Accessory Dwelling Units	3
Ground-Mounted Solar Energy Systems	1
Swimming Pools and Hot Tubs	1 each
Other Accessory Structure similar in nature to the above-mentioned structures, as determined by the Zoning Officer	1

**(3) Maximum Height**

Unless otherwise specified in this section, the maximum height of accessory structures or buildings shall be 20 feet or the maximum height of the principal building, whichever is less. The height shall be measured as defined in Section [4.08\(d\)\(1\)](#).

**(d) Permitted Accessory Uses**

[Table 6-2](#) lists the accessory uses and structures allowed within all zoning districts. The following is an explanation of the abbreviations and columns in [Table 6-2](#).

**(1) Permitted Use (P)**

- A. A “P” in a cell indicates that an accessory use or structure is allowed in the respective zoning district. Permitted uses are subject to all other applicable regulations of this resolution.
- B. Permitted uses or structures are approved administratively by the Zoning Officer through the zoning certificate procedure.

**(2) Permitted Use with Use-Specific Standards (PS)**

- A. A “PS” in a cell indicates that the accessory use or structure category is allowed in the respective zoning district if it meets the additional standards set forth in the last column of [Table 6-2](#). Permitted uses with standards are subject to all other applicable regulations of this resolution.
- B. Uses or structures permitted with standards under this category are approved administratively by the Zoning Officer through the zoning certificate procedure.

**(3) Prohibited Uses**

A blank and/or shaded cell indicates that an accessory use or structure is prohibited in the respective zoning district.

**(4) Zoning Certificate Required**

The “Zoning Certificate Required” column identifies if a zoning certificate is required for the applicable accessory use or structure.

**(5) Yards Permitted**

The “Yards Permitted” column identifies in which yards the applicable accessory use or structure is permitted. See also Section [4.08\(c\)](#) for more information about specific yard locations for interior, corner, through, flag or panhandle, cul-de-sac, or curved street lots, etc.

**(6) Numerical References (Last Column)**

The numbers contained in the “Use-Specific Standards” column are references to additional standards and requirements that apply to the use and structure type listed. Standards referenced in the “Use-Specific Standards” column apply in all zoning districts unless otherwise expressly stated and may apply to a conditionally permitted use and/or a permitted use with use-specific standards.

**(7) Unlisted Uses**

If an application is submitted for a use that the Zoning Officer determines is not defined or established in [Table 6-2](#), the applicant may choose to take one of the actions identified in Section [4.06\(d\)](#).

**(8) Accessory Uses in PUD Districts**

Accessory uses for development within a PUD District shall be regulated based on the principal use. See Section [5.05\(b\)](#).

**TABLE 6-2: PERMITTED ACCESSORY USE TABLE**

Permitted Uses P = Permitted Use PS = Permitted with Standards Blank Cell = Prohibited	R-1, R-2, and R-3	B-1, B-2, B-3, I-1, and P-I	Zoning Certificate Required	Yards Permitted F = Front S = Side R = Rear	Use-Specific Standards See Section:
Accessibility Ramps	PS	PS	No	F, S, or R	<a href="#">6.01(e)(1)</a>
Amateur Radio Antennas	PS	PS	Yes	S or R	<a href="#">6.01(e)(2)</a>
Community Gardens	PS	PS	Yes	F, S, or R	<a href="#">6.01(e)(3)</a>
Detached Accessory Buildings	PS	PS	Yes	F, S, or R	<a href="#">6.01(e)(4)</a>
Drive-Through Facilities		PS	Yes	S or R	<a href="#">6.01(e)(5)</a>
Home Occupations	PS		No	Inside principal building	<a href="#">6.01(e)(6)</a>
Nursery Schools or Day Care Centers (Children or Adults)	PS	PS	Yes	Inside principal building	<a href="#">6.01(e)(7)</a>
Outdoor Dining		PS	Yes	F, S, or R	<a href="#">6.01(e)(8)</a>
Outdoor Display or Sales		PS	Yes	F, S, or R	<a href="#">6.01(e)(9)</a>
Outdoor Storage and Bulk Sales		PS	Yes	S or R	<a href="#">6.01(e)(10)</a>
Outdoor Vending Machines and Drop Boxes		PS	No	F, S, or R	<a href="#">6.01(e)(11)</a>
Playsets, Treehouses and Trampolines	PS		See Section <a href="#">6.01(e)(12)</a> .		
Porches, Decks, and Patios	PS	PS	See Section <a href="#">6.01(e)(13)</a> .		
Satellite Dishes	PS	PS	No	See <a href="#">6.01(e)(14)</a> .	
Short-Term Rental	PS		No	Inside principal building	<a href="#">6.01(e)(15)</a>
Solar Panels	PS	PS	See Section <a href="#">6.01(e)(16)</a> .		
Swimming Pools	PS	PS	Yes	R	<a href="#">6.01(e)(17)</a>

**(e) Use-Specific Standards**

**(1) Accessibility Ramps**

Ramps that provide access to buildings for the disabled are permitted in all zoning districts and may encroach in all setbacks but shall not encroach on a public sidewalk, right-of-way, or street.

**(2) Amateur Radio Antennas**

- A. Towers used to support amateur radio antennae shall not exceed 70 feet in height.
- B. Such a tower shall be set back a minimum of one foot from each lot line for every one foot in height. All guy wires, if applicable, shall be set back a minimum of ten feet from all lot lines.
- C. Any tower and related structures shall be installed in accordance with the instructions furnished by the manufacturer of the tower model. An antenna mounted on a tower may be modified and changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.

**(3) Community Gardens**

- A. Community gardens may be allowed as an accessory use when associated with public or institutional principal use (e.g., religious institution or educational facility).
- B. Community gardens may be located in an open space area if the space is maintained by a homeowners' association.
- C. The owner of the property shall have an established set of operating rules addressing the governance structure of the garden; hours of operation; maintenance and security requirements and responsibilities; and distribution of garden plots.

- D. The name and telephone number of the owner and any person designated as the person in charge of garden coordination, along with a copy of the operating rules, shall be kept on file with the Zoning Officer.
- E. The site shall be designed and maintained so that water and fertilizer will not drain onto adjacent properties.
- F. There shall be no retail sales on site except for produce grown on the site.
- G. Benches, bike racks, raised/accessible planting beds, picnic tables, seasonal farm stands, garden art, and rain barrel systems may be permitted if the community garden is located on a lot where the principal use of the lot is public, institutional, or commercial.
- H. Fences and walls shall be subject to the provisions of Section [7.04](#).

**(4) Detached Accessory Buildings**

The provisions of this section shall apply to any accessory building that may include detached garages and carports, detached storage/utility sheds, accessory dwelling units, gazebos, pool houses, and other similar buildings as determined by the Zoning Officer.

- A. [Table 6-3](#) shall establish the maximum square feet of all accessory buildings on any single lot based on the total lot area.
- B. In no case shall the aggregated square footage of all accessory building footprints exceed 50 percent of any yard, nor shall it exceed the footprint of the principal building.

TABLE 6-3: MAXIMUM FOOTPRINT OF ACCESSORY BUILDINGS	
Lot Area	Maximum Square Feet of Accessory Building Footprints per Lot
Up to 10,000 Square Feet	1,000
10,000 Square Feet to 1.0 Acre	1,500
1.0 Acre or More	2,000

- C. Detached accessory buildings shall only be permitted in the side or rear yard unless it is located on a lot with a minimum lot area of five acres, in which case, the accessory building may be located in the front yard, provided it is set back a minimum of 200 feet from the front lot line.
- D. Detached garages and carports shall be served by a paved driveway.
- E. Detached accessory buildings shall include accessory structures that are enclosed, regardless of the materials used for the enclosure, including, but not limited to, hoop houses and greenhouses.
- F. Accessory dwelling units are permitted as detached accessory buildings in accordance with the following:
  - i. Only one accessory dwelling unit shall be permitted on a lot.
  - ii. Accessory dwelling units are permitted in the R-1, R-2, and R-3 Districts.
  - iii. No additional lot area is required beyond what is required for the applicable lot in the applicable zoning district.
  - iv. An accessory dwelling unit shall contain separate kitchen and bathroom facilities.
  - v. Each accessory dwelling unit shall have an entrance separate from the primary dwelling.
  - vi. One accessible off-street parking space shall be provided for the accessory dwelling unit in addition to the off-street parking spaces required for the primary dwelling in [Chapter 10: Parking, Access, and Connectivity](#).
  - vii. Accessory dwelling units shall only be permitted when accessory to a single-family dwelling principal use.
  - viii. The accessory dwelling unit shall be constructed to meet the requirements of the International Residential Code.
  - ix. The accessory dwelling unit shall be connected to public water and sewer.



**(5) Drive-Through Facilities**

- A. Drive-through facilities shall be subject to the vehicle stacking requirements of Section [10.07](#).
- B. Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall be set back a minimum of 200 feet from any residential dwelling unit and shall be subject to all applicable noise resolutions and ordinances.
- C. No service shall be rendered, deliveries made, or sales conducted within the required front yard; customers served in vehicles shall be parked to the sides and/or rear of the principal structure.
- D. All drive-through areas, including but not limited to menu boards, stacking lanes, trash receptacles, loudspeakers, drive-up windows, and other objects associated with the drive-through area, shall be located in the side or rear yard of a property to the maximum extent feasible, and shall not cross, interfere with, or impede any public right-of-way.

**(6) Home Occupations**

- A. Home occupations shall be conducted entirely within the dwelling unit or an accessory building.
- B. Home occupations shall not change the character of the residential use and shall not adversely affect the uses permitted in the residential district of which they are a part.
- C. The nature of home occupation as an accessory use relative to its location and conduct of activity is such that the average neighbor, under normal circumstances, would not be aware of its existence.
- D. Any home occupation activities on the property shall be conducted only by persons residing in the dwelling unit and up to one additional employee who does not have to reside in the dwelling. Such employee shall work in the dwelling.
- E. The maximum floor area the use may cover shall not exceed 33 percent of the total floor area of the dwelling unit.
- F. Home occupations that provide a service shall not have more than two customers (including those arriving and waiting for service) at any one time.
- G. The storage of all equipment, machinery, supplies, materials, files, and the like, shall be stored completely within the residence or accessory buildings.
- H. Any need for parking generated by the conduct of such home occupation shall be accommodated on off-street parking spaces or areas that are paved for the purpose of parking.
- I. No traffic shall be generated by such home occupation in greater volume than is normally expected for the residential neighborhood.
- J. The following are examples of permitted types of home occupations; all other types of home occupations shall be prohibited:
  - i. Clerical and other similar business services;
  - ii. Instruction in music, dance, or other types of teaching with a maximum number of two students at a time;
  - iii. The office of a professional accountant, attorney, broker, consultant, insurance agent, realtor, architect, engineer, sales representative, and similar office-oriented occupations;
  - iv. Artists, sculptors, photographers, and other providers of home crafts;
  - v. Barber shop/beauty salon with a maximum of one chair;
  - vi. Workshops for a tailor, dressmaker, gunsmiths, repair services, and artisans;
  - vii. Caterers with no on-site catering;
  - viii. A licensed massage therapist who provides massage therapy for a maximum of one client at any given time; or
  - ix. Any similar use as determined by the Zoning Officer.

**(7) Nursery Schools or Day Care Centers (Children or Adults)**

Nursery schools or day care centers may only be permitted as accessory uses to permitted and conforming nonresidential uses, including places of worship and educational institutions. Such use shall be located within the principal building.

**(8) Outdoor Dining**

- A. Outdoor dining areas shall be located either along a sidewalk adjacent to the principal building to which the outdoor dining is connected or between the principal building and an adjacent parking area.
- B. Outdoor dining areas shall not be located in such a manner as to require customers and employees to cross driveways or parking areas to go between the café/food service area and the principal building.
- C. Outdoor dining areas shall not be located within 10 feet of a fire hydrant, fire department standpipe connection, fire escape, bus stop, loading zone, mailboxes, or traffic signal stanchions.
- D. If no grade separation is provided between vehicular traffic and the outdoor dining area, permanent railings or fencing shall be provided around the dining area. If the outdoor dining area is adjacent to a street or area that is closed to vehicular traffic, no railing or fencing shall be required.
- E. Outside entertainment, whether by band, orchestra, instrument, musician, singer, radio, television, loudspeaker, microphone, recital, or any other individual, group, or mechanical device, shall not be permitted in any outside dining area if the noise from such entertainment is of such a volume so as to cause a disturbance to abutting property owners. The addition of such outside entertainment to an existing use shall require approval through site plan review.
- F. If the outdoor dining area is located on a sidewalk, the area shall be designed so there is a minimum of five feet of clearance adjacent to the dining area to allow for safe pedestrian circulation. Furniture or elements of the outdoor dining shall also not block any areas of ingress or egress from the principal building.
- G. Umbrellas and awnings that shelter diners from the elements shall be secured so as not to create a hazard in windy conditions.
- H. Enclosing outdoor dining areas, either by a permanent roof or by expanding the existing structure, shall meet all the requirements of a building within the applicable zoning district and shall require the issuance of a new zoning certificate.
- I. Where an outdoor dining area is located in a right-of-way, the permittee shall hold harmless, indemnify, and defend the City from and against any and all injuries, deaths, losses, damages (consequential and otherwise), claims, suits, liabilities, judgments, costs, and expenses, and reasonable attorneys' fees, which may in any way arise out of or be connected with such outdoor dining, and which may in any way result therefrom, or from any act or failure to act by the permittee, its agents or employees. The applicant shall be required to sign an indemnification statement on the application for a zoning certificate.
- J. The City shall have the right and power, acting through the Zoning Officer, to prohibit the operation of an outdoor dining area at any time because of anticipated or actual problems and conflicts in the use of the sidewalk area. Such problems and conflicts may arise from but are not limited to, scheduled festivals and similar events or parades or marches, repairs to the street or sidewalk, or from demonstrations or emergencies occurring in the area.

**(9) Outdoor Displays or Sales**

Facilities for outdoor display or sales (e.g., garden supply sales, news, and flower stands, and similar uses) that are accessory to another principal use may be permitted upon compliance with the following:

- A. Outdoor display and sales areas shall require the issuance of a zoning certificate. Such uses shall not be placed within the street right-of-way, within an interior drive, or in a location that will interfere with vehicle sight distance.
- B. Outdoor displays and sales shall be related to the principal use of the site and shall clearly be accessory and incidental to the principal use. Outdoor displays and sales shall be prohibited when the principal building is vacant.

- C. Any outdoor displays or sales not related to the principal use shall be regulated as a temporary outdoor sale in accordance with Section [6.02: Temporary Uses and Structures](#).
- D. Outdoor display and sales areas may be permitted, provided that the merchandise is displayed along the sidewalk or walkway adjacent to the building.
- E. Outdoor display and sales areas may also be permitted in any side or rear yard.
- F. In all cases, any areas designated for outdoor display or sales shall be set back a minimum of 25 feet from any adjacent residential lot.
- G. The placement of the use shall not result in the reduction of the number of parking spaces required to serve the principal uses on the site.
- H. The placement of the merchandise shall not interfere with pedestrian movement on any sidewalk or walkway. A minimum of five feet of the sidewalk or walkway shall be clear of merchandise to allow for safe pedestrian movement.
- I. The outdoor display and sales areas shall be maintained in good order and appearance.

**(10) Outdoor Storage and Bulk Sales**

Outdoor storage and bulk sale activities that are accessory to another principal use may be permitted upon compliance with the following:

- A. The outdoor storage of goods shall be prohibited on vacant lots.
- B. The outdoor storage of materials shall include the storage of goods, materials, or products associated with the principal use.
- C. Areas devoted to outdoor storage shall be located in the side and rear yard only and shall comply with the building setbacks set forth in the applicable zoning district. Outdoor storage may also be located in the front yard when placed on a sidewalk area located within ten feet of the front façade of the principal building.
- D. No outdoor storage area shall be permitted to occupy or interfere with traffic circulation, required parking areas, sidewalks, or pedestrian access.
- E. The area of the lot devoted to outdoor storage of goods and merchandise shall not exceed 20 percent of the ground floor area of the principal building.
- F. Areas devoted to outdoor storage shall be paved with asphalt or concrete and free of dust.
- G. The outdoor storage area may also be used for a sales area for the related principal use.
- H. In all cases, any areas designated for outdoor storage areas shall be set back a minimum of 50 feet from any adjacent residential lot.
- I. All outdoor storage and bulk sales areas shall be screened in accordance with Section [9.04](#).

**(11) Outdoor Vending Machines and Drop Boxes**

- A. Outdoor vending machines are permitted, provided they are placed along the facade of the principal building.
- B. The placement of the drop boxes shall not result in the reduction of the number of parking spaces below the number of spaces required for the principal use by this resolution.
- C. The facility or equipment shall be maintained in good operating order and appearance. Materials shall not be permitted to accumulate around any drop box, and the owner shall be responsible for regular pick up of items.
- D. Drop boxes shall only be permitted in the side or rear yard.
- E. A maximum of one drop box is permitted on any single lot. One additional drop box shall be permitted on a lot for each two acres of lot area in excess of an initial two-acre lot. This limitation on the number of boxes or machines shall not apply to dumpsters outside of the building.
- F. Signage shall be limited to a maximum of six square feet on each vending machine and drop box and shall not count toward the sign area allowed in [Chapter 11: Signs](#).
- G. The City shall have the authority to place more than one drop box on a single lot when providing recycling services to the general public.

**(12) Playsets, Treehouses and Trampolines**

Playsets, treehouses, and trampolines shall be permitted in any side or rear yard without a zoning certificate, provided that the use is less than 200 square feet. Any use that has a larger footprint or that is an enclosed structure shall be regulated as a detached accessory building in accordance with Section [6.01\(e\)\(4\)](#).

**(13) Porches, Decks, and Patios**

- A.** Porches or decks that are enclosed with a roof and with walls or siding, including, but not limited to, screening or other materials, shall be considered an integral part of the principal building and shall meet the setback requirements for principal buildings in the applicable zoning district.
- B.** Any enclosure shall be constructed of traditional, permanent materials (e.g., no tarps or fabric covers other than traditional screening material used for screened-in porches).
- C.** The enclosure of a previously unenclosed porch or deck shall require the approval of a zoning certificate.
- D. Decks**
  - i.** Decks shall require a zoning certificate and shall be permitted in all yards subject to the standards of this section.
  - ii.** Decks are permitted in the front yard, provided they are attached to the principal building and are designed so the walking surface is no higher than the floor height of the first floor of the building. In such cases, the decks may encroach into the required front yard in the same manner as a porch.
  - iii.** Decks in the side or rear yard, including decks not attached to a building, shall comply with the setbacks for accessory buildings as established in Section [6.01\(c\)\(1\)](#).
  - iv.** Decks may include stairways to the ground or other decks.
- E. Porches**
  - i.** Porches shall require a zoning certificate and shall be permitted in all yards.
  - ii.** Any area of a porch that has a walking surface mounted more than three feet above the ground shall comply with the side and rear yard setbacks for principal buildings in the applicable zoning district. Such porches may extend ten feet into the required front yard, provided it shall maintain a minimum setback of 10 feet from the front lot line.
  - iii.** Unenclosed porches that do not have a walking surface that exceeds more than three feet in height above the ground may encroach into any yard as provided for in Section [4.08\(c\)\(2\)D](#).
- F. Patios**
  - i.** Patios shall not require a zoning certificate but shall be in compliance with all applicable standards.
  - ii.** Patios may extend ten feet into the required front yard, provided it shall maintain a minimum setback of 10 feet from the front lot line.
  - iii.** Patios may encroach into any yard as provided for in Section [4.08\(c\)\(2\)D](#).
  - iv.** If a pergola, gazebo, or other roofed structure is attached to a patio but not attached to the principal building, then the pergola, gazebo, or roofed structure shall be regulated as a detached accessory structure in accordance with Section [6.01\(d\)](#).

**(14) Satellite Dishes**

Satellite dishes of one meter in diameter or less shall be exempt from the provisions of this section on accessory uses and shall not require a zoning certificate. To the maximum extent possible, the dish should be located in the side or rear yard.

**(15) Short-Term Rental**

- A. One off-street parking space shall be required for each bedroom that is leased or rented to individual groups beyond the full-time owner or occupant of the residence. This shall be in addition to the number of off-street parking spaces required for the residential use in [Section Chapter 10: Parking, Access, and Connectivity](#).
- B. If the entire dwelling is leased or rented to one group and no one permanently resides at the dwelling, no additional off-street parking is required beyond what is required for the residential use.
- C. In all cases, any parking required to accommodate the short-term rental in accordance with this section shall be accommodated off-street and on the same lot as the short-term rental.

**(16) Solar Panels**

- A. Freestanding solar panels shall be limited to a maximum height of 10 feet. Such freestanding solar panels shall be located in the rear yard, where they shall be set back a minimum of 25 feet and shall not cover more than 200 square feet in lot area.
- B. Roof-mounted solar panels on the front side of a roof facing a street shall be flush-mounted to the roof.
- C. Roof-mounted solar panels that do not face a street may be mounted flush or at an angle to the roof but shall not exceed 36 inches in height from the roof plane as measured from the roof plane to the furthest point of the solar panel.
- D. Freestanding solar panels shall require a zoning certificate. Roof-mounted solar panels shall not require a zoning certificate but may be reviewed as part of the zoning certificate for the principal building.

**(17) Swimming Pools**

- A. Any man-made receptacle for water having a depth greater than 18 inches shall be regulated as a swimming pool for the purpose of this resolution, including hot tubs and spas, and shall be subject to the following restrictions:
  - i. The edge of any pool shall be set back a minimum of 10 feet from all lot lines.
  - ii. Every pool subject to these provisions shall be completely surrounded by a fence or wall with a minimum height of four feet and a maximum height of six feet. Such a fence or wall shall be constructed so as to have no openings, holes, or gaps larger than four inches in any dimension, except for doors or gates, which shall be equipped with suitable locking devices to prevent unauthorized intrusion. An accessory building may be used in or as part of the enclosure. The height shall be measured from the grade to the top of the fence or wall, measured vertically.
  - iii. Above-ground pools with vertical surfaces of at least four feet in height shall not be required to have fences, walls, or gates except in areas where access may be gained to the pool.
  - iv. The only pools that are permitted as accessory uses in nonresidential districts shall be those that are accessory to a residential dwelling or accessory to a permitted hotel or motel. Any other pools shall be located inside the principal dwelling.
  - v. The excavation, construction, plumbing, and electrical requirements, inspection, and other safety facilities shall be regulated by the county codes.
- B. Hot tubs shall be set back a minimum of 10 feet from all lot lines.
- C. If a pool or hot tub meets the manufacturer's childproofing regulation, such pool or hot tubs shall be exempt from the fencing required by this section.
- D. An above-ground pool or hot tub shall not be located on a surface (e.g., ground, patio, deck, or other surfaces) that will result in a water surface that is more than six feet above the natural grade of the ground surrounding the pool.
- E. All permanent plumbing or electrical equipment related to the pond, swimming pool, or hot tub, except underground wiring or pipes, shall meet the setbacks of this section.

## 6.02 TEMPORARY USES AND STRUCTURES

### (a) Purpose

This section allows for the establishment of certain temporary uses and structures of limited duration, provided that such uses and structures do not negatively affect adjacent properties, and provided that such uses or events are discontinued upon the expiration of a set time period. Temporary uses and structures shall not involve the construction or alteration of any permanent building or structure.

### (b) Permitted Temporary Uses and Structures

- (1) [Table 6-4](#) summarizes permitted temporary uses and structures and any general or specific standards that apply. Temporary uses or structures not listed in the table are prohibited in the City.
- (2) [Table 6-4](#) establishes whether the temporary use requires a zoning certificate in accordance with Section [3.06](#).

TABLE 6-4: TEMPORARY USES AND STRUCTURES		
Temporary Uses and Structures	Zoning Certificate Required	Additional Requirements
Portable Storage Units and Construction Dumpsters	No	<a href="#">6.02(d)(1)</a>
Real Estate Sales/Model Homes	Yes	<a href="#">6.02(d)(2)</a>
Seasonal Agricultural Sales	Yes	<a href="#">6.02(d)(3)</a>
Temporary Special Events	Yes	<a href="#">6.02(d)(4)</a>

### (c) General Standards Applicable to All Temporary Uses and Structures

- (1) All temporary uses and structures shall be reviewed in accordance with this section and all other applicable sections of this zoning resolution.
- (2) All temporary uses and structures shall:
  - A. Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;
  - B. Be compatible with the principal uses taking place on the site;
  - C. Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;
  - D. Not include permanent alterations to the site;
  - E. Not maintain temporary signs associated with the use or structure after the activity ends;
  - F. Not violate the applicable conditions of approval that apply to a site or use on the site;
  - G. Not interfere with the normal operations of any permanent use located on the property; and
  - H. Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate parking and traffic movement.

### (d) Use-Specific Standards

#### (1) Portable Storage Units and Construction Dumpsters

- A. Portable storage units shall only be permitted for the following situations:
  - i. For general storage on any lot in the City for a period not to exceed 30 consecutive days up to two times per calendar year.
  - ii. For storage at a nonresidential construction site for a period not to exceed 90 consecutive days;
  - iii. When necessary to facilitate clean up and/or restoration activities resulting from a fire or natural disaster to a building or structure for a period not to exceed 180 consecutive days;
- B. Up to one construction dumpster shall be permitted during the construction of any lawful structure in any zoning district, provided the dumpster is removed upon completion of the improvements.
- C. In residential districts, any construction dumpster that is not located on a paved surface shall be set back a minimum of 10 feet from all adjacent lot lines.
- D. Only one portable storage unit shall be permitted on a single lot at any one time.

- E. Portable storage units and construction dumpsters shall not be placed in the public road right-of-way unless a permit is approved and shall not block sidewalks, fire lanes, or bike paths.
- F. Portable storage units and construction dumpsters must be placed and kept on a hard surface at all times.
- G. No part or former part of a semi-trailer or trailer shall be utilized as a portable storage unit or permanent accessory structure in any zoning district. A trailer or semi-trailer with all wheels and tires and a valid license may be utilized as a portable storage unit but shall conform to all requirements for portable storage units.
- H. Portable storage units and construction dumpsters shall be allowed on paved driveways in the front yard or shall otherwise be located in the side or rear yard.
- I. Portable storage units and construction dumpsters shall not be connected to any utility.

**(2) Real Estate Sales Office/Model Home**

One temporary real estate sales office or model home per builder or developer shall be permitted in a section or phase of a new residential or nonresidential development, provided that the use:

- A. Is located on a lot approved as part of the subject development;
- B. Is operated by a developer or builder active in the same phase or section where the use is located; and
- C. Is removed, or the model home is converted into a permanent residential use once 80 percent occupancy in the section or phase of the development is reached. For the purposes of these standards, occupancy shall include both the physical occupancy of buildings by the resident or tenant or the sale of a completed building to a private party beyond the builder or developer.

**(3) Seasonal Agricultural Sales**

Seasonal agricultural sales, including the sale of such items as Christmas trees, pumpkins, seasonal produce, and similar agricultural products, may be permitted in accordance with the following standards:

**A. Location**

- i. The property contains an area not actively used by another use that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing open space, landscaping, traffic movements, or parking space availability.
- ii. The sale of goods shall not occur within the public right-of-way or within 200 feet of a dwelling.

**B. Range of Goods Limited**

The range of goods or products available for sale shall be limited to non-processed products obtained primarily through farming or agricultural activities, including, but not necessarily limited to, pumpkins; grains and seed crops; fruits of all kinds; vegetables; nursery, floral, ornamental, and greenhouse products; trees and forest products, including Christmas trees, and firewood; bees and beekeeping products; seafood; and dairy products.

**C. Hours of Operation**

The hours of operation of the seasonal sale of agricultural products shall be from 7:30 A.M. to 10:00 P.M., or the same hours of operation as a principal use on the same lot, whichever is more restrictive.

**(4) Temporary Special Events**

- A. A temporary zoning certificate for temporary special events such as festivals, circuses, concerts, tents, and similar uses shall be valid for no more than 14 consecutive days provided the applicant receives other applicable permits from the State of West Virginia, City of Logan Police Department, and City of Logan Fire Department.

- B.** Outdoor weddings and similar private events are exempt from this standard, but organizers of such events are encouraged to notify the Zoning Officer to determine if special accommodations should be made to address traffic and circulation. These private events are subject to all applicable noise resolutions and ordinances.



## Chapter 7: General Development Standards

### 7.01 INTERSECTION VISIBILITY

- (a) To ensure that structures and landscaping materials do not constitute a driving hazard, all sites shall maintain an unobstructed vision clearance triangle at street intersections and the intersections of driveways with streets.
- (b) The vision clearance triangle required at the intersection of two streets shall be created by measuring 30 feet along the right-of-way line from the point of intersecting right-of-way lines along each street and connecting those two points to form a triangle, as illustrated in [Figure 7-A](#).

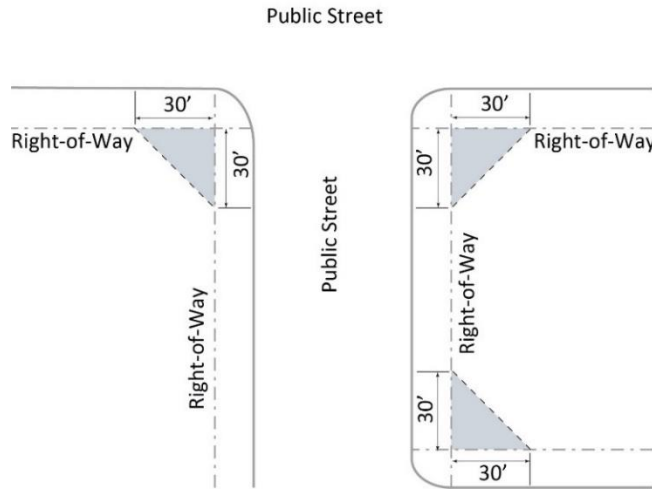


Figure 7-A: Illustration of vision clearance triangles required at the intersection of two streets.

- (c) The vision clearance triangle required at the intersection of a driveway and a street shall be created by measuring 10 feet along the driveway and right-of-way line from the point where the two intersect and connecting those two points to form a triangle, as illustrated in [Figure 7-B](#).

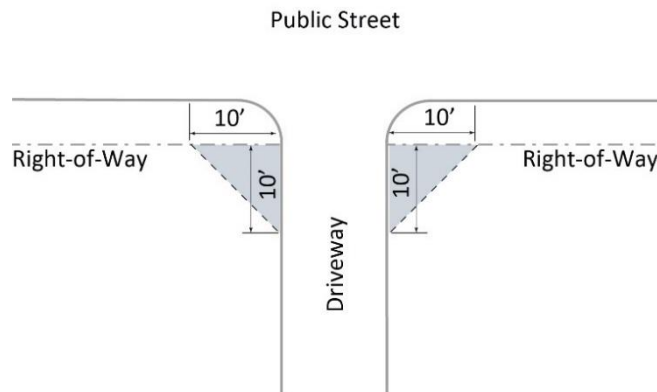


Figure 7-B: Illustration of vision clearance triangles required at the intersection of a street and driveway.

- (d) No structures or landscaping material shall be allowed to grow or have a height that exceeds 36 inches above the street grade within these triangles. Trees shall be permitted so long as (except during early growth stages) only their trunks are visible between the ground and eight feet above the ground, or they otherwise do not present a traffic visibility hazard.

## 7.02 OUTDOOR LIGHTING

### (a) Purpose

The overall purpose of this section is to control the installation of outdoor lighting fixtures to prevent light pollution in the forms of light trespass and glare and to preserve, protect, and enhance the character of the City and the lawful nighttime use and enjoyment of property located within the City. Appropriate site lighting, including lights for signs, buildings, and streets, shall be arranged so as to provide safety, utility, and security and to control light trespass and glare on adjacent properties and public roadways.

### (b) Applicability

The standards of this section shall apply to all development activities, subject to review under this ordinance, with the following exceptions:

- (1) All lighting shall be completely shielded from shining onto adjacent properties.
- (2) Decorative outdoor lighting fixtures with bulbs of less than 25 watts, installed seasonally, are exempt from the requirements of this section.
- (3) Lighting for certain outdoor recreational uses, because of their unique requirements for nighttime visibility and their limited hours of operation, are exempt from this section. However, such uses, including but not limited to ball diamonds, playing fields, tennis courts, and other similar outdoor recreational uses, shall be required to meet the following standards:
  - A. Cutoff from a lighting source that illuminates an outdoor recreational use may exceed an angle of 90 degrees from the pole, provided that the luminaries are shielded to prevent light and glare from spilling over to adjacent residential properties.
  - B. The maximum permitted illumination at the lot lines shall be two footcandles.
  - C. Exterior lighting for outdoor recreational uses shall be extinguished no later than 11:00 p.m.
- (4) Temporary construction or emergency lighting is exempt from the requirements of this section. Such lighting shall be discontinued immediately upon completion of the construction work or abatement of the emergency necessitating such lighting.
- (5) Nothing in this chapter shall apply to lighting required by the FAA or any other federal regulatory authority.

### (c) General Requirements

- (1) All outdoor lighting fixtures regulated according to this section, including but not limited to those used for parking areas, buildings, building overhangs, canopies, signs, displays, and landscaping, shall be full-cutoff type fixtures unless exempted per Section [7.02\(b\)](#).
- (2) Any use that has a canopy with lighting fixtures attached to the bottom of the canopy shall utilize recessed ceiling fixtures.
- (3) All on-site lighting of buildings, lawns, landscaping, parking areas, and signs shall be designed so as not to shine onto any adjacent residential property or building or to cause glare onto any public street or vehicle thereon.
- (4) Illumination that is required consistently across the site shall be designed so as not to create dark spots that may create safety issues in such areas as vehicular use areas and connecting pedestrian paths.
- (5) For all nonresidential uses in any residential district, all outdoor lighting fixtures, including parking, display, and aesthetic lighting, shall be turned off after business hours. Only that lighting needed for safety or security may remain lit after the close of business, in which case the lighting shall be reduced to the minimum level necessary.
- (6) There shall be a maximum illumination of 0.5 footcandles at the lot line in all residential districts and for any nonresidential use that abuts a lot in a residential zoning district or lot occupied by an existing residential use.

## 7.03 PERFORMANCE STANDARDS

Any use established in a nonresidential zoning district shall comply with the performance standards set forth in this section as a precedence to occupancy and use. Any use already established in such districts shall not be altered, added to, or otherwise modified so as to conflict with or further conflict with the performance standards set forth hereinafter for the district in which such use is located as precedence to further use. Statements in writing may be required by the Planning Commission from the owner that such uses comply or shall comply. In cases of doubt, the City shall select and arrange for an independent survey by a professional engineer qualified in the particular field, and the costs for the services shall be paid by the owner.

(a) **Fire and Explosive Hazards**

The storage, handling, and use of flammable or explosive materials shall be permitted only in structures having incombustible exterior walls, and all operations in connection therewith shall be provided with adequate safety and protective devices against hazards of fire and explosion, as well as with adequate fire-fighting and suppression equipment and devices standard to the operation involved.

(b) **Dust and Smoke**

The emission of smoke, soot, fly ash, fumes, dust, and other types of air pollution borne by the wind shall be controlled so that the rate of emission and quantity shall not be detrimental to or endanger the public welfare, health, safety, comfort, and morals, or adversely affect property values and shall not exceed the amount permitted by other codes of the State, County or City.

(c) **Odorous Matter**

The emission of odorous matter in such quantities as to produce a public nuisance or hazard beyond the lot occupied by the use shall not be permitted.

(d) **Toxic or Noxious Matter**

The emission of toxic, noxious, or corrosive fumes or gases which would be demonstrably injurious to property, vegetation, animals, or human health at or beyond the boundaries of the lot occupied by the use shall not be permitted.

(e) **Noise**

The sound pressure level of any operation on a lot, other than the operation of auto-calls, bells, motor vehicles, sirens, or whistles, shall not exceed the average intensity of the street traffic noise at the point of complaint and no sound shall be objectionable due to intermittence, beat frequency or shrillness.

(f) **Vibration**

Vibrations shall not be permitted beyond the lot line occupied by the use, which would be perceptible without the aid of instruments.

(g) **Radioactive or Electrical Disturbances**

Radioactive or electrical disturbances shall not be created which would adversely affect any form of life or equipment at or beyond the boundaries of the lot occupied by the use.

(h) **Incineration Facilities**

Incineration facilities emitting neither smoke nor odor shall be provided and located within the main or accessory building. No garbage, rubbish, waste matter, or empty containers shall be permitted outside of buildings except in approved containers awaiting pick up.

(i) **Waste Materials**

Liquid wastes shall not be discharged into an open reservoir, stream, or other open body of water or a sewer unless treated or controlled so that the amount of solid substances, oils, grease, acids, alkalines, and other chemicals shall not exceed the amount permitted by other codes of the State, County or City.

(j) **Maintenance**

All lots shall be maintained in a manner that includes the removal of trash and litter, maintenance of paved areas, maintenance of landscaping, and general upkeep of the property.

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## 7.04 FENCES AND WALLS

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### (a) General Requirements

- (1) Unless a specific distinction is made in this section, any regulation that applies to fences shall apply to walls and vice versa.
- (2) All fences and walls shall be subject to the intersection visibility requirements of Section [7.01](#).
- (3) All fences and walls, and any related supporting structures or appurtenances, shall be contained within the lot lines of the applicable lot and shall not encroach into adjoining or abutting lots and/or rights-of-way. Property owners, with written permission from abutting property owners, may connect to fences or walls on adjoining properties.
- (4) Fences or walls are permitted along lot lines, provided only one fence is located on the lot line. Where separate fences or walls are proposed for adjacent properties, such fences and walls shall be separated by two and one-half feet for maintenance.
- (5) The smooth finished side of the fence or wall shall be the side of the fence that faces outward from the lot or yard being fenced. If a fence has two similarly finished sides, either side may face the adjacent property.
- (6) Posts, poles, or other mechanisms used to secure the fence to the ground or support the fence shall be located on the inside of the fence (i.e., located on the property of the applicant).
- (7) All diagonal or supporting members shall face the property on which the fence or wall is constructed.
- (8) All fences and walls shall be maintained in a neat and orderly manner. This shall include keeping fences and walls clear of vegetation and growth unless such fence or wall is being used for a living fence (e.g., ivy walls), in which case, such fence or wall shall be maintained in a manner as to prevent such vegetative growth from encroaching onto the side of the fence or wall facing a neighboring lot.
- (9) Walls shall be prohibited within all utility easements. Fences that are placed in utility easements shall require written permission from the applicable utility company. Without such permission, fences are subject to removal without notice by utility companies or the City when work is being done in the utility easements. Fences shall not be placed in any City easement unless the subdivision plat specifically permits the placement of such fence. The City of Logan is not responsible for the determination of easements on private properties.
- (10) Replacement of fences removed by the City or utility company shall be at the property owner's expense.
- (11) Fences and walls shall not impede, inhibit, or obstruct culverts, drains, natural watercourses, or stormwater drainage in any zoning district. Solid fences shall be designed to have a minimum clearance of four inches above the ground to allow for the natural drainage of water under the fence. Walls shall be designed to direct water to drainage channels or other outlets to eliminate the possibility of the accumulation of water behind the wall.
- (12) It shall be the duty of each lot owner and contractor, or an agent thereof, to determine lot lines and to ascertain that the fence or wall does not deviate from the plans as approved by the Zoning Officer issuing the zoning certificate and that the fence does not encroach on another lot or existing easement. The issuance of the zoning certificate and any inspection by the City shall not be construed to mean that the City has determined the fence is not encroaching on another lot, nor shall it relieve the property owner of the duty imposed on them herein.

### (b) Materials

- (1) The following standards shall apply to the materials of all fences and walls:
  - A. Materials shall be weatherproof or weather resistant.
  - B. All sides of a decorative wall shall have a similar finish on both sides.
  - C. Fences made of rope, string, fabric, netting, or similar materials are prohibited unless an approved temporary construction fence.
  - D. Chain link, mesh, and woven wire fencing are allowed. Slats or other materials shall not be permitted to be woven into the chain link fencing to create privacy fencing in any front yard

- E. Plywood, particle board, fiberglass, corrugated or galvanized sheet metal panels, and non-traditional fence materials deemed unacceptable by the Zoning Officer shall be prohibited. This may include but is not limited to fences or walls made from discarded materials such as shipping crates or pallets, tires, stacked tires or automobile parts, or stacked building materials, salvaged doors or garage doors, or similar new or used materials.
- F. Dangerous fences installed above ground such as electrified wire, barbed wire, unfinished non-durable, sharp edge, cut or broken glass, rusted, or other such fences designed to inflict pain or cause injury shall be prohibited with the exception of that such fencing may be used in the I-1 District.

**(c) Measurement and Maximum Heights**

- (1) The maximum fence or wall height shall be measured from the grade at the base of the fence or wall to the topmost portion of the fence between posts. The structure posts or finials may exceed the maximum height allowed in this section by up to six inches.
- (2) Fencing or walls should follow the natural contour of the land on which it is located.
- (3) A fence may be erected on top of a wall, but the combined height of the fence and wall shall not exceed the heights specified within this section for a fence or wall. Fences or walls located on top of a retaining wall shall be measured from the top of the finished grade at the top of the retaining wall.
- (4) The maximum height of a fence or wall in the front yard shall be three feet if there is less than 50% visibility through the fence or wall (e.g., solid wall or privacy fence) or four feet for fences or walls that have 50 percent or more visibility through the fence or wall (e.g., picket fence or chain link).
- (5) The maximum height of all other fences or walls in a side or rear yard shall be eight feet.

**7.05 DUMPSTERS**

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- (a) All dumpsters shall be located to the side or rear of the principal building, behind the front building facade line, to the maximum extent feasible, in order to minimize views from the street and neighboring properties.
- (b) Dumpsters shall be screened in accordance with Section [9.04](#).

## Chapter 8: Downtown Design Standards

### 8.01 PURPOSE

It is the purpose of these standards to establish some basic architectural design standards to promote and maintain the historical form and character of Downtown Logan.

### 8.02 APPLICABILITY

- (a) The provisions of this section will apply to all renovations, expansions, and construction of new principal buildings in the B-3 District.
- (b) A review of these standards shall be made during the site plan review.

### 8.03 STANDARDS FOR EXTERIOR RENOVATIONS OF EXISTING BUILDINGS

- (a) Commercial or mixed-use buildings are the principal building type in downtown Logan. The traditional storefront facade has the same basic components as illustrated in [Figure 8-A](#), although the size, shape, style, materials, and details may vary depending on when the building was constructed and adjacent buildings.

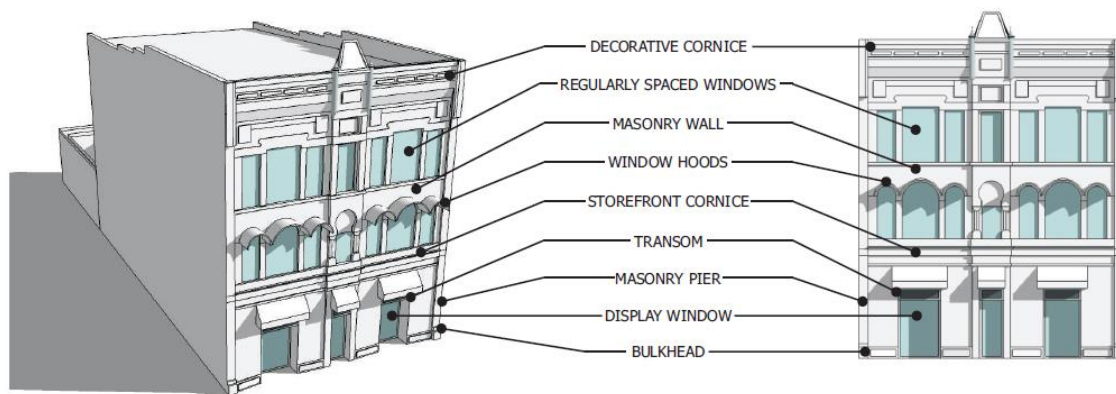


Figure 8-A: Typical storefront components of commercial buildings.

- (b) Traditionally, commercial buildings have a well-defined opening that contains the original storefront and is usually confined to the first floor of the building. These storefronts shall not be enlarged to encompass additional floors unless it is determined that this was the original design of the building.
- (c) Piers and columns that divide the storefront into bays, lintels, or cornices that separate the storefront from the upper floors shall not be covered or removed.
- (d) Storefronts shall be located on the front facade facing a public right-of-way.
- (e) Storefronts with major projections beyond the front facade are not appropriate and shall be prohibited.
- (f) In the event that the original storefront has been removed, renovated in an inappropriate manner, or irreparably damaged, a new storefront should be constructed that is consistent with the architectural style of the original building.
- (g) Inappropriate historical themes and modern architectural styles shall be avoided.
- (h) Materials and design elements, such as mansard roofs with wooden shingles, rough textured wood siding, fake bricks, or fake stone, are not appropriate materials and are prohibited from use on a storefront.
- (i) The first floor shall contain approximately 75 percent glass to allow for high visibility into the first floor.
- (j) Mirrored glass, shaded glass, plexiglass, and other inappropriate or artificial glass materials shall be prohibited.
- (k) The placement of storefronts on buildings that were not originally designed for storefronts should be avoided, but the Planning Commission may authorize such a storefront if appropriate for the permitted use.
- (l) Signage should be integral to the building and its materials. Wall signs, window signs, and projecting/right-angle signs are the desired sign types. See also [Chapter 11: Signs](#).

## 8.04 NEW CONSTRUCTION OR ADDITIONS

- (a) New construction and additions shall be clearly differentiated so that the addition does not appear to be an original part of the historic building.
- (b) To the maximum extent feasible, any additions to an existing building should be located in the rear or in the most inconspicuous portion of the site so as to not overwhelm the original structure.
- (c) Additions such as balconies, decks, exterior stairs, and greenhouses may be permitted but shall be placed on non-character-defining elevations such as the rear or side facade.
- (d) New additions should look new but should be compatible with the surrounding structures as outlined in this manual. Do not try to make the building look older.
- (e) The overall height of new construction should relate to that of adjacent buildings. As a general rule, new buildings should generally be the same height as the average height of existing buildings within the vicinity. The Planning Commission may authorize slightly taller buildings on corner sites to create a focal point for the intersection.



Figure 8-B: The height, width, and overall proportions of infill development should be in scale with surrounding buildings. Buildings should also maintain the rhythm of window and door openings.

- (f) The width of a new building shall be designed to continue the established rhythm of the block. If the lot is wider than 50 feet, the building facade shall be broken into smaller bays with architectural details to maintain the building rhythm.

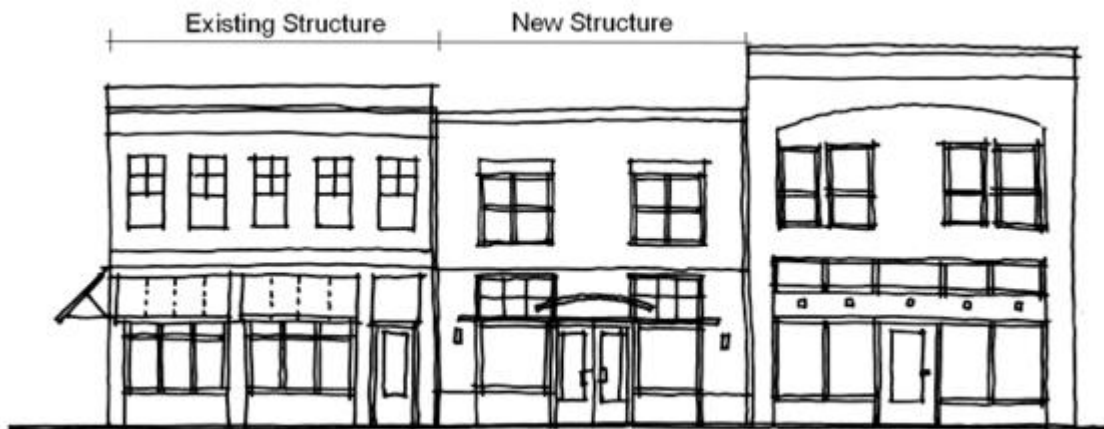


Figure 8-C: This image illustrates how existing and new structures divide the entire facade plane into smaller components through the use of pilasters, storefronts, height variation, and material variations.

- (g) The scale of a building's proportions and the building's massing shall be similar in character to surrounding buildings.

- (h) New buildings or additions shall maintain the same directional expression (horizontal or vertical) as surrounding buildings. Horizontal buildings can be detailed to relate to more vertical adjacent structures by breaking the facade into smaller masses and bays. Strongly horizontal or vertical facade expressions shall be avoided.

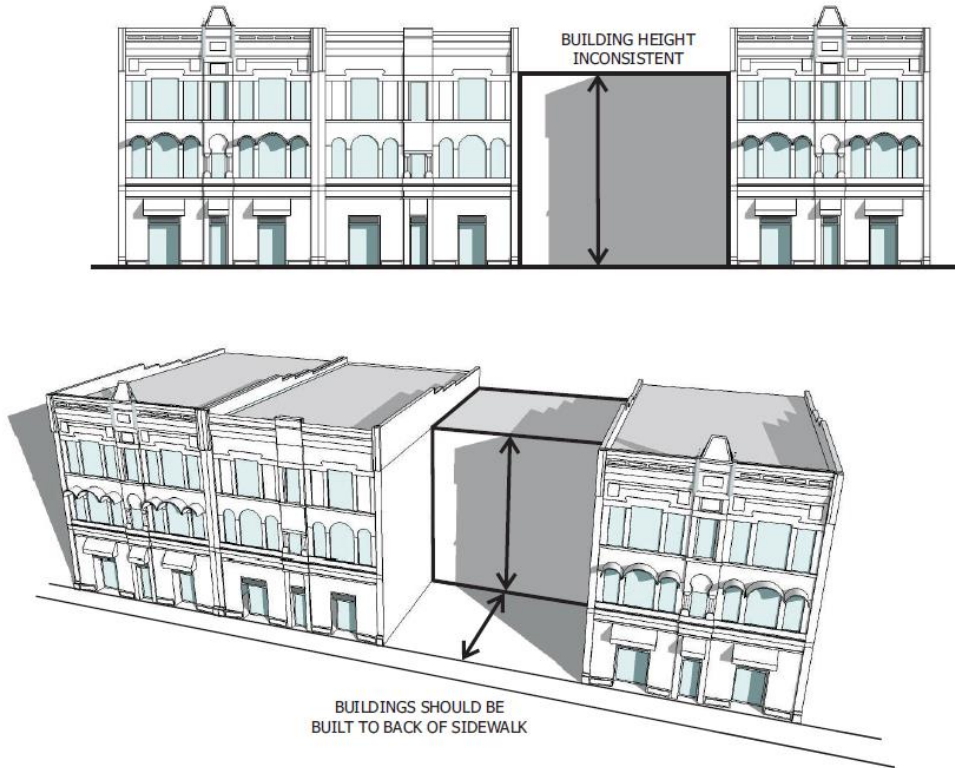


Figure 8-D: Buildings should be built to the back of the sidewalk. Buildings should not be set back behind the front facade of adjacent buildings unless they are creating a pedestrian amenity such as a courtyard or small urban plaza.

- (i) The roof shapes and forms of new buildings shall resemble, but shall not necessarily duplicate, the shape, style, and form of roofs for nearby structures. Introducing roof shapes, pitches, or materials not traditionally associated with the area or architectural style shall be prohibited.



Figure 8-E: This image illustrates an infill building that would not comply with these standards of new construction in terms of height, roof styles, window and door patterns, siding, ornamentation, and signage.

- (j) Open spaces between buildings that create courtyards or walkways to the rear of the property are encouraged.



## Chapter 9: Landscaping and Screening

### 9.01 PURPOSE

The purpose of landscaping and screening regulations is to:

- (a) Promote attractive development and preserve the appearance and character of the surrounding area through the use of effective landscaping;
- (b) Promote the preservation and replacement of major trees;
- (c) Eliminate or minimize conflicts between potentially incompatible but otherwise permitted land uses on adjoining lots using a suitable combination of setbacks, visual buffers, and physical barriers;
- (d) Prescribe standards for the installation and maintenance of trees, plantings, walls, and fences; and
- (e) Encourage the enhancement of the visual environment, ensure public safety, and moderate the micro-climate.

### 9.02 APPLICABILITY

#### (a) Additions and Enlargement

- (1) The requirements of this chapter shall apply to new development and any collective, substantial expansion or change in land use (except for dwellings with four or fewer units in a single structure) and expansion of vehicular use areas. Substantial expansion or modification of the existing structures shall be defined based on the criteria established in [Table 9-1](#).

TABLE 9-1: LANDSCAPING AND SCREENING APPLICABILITY	
When the Existing Structure is:	A Substantial Expansion is:
0-2,500 sq. ft.	50% or greater
2,501-10,000 sq. ft.	40% or greater
10,001-25,000 sq. ft.	30% or greater
25,001-100,000 sq. ft.	20% or greater
100,001 sq. ft. and larger	10% or greater

- (2) Any collective expansion of 500 square feet or less shall be exempt from the applicability section of this chapter. Collective expansion shall include the sum of all expansions of the original structure or building as existed on the effective date of this ordinance, regardless of when they occur.
- (3) If a building or structure covers the entire lot, landscaping and screening alternatives must be proposed to the Zoning Officer for review and approval that meet the purpose and intent of this chapter.

### 9.03 MINIMUM MATERIALS AND STANDARDS

The following identifies the minimum landscape and screening standard requirements for all developments.

#### (a) Installation Timing

If plantings cannot be completed prior to building occupancy due to weather or other conditions that prevent planting, the Zoning Officer has the authority to grant a six-month extension for the installation of plantings. Failure to install by such timeline shall be considered a violation of this ordinance.

#### (b) Plant Materials

- (1) All plant material shall be sound, healthy, live plants installed and maintained in accordance with acceptable nursery industry procedures.
- (2) All plant materials shall be installed prior to occupancy of the building.
- (3) Shrubs shall be installed at a minimum height of two feet.

#### (4) Trees

- A. Evergreen trees shall be installed at a minimum height of six feet.

- B. Deciduous trees shall be installed at a minimum caliper of 1.5 inches as measured at the diameter at breast height (DBH).
  - C. Trees that drop fruits, berries, or seeds shall be prohibited from use as part of any landscaping requirement where the tree or its canopy will hang over vehicular use areas, sidewalks, or other paved areas.
  - D. Any invasive species identified by the State of West Virginia are prohibited.
  - E. To curtail the spread of disease or insect infestation in a plant species, if a new development contains over 20 trees, the application should include diversity in plant choices.
- (5) Any trees, shrubs, or landscaping materials used to meet the standards of this chapter shall be required to meet the height and size standards of this section. Any trees, shrubs, or landscaping materials incorporated onto a site that exceeds the amount required by this chapter may be of any size.

(c) **Accessways**

Necessary accessways shall be permitted to traverse required landscaping and screening areas. The width of such accessways shall not be subtracted from the linear dimensions used to determine the minimum number of trees and shrubs required in this chapter.

(d) **Fencing and Walls**

- (1) All fencing or walls used for screening purposes shall not exceed eight feet in height and shall be 100 percent in opacity. See Section [7.04](#).
- (2) The placement of fencing and walls shall comply with Section [9.04](#).
- (3) All fences used to meet the landscaping requirements of this chapter shall have a minimum of two-inch open space below the fencing material, not including support structures, to provide for the natural flow of storm water.
- (4) Materials and colors used for walls shall be similar or complementary to the principal building on the lot.

(e) **Mounds and Berms**

- (1) Earthen mounds and berms shall have a maximum slope of 3:1 (three feet of horizontal space is required for each one-foot vertical change in elevation).
- (2) The crest or top of the mound shall be rounded with elevation changes maintained one foot off of the centerline of the mound.
- (3) Earthen mounds or berms shall be designed and constructed with variations in physical alignment throughout the length of the mound or berm.
- (4) Mounds and berms shall be designed to comply with all applicable storm water regulations to prevent the redirection of stormwater onto an adjacent lot.

(f) **Location**

- (1) No trees shall be planted directly over any storm or sanitary sewers.
- (2) All required landscaping and screening materials shall be installed on the subject property requiring the landscaping and screening.
- (3) Perimeter landscaping and/or landscaped areas used for screening shall have a minimum width of five feet.

## 9.04 SCREENING

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(a) **Screening of Service Areas**

In addition to the other forms of required landscaping, screening shall be required to conceal specific areas of high visual or auditory impact or hazardous areas from adjacent, less intensive uses and from views from public rights-of-way. Such areas shall be screened at all times, unless otherwise specified, regardless of adjacent uses, districts, or other proximate landscaping material.

- (1) The following areas shall be screened in accordance with this section:
  - A. Large waste receptacles (e.g., dumpsters and cardboard recycling containers) and refuse collection areas;

- B. Accessory outdoor storage and bulk sales;
  - C. Pipes, conduit, and cables associated with the building or use;
  - D. Outdoor service areas that are necessary to support common business operations (e.g., outdoor freezer or refrigeration units, storage units, etc.);
  - E. Ground-level or facade-mounted mechanical equipment; and
  - F. Roof top equipment that is not otherwise hidden by the roofline, parapet wall, or other similar features.
- (2) Screening shall not be required if any of the above items are not visible from adjacent rights-of-way or from adjacent lots in residential zoning districts.
- (3) All sides of the item shall be screened with the exception that one side of the item may be screened with a gate or other similar feature to allow access while screening the item when access is not necessary.
- (4) **Screening Methods**
- A. The following items are permitted for use as screening materials, and more than one method may be used on a lot or site.
    - i. Vegetative materials that provide a fully opaque screen to the minimum height necessary to fully screen the facility from off-site views (See [Figure 9-A](#)); or
    - ii. An opaque fence or wall consistent with the standards of Section [7.04](#); or
    - iii. Integration into the building design (e.g., false walls or other architectural screening) that utilizes the same building materials and colors as the principal building.



Figure 9-A: The above image illustrates a vegetative screen that hides HVAC equipment and a dumpster.

- B. The required screening shall have a height sufficient enough to screen the applicable item(s), provided it is in accordance with any other applicable sections of this ordinance.
- C. To the maximum extent feasible, pipes, conduits, and cables should be located along the rear facade of buildings if conditions do not allow for them to be enclosed within the building itself. Pipes, conduits, and cables shall be located as far away from public view as practical and shall be painted a similar color as the building facade to further reduce visibility.
- D. In all cases, fences and walls are limited to the heights allowed by Section [7.04](#) unless the wall used for screening is an extension of the principal building, in which case, the wall may be the same height as the principal building wall from which it is extended. See [Figure 9-B](#).



Figure 9-B: The above image illustrates a wall and fence that is an extension of the principal building that is designed to screen outdoor storage areas.

**(b) Screening between Land Uses**

Where a B-2, I-1, or P-I District is adjacent to a lot in a residential zoning district, any new development in the B-2, I-1, or P-I District shall comply with the following screening requirements:

- (1) A 15-foot-wide landscaping strip shall be provided between the proposed development and the adjacent lot in a residential district. Such landscaping strips may be provided in a required yard setback area.
- (2) A wall or fence shall be located within the landscaping strip, parallel to the residential lot.
- (3) The wall or fence shall have a minimum height of four feet, and a maximum height of six feet, provided the height complies with the fencing and wall regulations in [Section 7.04](#).
- (4) Landscaping may be planted in lieu of the wall or fence. Such landscaping shall consist of evergreen trees and shrubs that will create a 100 percent opaque screen within five years of planting. Such a screen shall have a minimum height of four feet from grade at the time of planting.
- (5) A landscape plan illustrating the proposed screen shall be approved prior to the issuance of a zoning certificate.

**9.05 MAINTENANCE**

- (a) The owner of the property shall be responsible for the continued property maintenance of all landscaping materials and shall keep them in a proper, neat, and orderly appearance, free from refuse, debris, and weeds at all times.
- (b) All unhealthy or dead plant material shall be replaced within one year or by the next planting period, whichever comes first.
- (c) No plant material required by this ordinance shall be removed for any reason unless replaced with like kind and size at the time of removal. If replaced with a like kind and size of material, no approvals shall be required.
- (d) Any changes to an approved landscaping plan shall require approval in the same manner as the landscaping plan was originally approved.
- (e) Violation of these provisions shall be subject to the enforcement provisions of [Chapter 13: Enforcement and Penalties](#).

## Chapter 10: Parking, Access, and Connectivity

### 10.01 PURPOSE

The purpose of this chapter is to protect the public welfare, health, safety, and comfort and to:

- (a) Regulate the appropriate amount of land for parking, loading, stacking, and maneuvering;
- (b) Relieve the congestion so the streets can be utilized more fully for the movement of vehicular traffic;
- (c) Promote the safety and convenience of pedestrians and shoppers by locating parking areas so as to lessen car movements in the vicinity of intensive pedestrian traffic;
- (d) Encourage alternative modes of transportation by providing facilities for pedestrians and bicyclists;
- (e) Protect the light, air, visual amenities, and property values of residential areas by limiting the parking and storage of recreational vehicles, boats, trailers, and trucks in residential areas;
- (f) Reduce surface water run-off by considering the use of pervious surfaces, where applicable;
- (g) Promote the public welfare, health, safety, comfort, and morals of business, service, research, production, manufacturing, and distribution developments which depend upon off-street parking facilities; and
- (h) Provide regulations and standards for the development of accessory off-street parking and loading facilities in accordance with the objectives of the Comprehensive Plan.

### 10.02 APPLICABILITY

- (a) Compliance with this section shall be reviewed as part of an application for a site plan review or zoning certificate, whichever is reviewed first unless otherwise stated in this chapter.
- (b) Unless otherwise stated, the requirements of this chapter shall apply to all new development where there is the construction of a new structure or establishment of a new use.
- (c) Where a change in use based on [Table 4-2](#), an increase in square footage or seating, or an increase in the number of dwelling units occurs, the number of parking spaces, loading spaces, or vehicle stacking spaces shall comply with the requirements of this chapter and as identified in this subsection.
- (d) Accessory and temporary uses shall be exempt from the requirements of this chapter unless specifically required in [Chapter 6: Accessory and Temporary Uses](#).
- (e) All development in a PUD District shall be subject to the standards of this chapter unless otherwise modified through the PUD review and approval process.

### 10.03 GENERAL REQUIREMENTS

The following requirements shall apply to all vehicular use areas, including off-street parking, stacking, and loading spaces.

(a) **Location**

Parking and loading spaces shall be provided on the same lot as the principal use they are intended to serve unless otherwise regulated in this chapter.

(b) **Modification to Existing Vehicular Use Areas**

The modification of any existing off-street parking area, including, but not limited to, reduction, enlargement, restriping, or remarking of any vehicular use area in a manner that differs from the existing site plan, shall require a review of the modification in accordance with the following:

- (1) Minor modifications related to maintenance and upkeep, including, but not limited to, repaving of the existing paved area, restriping, remarking, or other similar maintenance work, are permitted without a zoning certificate.
- (2) All other modifications, including, but not limited to, the removal or expansion of existing paved areas, shall be reviewed through the zoning certificate process.

**(c) Setback Requirements**

**(1) Front Yards**

- A. Unless otherwise stated, all vehicular use areas shall be setback a minimum of five feet from any street or alley right-of-way except for permitted driveways.
- B. This area shall be landscaped pursuant to [Chapter 9: Landscaping and Screening](#).

**(2) Side and Rear Yards**

All vehicular use areas that contain five or more parking spaces shall be set back a minimum of five feet from side and rear lot lines unless the side and/or rear lot line is adjacent to a lot in R-1 or R-2 District, in which case, the setback shall be increased to 10 feet.

**(d) Driveways**

- (1) Driveways for any residential use that contains four or fewer dwelling units may be allowed without any setback from a side or rear lot line. Such driveways shall maintain proper drainage and shall be a minimum of eight feet wide.
- (2) All other driveways shall be subject to the following:
  - A. The location, width, and number of entrance and exit driveways serving private vehicular use areas shall be planned in such a manner as to interfere as little as possible with the use of the adjacent property and the flow of traffic on the streets to which they connect.
  - B. The angle of intersection between the driveway and the street shall be between 70 degrees and 90 degrees. The radii of the edge of the driveway apron shall be at least 20 feet.
  - C. Entrance or exit driveways shall not exceed three lanes in width and shall be designed so that all vehicles can be driven forward into the street.

**(e) Striping, Marking, and Maintenance**

- (1) All parking spaces shall be striped and maintained in good condition.
- (2) Each parking space and aisle shall be clearly designated and marked to ensure approved utilization of the space, the direction of traffic flow, and general safety.
- (3) When a parking space is designated for handicapped accessibility or small car use, it shall be clearly marked as such.
- (4) The owner of property used for parking shall maintain such area in good condition without holes and free of all trash, abandoned or junk vehicles, and other rubbish.

**(f) Surface and Grading**

- (1) The surface of any parking area, aisle, driveway, or maneuvering area shall be paved with a hard, durable, dust-free surface such as asphalt or concrete (excluding compacted gravel) and approved by the Zoning Officer.
- (2) Gravel parking is permitted for the parking or storage of equipment if located in the rear yard only in the I-1. Such parking shall not be made available to customers and shall have gated or otherwise restricted access.
- (3) Porous asphalt or pervious concrete, used to reduce surface water run-off, may be used for the pavement of parking spaces (no drive aisles, driveways, or other areas) if reviewed and approved by the Zoning Officer. An applicant shall be required to submit a maintenance plan for the upkeep of any permitted porous asphalt or pervious concrete. Failure to adhere to the maintenance plan shall be considered a violation of this ordinance.
- (4) All vehicular use areas shall be graded and drained so that surface water shall not flow onto adjacent property and shall be improved with asphalt concrete or Portland cement pavement.

**(g) Wheel Stops and Curbing**

- (1) Wheel stop devices consisting of parking blocks, permanent curbs, or other suitable barriers shall be installed to prevent any part of a parked motor vehicle from extending beyond the required parking space area, overhanging a pedestrian circulation way or sidewalk, or damaging any structure or landscaping.
- (2) The minimum height of a wheel stop device shall be five inches, and the minimum distance from a wheel stop device to a property line or protected area shall be two and one-half feet.

- (3) Wheel stops shall be adequately anchored to the ground to prevent any movement.
- (4) Continuous curbing is discouraged, but if curbing is used, it should be cut curbing or scissor curbing to allow for the passage of stormwater. See [Figure 10-A](#).



Figure 10-A: Cuts in the continuous curb allow for stormwater to be directed into landscaped areas.

- (h) **Lighting**  
 Any lighting of vehicle use areas shall be subject to Section [7.02](#).
- (i) **Landscaping and Screening**  
 Landscape and screening shall be pursuant to [Chapter 9: Landscaping and Screening](#).

## 10.04 OFF-STREET PARKING STANDARDS

### (a) **Number of Off-Street Parking Spaces Required**

- (1) Applications for single-family, two-family, three-family, four-family, and multi-family dwellings shall be required to provide the number of required off-street parking spaces as established in [Table 10-1](#). The spaces may be located within a garage, on an approved driveway, or in an approved parking lot.

TABLE 10-1: RESIDENTIAL PARKING REQUIREMENTS	
Use	Required Parking Spaces
Single-Family and Two-Family Dwellings	2 spaces per dwelling unit
Three-Family, Four-Family, and Multi-Family Dwellings	1.5 spaces per dwelling unit [1]
NOTE: [1] For multi-family dwelling developments with more than 20 units, an additional parking space shall be provided for every four dwelling units to provide additional guest parking.	

- (2) All applications for development except for residential uses, as identified in [Table 10-1](#) above, are required to demonstrate that the proposed number of off-street parking spaces provided is sufficient to serve the proposed use or activity through the submission and review of a parking plan. As part of the parking plan, the applicant shall provide a written analysis of parking requirements based on the following information:
  - A. Availability of on-street parking near the use and the distances to those spaces;
  - B. Building square footage for each specific use to be served by off-street parking;
  - C. Hours of operation;
  - D. Estimated number of patrons/customers at peak hours of operation;
  - E. Maximum numbers of employees present on one shift;
  - F. Availability of joint parking areas;
  - G. Building occupancy loads; and
  - H. Any additional information as requested by the Zoning Officer.

- (3) When multiple uses are proposed on the site, the Zoning Officer shall consider the parking requirements of all uses and may utilize the most intense use when determining if the proposed plan has sufficient parking spaces.
- (4) The Zoning Officer has the authority to deny an application if they determine that an adequate amount of parking has not been provided. The Zoning Officer shall provide, in writing, the reasons for the rejection. The Zoning Officer may refer to the estimates of parking demand based on recommendations of the American Planning Association (APA), the Urban Land Institute (ULI), and/or the Institute of Traffic Engineers (ITE) in making their determination. Prior to a formal denial, the Zoning Officer shall also have the ability to discuss alternative parking options, as permitted in Section 10.04(e), as a potential solution to providing sufficient parking.
- (5) The Zoning Officer’s decision regarding parking requirements for a specific use is appealable to the BZA as established in Section 3.05.

**(b) Dimensional Requirements for Parking Spaces and Drive Aisles**

- (1) Areas for off-street parking facilities shall be designed in accordance with the minimum dimensional requirements established in Table 10-2 and illustrated in Figure 10-B.
- (2) If parking along a drive aisle shall have parking at two or more different angles, the width of the aisle required shall be the largest width required in Table 10-2.

TABLE 10-2: PARKING SPACE DIMENSIONS				
Angle	Parking Space Width (Feet)	Parking Space Length (Feet)	Drive Aisle Width (Feet)	
			One-Way	Two-Way
	A	B	C	D
Parallel (0°)	9 feet	22 feet	12 feet	20 feet
30°	9 feet	20 feet	12 feet	24 feet
45°	9 feet	20 feet	12 feet	24 feet
60°	9 feet	19 feet	18 feet	24 feet
Perpendicular (90°)	9 feet	19 feet </td <td>20 feet</td> <td>24 feet</td>	20 feet	24 feet

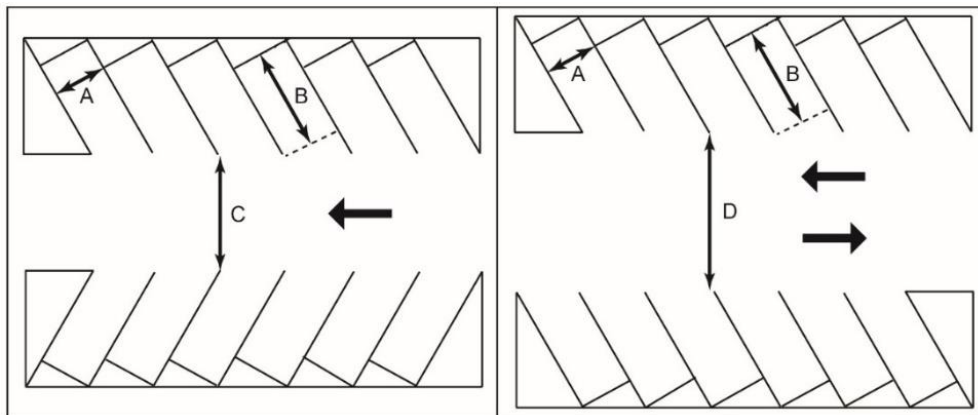


Figure 10-B: Parking area dimensions

**(c) Parking for Handicapped Persons**

- (1) Parking spaces for handicapped and elderly persons shall meet the requirements of the State of West Virginia and the most recent ADA Standards for Accessible Design.
- (2) Each handicap space may be included in the computation of spaces required by this chapter.

**(d) Electric Charging Stations**

Electric charging stations are permitted to be located in any approved off-street parking space in any zoning district.



**(e) Shared or Off-Site Parking**

A portion of the required parking spaces may be located on an adjacent or nearby property if the parking area complies with the following standards.

- (1) Shared parking is encouraged and permitted if the multiple uses that the shared parking will benefit can cooperatively establish and operate the facilities.
- (2) Off-site parking shall not be used to satisfy the off-street parking standards for residential uses.
- (3) Required parking spaces reserved for persons with disabilities shall not be located in an off-site parking area.
- (4) Shared or off-site parking shall not be permitted on a vacant lot in a residential zoning district unless permitted by the BZA as part of a conditional use review.
- (5) Shared or off-site parking areas shall adhere to the regulations of the same or a more intensive zoning classification than that required for the use served.
- (6) In the event that a shared or off-site parking area is located on multiple parcels, a written parking agreement shall be required and must be approved by the Zoning Officer.
- (7) No shared or off-site parking space shall be located more than 500 feet from the primary entrance of the use served, measured along the shortest legal, practical walking route. This route may include crossing a right-of-way, provided it uses a legal crosswalk.
- (8) The applicant shall have the burden of proof for the reduction of the total number of parking spaces and shall document and submit information substantiating their request. Shared or off-site parking may be approved if it complies with the following standards:
  - A. A sufficient number of spaces shall be provided to meet the highest demand of the participating uses.
  - B. Evidence shall be submitted by the parties operating the shared parking area, to the satisfaction of the Zoning Officer, documenting the nature of uses and the times when the individual uses will operate so as to demonstrate the lack of potential conflict between the users of the parking spaces.
  - C. Shared or off-site parking shall not account for more than 50 percent of the required parking spaces as established in Section [10.04\(a\)](#).
  - D. Any change in use of the activities served by a shared or off-site parking area will be deemed an amendment to the shared or off-site parking area plan and will require review and approval by the Zoning Officer.
  - E. All shared or off-site parking plans and agreements shall be provided to the Zoning Officer prior to any zoning certificate being issued. Such plans and agreements continue to apply to the land, regardless of future ownership.

## **10.05 PARKING AND STORAGE OF RECREATIONAL VEHICLES IN RESIDENTIAL DISTRICTS**

All recreational vehicles that are parked or stored outside of an enclosed building shall be subject to the following general standards:

- (a) Recreational vehicles shall not be used as living quarters, whether temporary or permanent, and no business shall be conducted in a recreational vehicle while the vehicle is stored.
- (b) Recreational vehicles shall not have a permanent connection to electric, water, gas, or sewer facilities.
- (c) Recreational vehicles shall be maintained and kept in good repair and carry the current year's license and/or registration as required by the State of West Virginia.
- (d) Recreational vehicles may be parked or stored on any paved surface that meets the requirements of Section [10.03\(f\)](#).
- (e) Recreational vehicles that exceed 32 feet in length shall not be permitted to be parked in the front yard except for up to 72 hours for the purpose of loading and unloading. Such vehicles shall be parked and/or stored in the side or rear yards at all other times.
- (f) No more than four recreational vehicles shall be permitted on any single lot at any given time.

## 10.06 OFF-STREET LOADING

A permanently paved and maintained area for the standing, loading, and unloading of delivery vehicles shall be provided for principal uses in the nonresidential districts. These off-street loading facilities shall be in accordance with the following specifications:

(a) **Number of Spaces**

This ordinance does not require a minimum number of off-street loading spaces. However, uses which receive frequent deliveries are required to provide adequate space built to the standards as identified in this subsection.

(b) **Size**

Loading spaces shall conform to the following minimum dimensions. Unless otherwise noted, all dimensions are exclusive of any driveway, aisle, or other circulation areas:

- (1) Clearance height: 14 feet
- (2) Minimum width: 12 feet
- (3) Minimum length: 55 feet

(c) **Location and Activities**

- (1) All loading spaces and maneuvering areas shall be located on the same lot as the use they are intended to serve.
- (2) A required loading space shall not face or be visible from the street on which the lot fronts, except in I-1 Districts, and shall not be located in a required front yard. If a loading space is entirely enclosed, it may be located in any side or rear yard if approved by the Planning Commission.
- (3) Off-street loading spaces shall be so arranged that they may be used without blocking, and they shall not obstruct or occupy any parking space, circulation or drive aisles, sidewalks, or vehicle stacking spaces for drive-through lanes.
- (4) No loading ramp, dock, door, or space, or any portion thereof, shall be located closer than 50 feet from any lot zoned for any residential use unless located completely within an enclosed building.
- (5) An off-street loading space shall not be used for repairing or servicing motor vehicles.

(d) **Access**

- (1) All required off-street loading spaces shall have access to a public street or alley in such a manner that any vehicle entering or exiting the premises shall be traveling in a forward motion onto such street or alley.
- (2) Each required off-street loading space shall be designed for direct vehicular access by means of a driveway, or driveways, to a public street in a manner that shall least interfere with adjacent traffic movements and interior circulation. The access drive of an off-street loading facility shall be located so that the driveway center line shall not be less than 50 feet from the nearest intersecting street right-of-way line.

(e) **Improvements**

All off-street loading spaces shall be improved as required for all vehicular use areas as set forth in Section [10.03](#).

## 10.07 STACKING SPACE REQUIREMENTS

- (a) This ordinance does not require a minimum number of off-street stacking spaces for drive-through facilities. However, uses that contain a drive-through facility shall comply with the requirements of this section.
- (b) Drive-through stacking lanes shall have a minimum width of eight feet and a minimum length of 18 feet for each space required.
- (c) When stacking lanes are separated from other stacking lanes, bypass lanes, or from other site areas, the separation shall be by means of a raised concrete median, concrete curb, landscaping, or painted striping.
- (d) Vehicles shall not be permitted to wait within the public right-of-way for service at such drive-in or drive-thru facilities.

## Chapter 11: Signs

### 11.01 PURPOSE AND INTENT

It is the purpose and intent of this chapter to establish reasonable regulations which preserve the public welfare, health, safety, comfort, and morals of the public while protecting each person's constitutional right to freedom of speech, as indicated by the following objectives:

- (a) To prohibit signs which pose an unreasonable risk to public safety;
- (b) To limit the visual dominance of signs without unconstitutionally restricting the information conveyed;
- (c) To provide for reasonable and appropriate methods for locating goods, services, and facilities in all zoning districts by relating the size, type, and design of signs to the size, type, and design of the uses and districts;
- (d) To control the design of signs so that their appearance shall be aesthetically harmonious with an overall urban design for the area;
- (e) To promote traffic safety by preventing obstructions within public rights-of-way, minimizing visual distractions to motorists, ensuring that sign size and height are appropriate to their location, and preventing conflicts with public safety signs and police and fire protection;
- (f) To promote the most desirable developments and economic activity in accordance with the objectives of the Comprehensive Plan; and
- (g) To promote the public right to receive religious, political, economic, social, philosophical, and other First Amendment-protected messages.

The City does not intend to infringe on the rights of free speech as protected by the First Amendment to the United States Constitution and Article 3, §7 of the West Virginia Constitution. All regulations in this chapter are to be construed, whenever possible, in favor of vigorous political debate and accommodation of the rights of persons to speak freely.

### 11.02 APPLICABILITY

- (a) It shall hereafter be unlawful for any person to erect, place, relocate, expand, modify, maintain, or otherwise alter a sign in the City except in accordance with the provisions of this chapter.
- (b) The construction, erection, safety, and maintenance of all signs shall be in accordance with the applicable building code.
- (c) Unless otherwise provided, this chapter shall apply to any sign over which the City has the authority to regulate. Additionally, this chapter shall apply to any sign in any zoning district that is visible from the public right-of-way or from property other than the property on which the sign is located.
- (d) Unless otherwise specifically stated, a zoning certificate shall be required for all permanent signs.
- (e) Any sign already established on the effective date of this chapter or future amendment thereto, and which sign is rendered nonconforming by the provisions herein, shall be subject to the nonconforming sign regulations of Section [11.11](#).
- (f) All signs shall require the issuance of a zoning certificate, as established in Section [3.06](#), unless otherwise noted below or as specifically stated in other sections of this chapter.

(g) **Zoning Certificate Exemptions**

The following signs are subject to the requirements of this chapter and are allowed in all districts but do not require a zoning certificate. Additionally, any sign area for these signs do not count toward the sign area allowances specified in this chapter for all other permitted signs. Permit-exempt signs, or the structures they are attached to, may still be subject to building code or other applicable code requirements.

- (1) Signs and/or notices issued by any court, officer, or other person in the performance of a public duty. Any such sign shall be removed no later than seven days after the last day it is required to be displayed;
- (2) Signs that are an integral part of the original construction of vending or similar machines, fuel pumps, automated teller machines, or similar devices that are not of a size or design as to be visible from a street or by any person other than those using the machine or device;

- (3) Whenever there is an exchange of sign panels when a sign is designed to have replaceable sign faces (e.g., replacement of a sign face with structural changes to a cabinet);
- (4) Any sign that is located completely inside a building and that is not visible from the exterior (See also the definition of “window sign.”);
- (5) Signs that are located within a stadium, open-air theater, park, arena, or other outdoor use that are not intended to be visible from a public right-of-way or adjacent property and can be viewed only by persons within such stadium, open-air theater, park, arena or other outdoor use;
- (6) Temporary signs;
- (7) No more than four flags located on flagpoles or on wall-mounted posts provided that the following shall apply:
  - A. The maximum height of flag poles shall not exceed the maximum building height for structures in the subject zoning district and a maximum sign area of area of 40 square feet for any individual flag attached to the pole.
  - B. For wall-mounted flags, the maximum projection of the post is six feet, and a maximum sign area is 15 square feet per flag.
- (8) A single wall sign, mounted flush on the facade of an individual dwelling unit, that is not illuminated and does not exceed two square feet in area;
- (9) Signs that are an integral part of the historic character of a structure that has been designated an official landmark or historic structure by any agency or body of the governments of the United States, State of West Virginia, Logan County, or the City of Logan;
- (10) Any signs located on umbrellas, seating, or similar patio furniture, provided they are located outside of the right-of-way and comply with any other applicable standards of this chapter;
- (11) Any sign on a truck, bus, or other vehicles that is used in the normal course of a business (e.g., deliveries or fleet vehicles for contractors), for transportation (See also Section [11.03](#).), or signage required by the State or Federal government;
- (12) Signs installed or required by a governmental agency, including the City of Logan, Logan County, the State of West Virginia, and the United States, including local and regional transit agencies;
- (13) Any warning signs or traffic safety signs required by public utility providers;
- (14) Hand-held signs not set on or affixed to the ground;
- (15) Any address numbers required by the City of Logan or the U.S. Post Office;
- (16) Changes of copy on signs with changeable copy;
- (17) Any signs, including illuminated signs, or related decorations erected in observance of religious, national, or state holidays which are not intended to be permanent in nature and which contain no advertising material; and
- (18) General maintenance, painting, repainting, cleaning, and other normal maintenance and repair of a sign or any sign structure unless a structural change is made.

### **11.03 PROHIBITED SIGN TYPES**

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The following types of signs are specifically prohibited within the City:

- (a) Unless otherwise specifically allowed, signs that are applied to trees, utility poles, benches, trash receptacles, fences or walls, newspaper vending machines or boxes, or any other unapproved supporting structure or that are otherwise placed in the public right-of-way;
- (b) Any sign or sign structure which, in the opinion of the Zoning Officer, is structurally unsafe or constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment;
- (c) No sign shall be installed, erected, or attached in any shape, manner, or form to block any fire escape or any door or window that is required ingress and egress for fire safety;
- (d) Signs that employ any parts or elements which revolve, rotate, whirl, spin, or otherwise make use of motion to attract attention, except for electronic message centers permitted in accordance with this chapter;
- (e) Air-activated graphics;
- (f) Laser lights, beacons, and searchlights, except for emergency purposes;

- (g) Motor vehicles, tractor trailers, or similar vehicles with signs painted on, attached to, supported by, or otherwise affixed to the vehicle shall not be parked or stored for a time period exceeding 48 hours;
- (h) Any signs that utilize illumination by means of bare bulbs, flames, or both;
- (i) Any signs which imitate or resemble official traffic or governmental signs that are designed or used in a manner as to interfere with, mislead, or confuse drivers along streets;
- (j) Any sign that violates the intersection visibility requirements of Section [7.01](#);
- (k) Any sign located in a public right-of-way, except as specifically provided for in the chapter;
- (l) Roof signs;
- (m) Any other sign type that is not specifically allowed by this chapter.

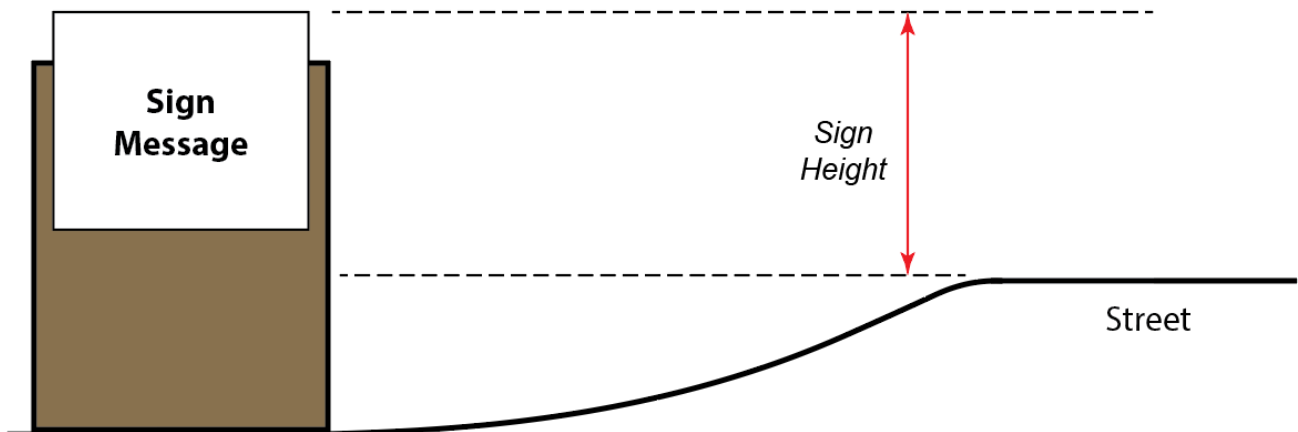
## 11.04 CALCULATION AND MEASUREMENTS

### (a) Sign Setback

All required setbacks for signs shall be measured as the distance in feet from the applicable lot line or other stated point of measurement to the closest point on the sign structure.

### (b) Sign Height

- (1) The height of a sign shall be computed as the distance from the base of the sign at normal grade (average grade at the base of the sign) to the top of the highest attached component of the sign. The normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely undertaken for the purpose of locating or increasing the height of the sign.
- (2) The filling of a hole or depression to create an average grade at the same level as that surrounding the hole or depression is permitted, provided such filling is allowed by other ordinances.
- (3) In cases where the normal grade is below grade at street level, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public or private street. See [Figure 11-A](#).



*Figure 11-A: Illustration of the measurement of sign height when the grade at the bottom of the sign is below the grade of the adjacent street.*

### (c) Sign Area

The surface of a sign to be included when computing the maximum allowable square footage of sign area shall be calculated as established in this section. For the purposes of calculating sign area, one of the following shapes may be used: circle, ellipse, triangle, square, rectangle, trapezoid, pentagon, or hexagon.

- (1) The calculation of the sign area shall not include any supporting framework, bracing, or decorative fence or wall unless such structural support is determined to constitute an integral part of the sign design by means of text or other commercial messages, as determined by the Zoning Officer. See [Figure 11-B](#).

- (2) For sign copy mounted or painted on a background panel, cabinet, or surface that is distinctively painted, textured, lighted, or constructed to serve as the background for the sign copy, the sign area shall be computed by means of the single smallest permitted shape that encompasses the extreme limits of the background panel, cabinet or surface. See [Figure 11-B](#) and [Figure 11-C](#).

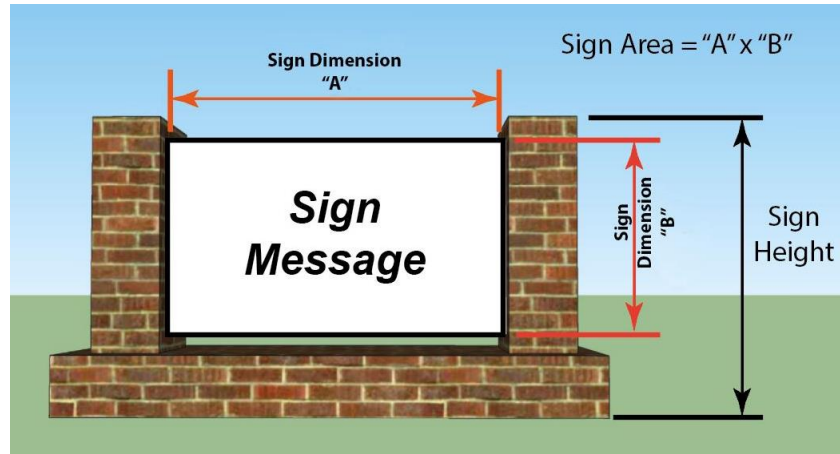


Figure 11-B: Illustration of sign area calculation for a freestanding sign with a copy on a distinct, rectangular cabinet. The brick structural support is not included in the sign area calculation.



Figure 11-C: Illustration of computing the sign area for wall signs with a background panel or cabinet.

- (3) For sign copy where individual letters or elements are mounted on a building facade or window where there is no background panel, cabinet, or surface that is distinctively painted, textured, lighted, or constructed to serve as the background for the sign copy, the sign area shall be computed by means of the single smallest permitted shape that encloses all of the letters or elements associated with the sign. See [Figure 11-D](#).

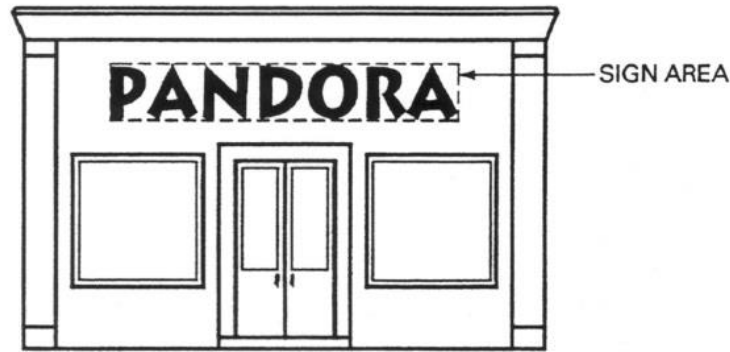


Figure 11-D: Illustration of sign area calculation for wall signs with individual letters.

- (4) In cases where there are multiple elements of sign copy on the same surface, any areas of sign copy that are within two feet of one another shall be calculated as a single sign area that shall be computed by means of the smallest permitted shape that encloses all sign copy within two feet of one another, otherwise, the sign area shall be computed for each separate piece of sign copy. See [Figure 11-E](#).

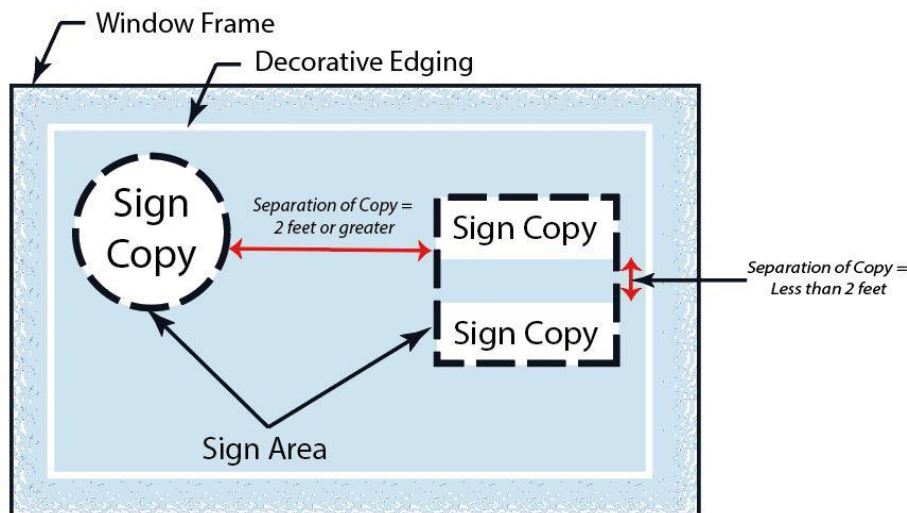


Figure 11-E: Illustration of sign area calculations for multiple sign areas on a window sign.

- (5) When two identically sized, flat sign faces are placed back-to-back with no more than 12 inches in separation so that both faces cannot be viewed from any one point at the same time, the sign area shall be computed by the measurement of one of the sign faces. The 12-inch separation distance shall not apply in cases where the two faces are part of a single sign cabinet or structure that is fully enclosed. If the two faces are unequal, the sign area shall be calculated based on the larger of the two faces.
- (6) In the case of a three-dimensional sign, where the sign faces are not mounted back-to-back, the sign area shall be calculated by the single smallest permitted shape that encompasses the profile of the sign message. The profile used shall be the largest area of the sign message visible from any one point.
- (7) **Facade Measurements**
- A. When calculating the permitted sign area based on the width of any facade, such calculation shall be based on viewing the facade from a 90-degree angle (i.e., straight on) from the adjacent street, regardless of facade insets, offsets, or angles. See [Figure 11-F](#).

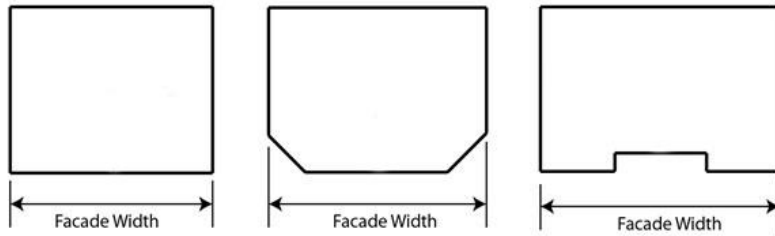


Figure 11-F: Illustration of facade width measurement on varied facade shapes.

- B. For multi-tenant buildings, the portion of a building that is owned or leased by a single occupant or tenant shall be considered a building unit. See [Figure 11-G](#).



Figure 11-G: The above image shows independent buildings (1 and 4) as well as a multi-tenant building in between. The multi-tenant building has two building units, as identified as 2 and 3 in the image.

- C. The primary facade shall include any facade that has frontage along a street and any facade that serves as the main access point to a building or building unit. All other facades shall be considered to be secondary facades for the purposes of this chapter, provided such facades do not face a residential zoning district. See [Figure 11-H](#).

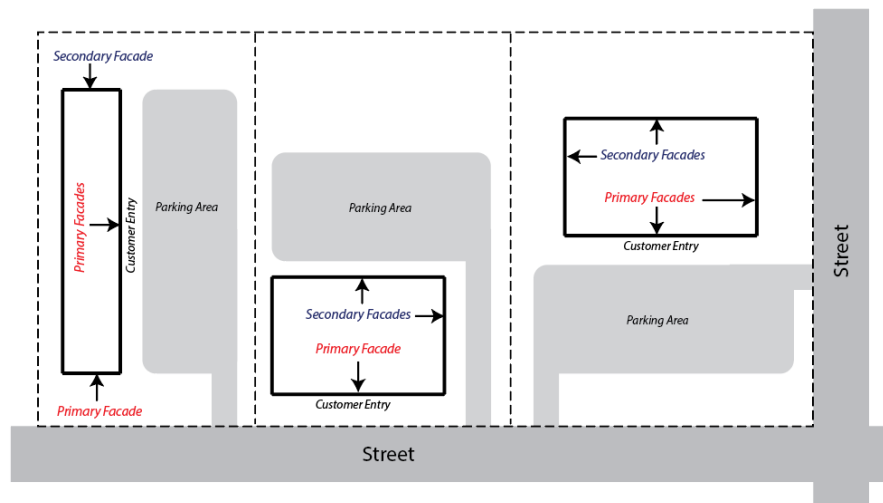


Figure 11-H: Examples of the location of primary and secondary facades.

- D. When a site has primary and secondary facades as defined herein, the Zoning Officer shall determine which facades shall be the primary building facades and which facades shall be the secondary building facades, as may be applicable.



## 11.05 GENERAL REGULATIONS

Unless otherwise specifically stated, the following regulations shall apply to all signs within the City:

- (a) All signs shall be professionally manufactured or of equivalent quality. Permanent signs shall be fabricated with rigid materials that are of good quality and good durability.
- (b) The construction, erection, safety, and maintenance shall comply with all applicable building and electrical codes. In the event there is a conflict between the provisions of this section and the provisions of any applicable building or electrical codes, the provisions of the more restrictive code shall govern.
- (c) No sign or sign structure shall be placed on private or public property without the consent of the owner or agent thereof.
- (d) The lowest component of all signs that project (or are supported on posts that project) shall not be less than eight feet above the finished grade of a sidewalk or any other pedestrian way. If located over a pavement used for vehicular traffic or within 18 inches of the vertical projection of the edges of such pavement, the lowest component of the sign shall not be less than 15 feet above the finished pavement.
- (e) Signs shall be anchored to prevent any lateral movement that would cause wear on supporting members or connections.
- (f) All signs shall be subject to the intersection visibility standards established in Section [7.01](#).
- (g) Permitted permanent signs should be designed so as to be similar in character with regard to materials, color, and size to signs designed or located on the same building and on adjoining buildings in order to equalize the attention they are meant to attract and to produce an overall unified effect, and shall also be designed in accordance with the standards set forth in this section.
- (h) The back side of all permanent signs that do not contain a second sign face or structural supports shall be completely enclosed.
- (i) **Signs in Rights-of-Way**
  - (1) Signs shall be prohibited in the right-of-way with the exception of the following:
    - A. Signs installed by the City of Logan, Logan County, the State of West Virginia, the federal government, or public transit agencies;
    - B. Any warning signs or traffic safety signs required by public utility providers; or
    - C. Sidewalk signs as allowed in Section [11.09](#).
  - (2) The Zoning Officer may remove or cause to be removed any unlawful sign in the public right-of-way.
- (j) **Illumination**

In all zoning districts except residential districts, signs shall be permitted to be illuminated in compliance with the following:

  - (1) Where illuminated signs are permitted, such illumination may be through internal or external lighting sources.
  - (2) Light sources shall be shielded from all adjacent buildings and streets and shall be focused exclusively on the sign.
  - (3) Lights shall not be of such brightness so as to cause glare that is hazardous to pedestrians or motorists or will cause reasonable objection from adjacent residential districts.
  - (4) An illuminated sign or lighting device shall employ only light of constant intensity.
  - (5) Electronic message centers are a permitted form of illuminated signs that are allowed as part of permitted signs in this chapter. Where electronic message centers are allowed, they shall be subject to the following:
    - A. The sign area of the electronic message center shall not exceed 90 percent of the total sign area.
    - B. All electronic message centers shall be set back a minimum of 200 feet from a residential dwelling unit.
    - C. Any message changes shall be static, instant message changes.
    - D. Messages can only change once every eight seconds or longer.
    - E. The transition time between messages shall be less than one second.

- F. All electronic message centers shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions.
- G. The electronic message center shall come equipped with an automatic dimming photocell, which automatically adjusts the display's brightness based on ambient light conditions.
- H. Illumination shall not exceed 0.3 footcandles over ambient lighting conditions when measured at 50 feet in any direction from an electronic message center sign.
- I. Audio emissions from electronic message center signs shall be prohibited.

## 11.06 SIGNS PERMITTED IN PUD DISTRICTS

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- (a) All development in a PUD District shall be subject to the standards of this article unless otherwise modified through the PUD review and approval process. In general:
  - (1) Single-family residential uses and public and institutional uses in a PUD shall comply with the sign requirements of the R-2 District.
  - (2) Multi-family residential uses in a PUD shall comply with the sign requirements of the R-3 District.
  - (3) Commercial and office uses in a PUD shall comply with the sign requirements of the B-2 District.
  - (4) Industrial uses in a PUD shall comply with the sign requirements of the I-1 District.
- (b) This section shall apply to both permanent and temporary signs.

## 11.07 PERMANENT SIGNS IN RESIDENTIAL DISTRICTS

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### (a) Signs at Entrances

Two wall signs or one permanent freestanding monument sign may be permitted for any subdivision or multi-family dwelling development that contains 25 units/lots or more, provided that the signs meet the following requirements:

#### (1) General Standards

- A. Each sign may have a maximum sign area of 36 square feet.
- B. No such sign or any portion of the structure shall exceed six feet in height.
- C. The sign may only be illuminated through an external light source.

#### (2) Monument Sign

- A. A maximum of one freestanding monument sign may be permitted for each entrance to the subdivision or development on a public collector or arterial street, as determined by the Zoning Officer.
- B. In all cases, the sign shall be set back a minimum of 10 feet from any right-of-way.
- C. The monument sign shall have a maximum of two sign faces mounted back-to-back.
- D. If an applicant proposes to use a monument sign, no wall signs, as allowed in Section [11.07\(a\)\(3\)](#) below, shall be permitted.
- E. For entrances to multi-family dwelling developments, a post and panel sign may be permitted instead of the monument sign.

#### (3) Wall Signs on Entry Fences or Walls

- A. A maximum of two wall signs may be permitted for each entrance to the subdivision or development on a public collector or arterial street, as determined by the Zoning Officer.
- B. If two wall signs are utilized, the signs shall be separated by a minimum of 50 feet.
- C. The signs shall be mounted to a decorative wall or fence that generally runs parallel to the street.
- D. If an applicant proposes to use wall signs, no monument sign, as allowed in Section [11.07\(a\)\(2\)](#) above, shall be permitted.

### (b) Permanent Signs for Conditional Uses in Residential Districts

- (1) One permanent monument sign may be permitted on a lot containing a use that is allowed and approved as a conditional use in the applicable residential district, provided the sign meets the following requirements:

- A. The sign shall be set back 10 feet from the public right-of-way.
  - B. The maximum sign area shall be 36 square feet.
  - C. No such sign or any portion of the structure shall exceed six feet in height.
  - D. Such signs may incorporate a manual changeable copy sign or an electronic message center. Electronic message centers shall be in compliance with Section [11.05\(j\)](#).
- (2) Building signs shall be permitted on a lot containing a use approved as a conditional use, provided the signs meet the same requirements for building signs in the B-1 District.

## 11.08 PERMANENT SIGNS IN NONRESIDENTIAL DISTRICTS

The following standards apply to signs on lots in nonresidential zoning districts:

### (a) Freestanding Signs

All freestanding signs in nonresidential districts shall be monument or pole signs that meet the following requirements:

- (1) The edge of any freestanding sign shall be set back a minimum distance equal to the height of the sign from the curb line or right-of-way and the same distance from any adjacent lot lines.
- (2) All supports and foundations for any freestanding sign shall only be permitted on private property.
- (3) Only one freestanding sign shall be permitted along each street frontage. One additional freestanding sign may be allowed on the same street frontage provided there is a minimum lot width of 200 feet and the signs are separated by at least 100 feet.
- (4) The maximum sign area and sign height allowed is established in [Table 11-1](#).
- (5) Freestanding signs are prohibited in the B-3 District.
- (6) Only monument signs may include manual changeable copy signs or electronic message centers as regulated by this chapter. Electronic message centers shall be in compliance with Section [11.05\(j\)](#).

**TABLE 11-1: FREESTANDING SIGN STANDARDS FOR NONRESIDENTIAL DISTRICTS**

Zoning Districts	Maximum Sign Area	Maximum Sign Height
B-1 and I-1	50 Square Feet	10 Feet
B-2	120 Square Feet	30 Feet
P-I	75 Square Feet	15 Feet

- (7) Where a freestanding sign serves a multi-tenant building, it shall be the responsibility of the property owner to determine the messaging on the sign.
- (8) Exposed sign foundations shall be constructed with a finished material such as brick, stone, or wood.
- (9) All freestanding signs shall be located in a landscaped area equal to or larger than the total sign area of the applicable sign. Such landscaped area may be an area that fulfills any landscaping requirements of this ordinance. The landscaped area shall include all points where sign structural supports attach to the ground.
- (10) All illumination of signs shall be subject to Section [11.05\(j\)](#).

### (b) Building Signs

Except for the wall sign permitted in Section [11.02\(g\)](#), building signs shall not be permitted in residential districts unless accessory to an approved conditional use. In all other districts, building signs are permitted on principal structures in accordance with the following:

- (1) The building sign area allowed in this section shall include the total amount of all wall, canopy, awning, marquee, and projecting signs on each façade wall. Standards for each individual building sign type are established in this section.
- (2) Building signs shall not extend above the top of the roofline of the building to which it is attached. For canopy signs, the signs may be attached above the canopy, which is attached permanently to the building, provided that the sign does not extend above the top of the roofline of the building.
- (3) Building signs may not be attached to mechanical equipment or roof screening.

- 
- (4) Building signs may include manual changeable copy signs but shall not include electronic message centers.
- (5) **Building Sign Allowance**
- A. There is no maximum number of permitted building signs.
  - B. Where there is a building sign allowance for a primary façade, such building sign area shall only be attached to the primary façade.
  - C. Where there is a secondary façade, as determined in Section [11.04\(c\)\(7\)](#), there shall only be one designated secondary façade and any building sign area allowed for the secondary façade shall be attached to the applicable secondary façade.
  - D. There shall be a maximum of 2.5 square feet of building sign area per lineal foot of primary façade width for each building or building unit frontage, as applicable.
  - E. There shall be a maximum of 1.5 square feet of building sign area per lineal foot of secondary façade width for each building or building unit frontage, as applicable.
- (6) **Wall Sign Standards**
- Any wall sign shall comply with the following standards:
- A. Wall signs shall be mounted on or flush with a wall and shall not project more than 24 inches from the wall or face of the building to which it is attached.
  - B. A wall sign may be mounted on the façade wall or mounted on a raceway or wireway.
  - C. No wall sign shall extend any closer than 12 inches to either the top or side edges of the surface or wall to which it is attached.
  - D. No wall sign shall extend above the parapet of the main building to which it is attached nor beyond the vertical limits of such building.
  - E. Wall signs may be internally or externally illuminated except when attached to a façade that faces a residential zoning district, in which case the illumination of the wall sign is prohibited.
  - F. The wall sign allowance may be used for signs attached to roofed structures over fueling stations or to stand-alone accessory structures such as Automated Teller Machines (ATMS) or detached accessory buildings.
- (7) **Canopy, Awning, or Marquee Sign Standards**
- Any canopy, awning, or marquee sign comply with the following standards:
- A. Signage shall not cover more than 36 square feet of any individual awning, canopy, or marquee.
  - B. Canopies or awnings should not extend more than 36 inches from the façade.
  - C. Signage may be mounted above any canopy or marquee that extends over a customer entrance, provided that the maximum sign height over the canopy shall be 18 inches, as measured from the top of the canopy to the top of the sign.
  - D. Only the area of the sign may be illuminated internally on a canopy, awning, or marquee. The remainder of any canopy, awning, or marquee shall not be illuminated or may be illuminated by an external source such as gooseneck lighting.
  - E. The roofs of all marquees shall be properly guttered and connected by downspouts to a sewer so that water will not drop or flood onto public property.
- (8) **Projecting Sign Standards**
- Any projecting sign shall comply with the following standards:
- A. Only one projecting sign shall be permitted for each tenant of building space.
  - B. A projecting sign shall be perpendicular to the wall of the building to which it is attached and shall not extend more than four feet from the façade wall to which it is attached.
  - C. Projecting signs shall maintain a minimum six-inch clearance from the façade of any building.
  - D. Decorative supporting structures for projecting signs are encouraged and shall not count toward the maximum square footage of signs allowed. However, in no case shall the supporting structure exceed six square feet.
  - E. The maximum sign area for a projecting sign shall be 24 square feet.

- F. Projecting signs shall not be internally illuminated.
- G. Projecting signs must be suspended from brackets approved by the building official and contain no exposed guy wires or turnbuckles.
- H. The edge of any projecting sign shall be set back a minimum of 18 inches from the curb or right-of-way.
- I. All projecting signs shall be supported by strong steel brackets attached to walls of buildings with through bolts, expansion bolts, or other equally secure methods and shall be braced and held firmly in place with soft iron or steel cables or chains of adequate strength. All such supports shall be attached to the walls of buildings with expansion bolts or an equivalent method. Projecting signs which are permitted to extend above parapet walls may be attached to brackets fastened to roofs by means of through bolts but shall not be attached to any part of the wall above a point of bearing of the roof joists or rafters.

(c) **Window Signs**

- (1) Window signs shall not require a zoning certificate but must comply with the requirements of this section.
- (2) Window signs shall not occupy more than 50 percent of the window area in all nonresidential zoning districts.
- (3) Window signs may be temporarily or permanently attached to the window surface.
- (4) The sign area of window signs shall not be counted as part of any other sign allowance in this chapter.
- (5) Window signs are not permitted in any window of a space used for residential uses or purposes unless allowed as a temporary sign in accordance with Section [11.09](#).
- (6) Window signs shall not be illuminated except when illuminated by an external lighting source.
- (7) Decorative edging or other window treatments that are not an integral part of the sign copy shall not be considered a part of the sign for the purposes of this chapter. See [Figure 11-E](#).
- (8) The sign area is based on the total window area, regardless of the presence of an awning. Window areas separated by piers, architectural elements, or similar features that are not glass or window framing or support shall be considered separate and distinct window areas. See [Figure 11-I](#).



Figure 11-I: The window area is illustrated within the dashed line area for the two storefronts in the above image.

(d) **Drive-Through Facility Signs**

- (1) Drive-through facility signs are only permitted as an accessory to a permitted drive-through facility.
- (2) One drive-through facility sign shall be allowed for each stacking lane in a drive-through facility, provided the total aggregate sign area of all freestanding signs associated with each drive-through facility does not exceed 72 square feet. In no case shall a single drive-through facility sign exceed 36 square feet in sign area.
- (3) Such signs shall be oriented so as to only be visible to occupants of vehicles in the stacking lanes of the drive-through facility.

- (4) No drive-through facility sign under this section shall exceed six feet in height measured from the grade of the adjacent driving surface to the top of the sign.
  - (5) Drive-through facility signs may be internally or externally illuminated. Up to 100 percent of each sign may be an electronic message center if they comply with the following standards:
    - A. Any message change shall be a static, instant message change.
    - B. Only Light Emitting Diodes (LED) technology or similar quality signs shall be permitted for electronic message centers.
    - C. The electronic message center shall come equipped with an automatic dimming photocell, which automatically adjusts the display's brightness based on ambient light conditions.
    - D. The electronic message center shall be turned off during the hours when the related business is closed.
  - (6) There shall be no maximum drive-through facility sign area in instances where the signs are fully screened from view of any public street or adjacent residential use.
  - (7) The sign area of drive-through facility signs shall not be counted as part of any other sign allowance in this chapter.
- (e) **Driveway Signs**
- (1) A maximum of two signs shall be permitted for any one driveway.
  - (2) Driveway signs shall be set back at least five feet from all lot lines, but in no case shall the sign be set back more than 25 feet from the edge of the driveway where it intersects with the public street.
  - (3) Each driveway sign shall not exceed four square feet in area and three feet in height.
  - (4) Driveway signs may be internally or externally illuminated.
  - (5) The sign area of driveway signs shall not be counted as part of any other sign allowance in this chapter.

## 11.09 TEMPORARY SIGNS

The following are the types of temporary signs allowed in the City of Logan, including any applicable regulations for each type of sign.

- (a) **Standards Applicable to All Temporary Signs**
- (1) Temporary signs shall not be mounted, attached, affixed, installed, or otherwise secured in a manner that will make the sign a permanent sign.
  - (2) No temporary sign shall be mounted, attached, affixed, installed, or otherwise secured so as to protrude above the roofline of a structure.
  - (3) All temporary signs shall be secured in such a manner as to prevent swinging or other significantly noticeable movement resulting from the wind that could pose a danger to people, vehicles, or structures.
  - (4) Unless otherwise specifically stated, temporary signs shall not be illuminated.
  - (5) No temporary sign shall require a foundation, support, wiring, fittings, or elements that would traditionally require a building permit or electrical permit.
  - (6) Temporary signs shall not be affixed to any permanent sign or permanent structure except when a banner sign is permitted to cover a permanent sign in accordance with this section or when such sign is attached to the principal building as permitted in this chapter.
  - (7) No streamers, spinning, flashing, windblown devices, or similarly moving devices shall be allowed as part of, or attachments to, temporary signs.
  - (8) Where a temporary sign is designed to have two sign faces (sidewalk signs or temporary yard signs), such sign faces shall be of the same size and mounted back-to-back. In the cases of an A-frame sidewalk sign, the sign faces shall be mounted back-to-back but may have an angular separation between faces to form the A-frame shape.
  - (9) For zoning certificate applications related to the establishment of a new use or change of use within an existing building, where there is an existing permanent sign, a banner sign may be approved for up to 60 consecutive days to cover the existing permanent signs. Such banner sign shall not exceed the sign area of the permanent sign and shall require a zoning certificate.

- (10) Temporary signs shall be constructed of a material that is substantial enough to withstand typical winds and weather for the duration of the placement.
- (11) Because of the nature of materials typically used to construct temporary signs and to avoid the unsightliness of deteriorating signs and all safety concerns which accompany such a condition, temporary signs shall be removed or replaced when such a sign has deteriorated.
- (12) Temporary signs shall not be located in the right-of-way. Where the right-of-way is unknown, the temporary sign shall be set back a minimum of 10 feet from the edge of any street pavement.

**(b) Temporary Sign Allowances**

- (1) [Table 11-2](#) establishes the allowances for temporary signs in all zoning districts. All sign types are subject to the general provisions above and the sign-type standards that follow the table.

TABLE 11-2: TEMPORARY SIGN ALLOWANCES		
Zoning Districts	Residential	Nonresidential
<b>Time Limit</b>	Unrestricted	Unrestricted
<b>Maximum Number per Lot [2]</b>	Unlimited	10 signs
<b>Maximum Sign Area per Sign [2]</b>	32 Square Feet	48 Square Feet
<b>Maximum Height</b>	6 Feet	10 Feet
<b>Permitted Sign Types</b>	Banner, Window, or Yard	Banner, Feather, Sidewalk, Balloon, or Yard
<b>Zoning certificate Required</b>	No	No
NOTES: [1] A quarter shall be defined as an evenly timed quarter of the calendar year (January to March, April to June, July to September, and October to December). [2] The provisions of this requirement are as stated in the table unless otherwise allowed for in the applicable sign type standards below.		

**(2) Sign Type Standards**

**A. Banner Signs**

- i. Banner signs shall not be subject to the maximum height requirements of this section, provided they are not attached above any roofline.
- ii. Banner signs can be affixed to a building but not to a fence unless such fence is enclosing an outdoor dining area adjacent to the building.

**B. Feather or Balloon Signs**

- i. Only one feather or balloon sign shall be permitted for any lot.
- ii. If a lot has more than 100 feet of lot frontage along a public street, one additional feather sign or balloon shall be permitted at the same time as the initial sign.
- iii. The signs shall be secured in a manner as to prevent movement by wind or other forces, with the exception of the natural flutter of a fabric portion of a feather sign.

**C. Sidewalk Signs**

- i. Only one sidewalk sign is allowed for each building unit.
- ii. The sidewalk sign shall be limited to an A-frame sidewalk sign or a T-frame sidewalk sign.
- iii. There shall be no time limitation for sidewalk signs, with the exception that the sign shall only be placed outside during the hours of the establishment's operation.
- iv. Sidewalk signs shall not exceed six square feet in area with a maximum height of four feet.

- v. The sign shall not be placed on pavement used for vehicles (e.g., driveways and parking lots).
- vi. When placed on a public or private sidewalk, the width and placement of the sign shall be such that there shall be a minimum width of four feet of clear and passable sidewalk or walkway for pedestrians.
- vii. The sign must be freestanding and shall not be affixed, chained, anchored, or otherwise secured to the ground or to any pole, parking meter, tree, tree grate, fire hydrant, or other structure.
- viii. The sign must not obstruct access to parking meters, bicycle racks, and other features legally in the right-of-way.
- ix. The sign must not interfere with the opening of car doors in legal spaces or with the operation of wheelchair lifts and ramps, cab stands, loading zones, or bus stops.
- x. The sign shall be internally weighted so that it is stable and windproof.
- xi. The City of Logan shall be held harmless from any liability resulting from accident or injury caused by the placement and/or maintenance of such sign.

**(3) Window Signs**

Temporary window signs shall not be affixed permanently to the window.

**(4) Yard Signs**

Temporary yard signs are prohibited in the right-of-way and shall be set back a minimum of 10 feet from adjoining lot lines.

## **11.10 MAINTENANCE OF SIGNS AND SIGN STRUCTURES**

- (a) All signs shall be maintained in a safe and good condition at all times to avoid becoming a deteriorated sign, including, but not limited to, the replacement of defective bulbs, parts, or materials, painting, repainting, cleaning, and other acts required for the maintenance of said sign and accessory landscaping.
- (b) It shall be the responsibility of the property owner or other entity having legal control or interest in the property to maintain all signs and sign structures in accordance with this ordinance.
- (c) Signs shall be maintained in a manner that prevents the exposure of any internal elements through the removal of the sign face or the replacement of broken panels or elements.
- (d) Failure to maintain a sign in accordance with this section shall be a violation of this ordinance, subject to [Chapter 13: Enforcement and Penalties](#).

## **11.11 NONCONFORMING SIGNS AND SIGN STRUCTURES**

- (a) Any sign that was lawfully in existence at the time of the effective date of this ordinance, or amendment thereto, that does not conform to the provisions herein, shall be deemed a legal nonconforming sign and may remain on a lot of record except as qualified in this subsection. No legal nonconforming sign shall be enlarged, extended, structurally altered, or reconstructed in any manner except as allowed for in this section, and the nonconforming structure regulations in [Chapter 12: Nonconformities](#) shall not apply.
- (b) Legal nonconforming signs shall be maintained in good condition pursuant to Section [11.10](#) and may continue until such sign is required to be removed as set forth in this chapter.
- (c) A nonconforming sign shall immediately lose its nonconforming designation and must be brought into compliance with these regulations or be removed if:
  - (1) The sign is structurally altered or replaced, but not including the changing of a sign face when the sign is specifically designed for changeable sign faces or when a message is changed on a changeable copy sign or electronic message center;
  - (2) The sign is relocated, except for signs that are required to be moved because of public right-of-way improvements;
  - (3) The sign is a legally nonconforming temporary sign that is still in place more than one calendar year from the effective date of this ordinance;
  - (4) The sign is damaged to the extent of greater than 50 percent of the estimated replacement value;



- (5) The sign is not repaired within 60 days after it is damaged or such sooner period as may be required if the damage presents an immediate hazard; or
  - (6) The sign creates a hazard to vehicular or pedestrian traffic, or to adjoining properties.
- (d) Nothing in this section shall relieve the owner or user of a nonconforming sign or the owner of the property on which the nonconforming sign is located from compliance with the provisions of these regulations regarding safety, maintenance, and repair of signs, provided; however, that any repainting, cleaning and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure in any way. All nonconforming signs shall be maintained properly and shall be subject to Section [11.11](#).

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## Chapter 12: Nonconformities

### 12.01 PURPOSE

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Within the districts established by this ordinance, some lots, uses of lands or structures, or combinations thereof may exist which were lawful prior to the effective date or amendment of this ordinance but that are prohibited, regulated, or restricted under the terms of this ordinance. The legitimate interests of those who lawfully established these nonconformities, especially when dealing with a person's residence, are herein recognized by providing for the continuance of such uses, subject to regulations limiting their completion, restoration, reconstruction, extension, and/or substitution. Nevertheless, while it is the intent of this ordinance that such nonconformities be allowed to continue until removed, they should not be encouraged to survive unless otherwise allowed in this chapter or specifically addressed in this ordinance. This chapter has the following additional purposes for nonconformities:

- (a) To permit their continuance but control nonconformities so as to minimize any adverse effect on the adjoining properties and development;
- (b) To regulate their maintenance and repair;
- (c) To restrict their rebuilding if substantially destroyed;
- (d) To require their permanent discontinuance if not operated for certain periods of time; and
- (e) To require conformity if they are discontinued and to bring about eventual conformity in accordance with the objectives of the Comprehensive Plan and this ordinance.

### 12.02 GENERAL PROVISIONS

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- (a) For the purposes of this ordinance and any future amendments, any use, building, or structure that can be proven to have existed prior to the adoption of Ordinance <>, effective <><sup>2</sup>, is deemed to be legally established.
- (b) An applicant for any development review procedure (e.g., zoning certificate, site plan review, variance, etc.) that involves a nonconformity shall bear the burden of proof in demonstrating that the use, building, structure, or combination thereof was a legal nonconformity after <><sup>3</sup>.
- (c) Passage of this ordinance in no way legalizes any illegal uses existing at the time of its adoption.
- (d) **Existing Use Reclassified as a Conditional Use**

In the event an existing use is classified as a conditional use in the applicable district due to this ordinance or a future zoning text amendment, such use shall be considered to be an approved conditional use without any further action. However, any subsequent change to such use shall require review and approval in accordance with Section 3.05. Such use, provided it is conditionally permitted in the applicable district, shall not be considered a nonconforming use.

### 12.03 NONCONFORMITIES AND VARIANCES

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- (a) Whenever any nonconformity has been changed so that the use, structure, or condition conforms to the requirements of this ordinance, such use, structure, or condition shall no longer be defined as a nonconformity, nor shall the property or structure be returned to the former nonconformity.
- (b) When a property owner or authorized agent is granted a variance for a nonconformity that addresses the nonconformity, the structure or lot shall no longer be considered nonconforming. In no case shall the resolved nonconformity be expanded or altered to create further nonconformities.
- (c) If a property owner or authorized agent is granted a variance for a nonconformity that addresses some nonconformities, but additional nonconformities continue, the structure or condition that remains a nonconformity shall still be subject to the provisions of this chapter.

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<sup>2</sup> This will be the ordinance number and effective date of this ordinance's original adoption.

<sup>3</sup> The effective date of this ordinance will be added.

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## 12.04 NONCONFORMING USES

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Where, at the time of adoption of this ordinance, lawful uses of land or structures exist that would not be permitted by the regulations of this ordinance, the uses may be continued so long as they remain otherwise lawful and provided:

- (a) No such nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land or structure than was occupied at the effective date of adoption or amendment of this ordinance except as follows:
  - (1) A nonconforming residential building may be enlarged if the required yard areas are determined adequate by the Planning Commission, as determined by the approval of a conditional use.
  - (2) Buildings containing any other nonconforming use may be improved by a conditional use permit granted under the provisions of Section [3.05](#).
- (b) No such nonconforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this ordinance.
- (c) No additional structures shall be constructed on a lot with a nonconforming use unless such new structure complies with the requirements of this ordinance and the applicable zoning district.
- (d) **Termination of Nonconforming Uses**
  - (1) **Termination of Use through Discontinuance**
    - A. When any nonconforming use is discontinued or abandoned for more than six months, any new use shall conform to the regulations of the district in which it is located, and the nonconforming use may not thereafter be resumed. The intent to continue a nonconforming use shall not be evidence of its continuance.
    - B. There may be cases when a structure, or structure and premises in combination, may not be converted to a conforming use because of the original floor plan and design (e.g., townhouses in a single-family residentially zoned area). In these cases, the Planning Commission may determine that the nonconforming use may continue if the nonconforming use is the original use of the structure and/or premises. Appropriate safeguards, conditions, and design standards may be required by the Planning Commission so as to minimize the impact of such continuance on the area.
  - (2) **Termination of Use by Damage or Destruction**
    - A. If a nonconforming residential use in any district is damaged or destroyed to any extent, such structure and use may be re-established on the same lot provided the structure and use meet the same size in height and footprint, as well as comply with the same setbacks as previously existed.
    - B. If any building containing a nonconforming use, other than a residential use, is damaged, but not to an extent greater than 60 percent of the principal structure's reconstruction value, such structure, and use may be reestablished on the same lot to the same size and intensity of use as was previously existing immediately prior to the damage. Such reestablishment of the use shall require the issuance of a building permit, which must be issued within six months of the damage, or the use shall not be re-established.
    - C. If any building containing a nonconforming use, other than a residential use, is damaged beyond 60 percent of the principal structure's reconstruction value, such structure and use may only be reestablished in accordance with this ordinance.
    - D. Determination of the reconstruction value shall be made by three practicing building construction contractors, one to be appointed by the owner, one to be appointed by the City, and the third to be selected by the mutual consent of the two parties.

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## 12.05 NONCONFORMING STRUCTURES AND SITES

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A nonconforming structure or site may continue to be used or occupied by a use permitted in the applicable zoning district so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

- (a) Any nonconforming structure or site may be enlarged, maintained, repaired, or altered. However, no such enlargement, maintenance, repair, or alteration shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part of such structure or site unless otherwise specified in this ordinance.
- (b) A nonconforming structure shall not be relocated in whole or in part to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the applicable zoning district after being relocated.
- (c) The principal use of a nonconforming building may be changed to any other use permitted in the applicable zoning district as long as the new use complies with all regulations of this ordinance specified for such use, except the regulations to which the building did not conform prior to the change in use.
- (d) The governmental acquisition of a portion of a lot for a public purpose that results in reduction in a required yard or building setback below that required in the applicable zoning district shall not render a structure nonconforming.
- (e) **Damage or Destruction of a Nonconforming Structure Containing a Conforming Use**
  - (1) If a nonconforming structure is damaged but not to an extent greater than 60 percent of the structure's reconstruction value, such structure, and use may be reestablished on the same lot to the same size and intensity of use as was previously existing immediately prior to the damage. Such reestablishment of the use shall require the issuance of a building permit within six months of the initial damage. If an owner rebuilds a legally nonconforming structure under this provision, they may expand the structure provided any expansion or change does not increase the nonconformity that existed prior to the damage.
  - (2) If a nonconforming structure is damaged beyond 60 percent of the structure's reconstruction value, such structure shall only be rebuilt in compliance with the requirements of this ordinance. Such reconstruction shall require the application and issuance of all necessary zoning and building permits.
  - (3) If the owner voluntarily removes a nonconforming structure or reduces the nonconformity of a nonconforming structure that has not been damaged or destroyed, that owner shall not be permitted to rebuild the structure to the original height, size, or setback.
  - (4) The determination of the reconstruction value shall be made in the same manner as established in Section [12.04\(d\)\(2\)](#).

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## 12.06 NONCONFORMING LOTS OF RECORD

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A lot of record which does not comply with the lot or yard regulations of the district in which it is located on the effective date of this ordinance or any amendment thereto which made it nonconforming may be used as follows:

- (a) If occupied by a building, such building may be maintained, repaired, or altered. However, the building may not be enlarged in floor area unless the depth of the front yard, the total width of side yards, and the rear yard regulations are complied with.
- (b) If vacant, the lot may be used provided that:
  - (1) No adjoining vacant lot or parcel of land was owned by the same owner on the effective date of this ordinance;
  - (2) Not owning adjoining land, other vacant land adjoining the lot cannot be equitably acquired; and
  - (3) All other regulations of this ordinance, except the lot area and lot width regulations, shall be complied with.

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## 12.07 NONCONFORMING SIGNS

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See Section [11.11](#) for the regulation of nonconforming signs.

## 12.08 REPAIR AND MAINTENANCE

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- (a) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, provided that the footprint and height of the structure as it existed, when it became nonconforming, shall not be increased unless in accordance with this chapter.
- (b) Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building, or part thereof, declared to be unsafe by any official charged with protecting the public safety, including, but not limited to, the Zoning Officer or building inspector, upon order of such official. Where appropriate, a building permit for such activities shall be required.

## Chapter 13: Enforcement and Penalties

### 13.01 ENFORCEMENT BY THE ZONING OFFICER

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- (a) The Zoning Officer is hereby designated as the enforcing officer of this ordinance.
- (b) The Zoning Officer is hereby authorized to enforce as well as issue orders to prevent and stop violations of the provisions of this ordinance.
- (c) The Zoning Officer may request and shall receive, so far as may be necessary for the discharge of their duties, the assistance of other staff and officials of the City in enforcing orders and of the Law Director in the prosecution of violations. In addition, the Zoning Officer may delegate, at their discretion, the administration of this ordinance and the building permit process to other City officials.

### 13.02 RECORDS

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The Zoning Officer shall keep careful and comprehensive records of applications, permits issued, certificates issued, inspections made, reports rendered, and notices or orders issued. They shall retain on file copies of all papers in connection with building work so long as any part of the building or structure to which they relate may be in existence. All such records shall be open to public inspection at reasonable hours but shall not be removed from the office of the Zoning Officer.

### 13.03 VIOLATIONS

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- (a) It shall be unlawful to:
  - (1) Use or occupy any land or place; build, erect, alter, remodel, restore, or rebuild thereon any building or structure; permit any building or structure to remain on such land; or use, occupy, or operate such building or structure, in any way or for any use or purpose which is not permitted by the provisions of this ordinance;
  - (2) Use or occupy any parcel of land; use or occupy a new building; or enlarge, substitute, or otherwise change the use, occupancy, or configuration of any land or building, without having received a zoning certificate, site plan approval, conditional use approval, subdivision plat approval, or other required approvals indicating compliance with the provisions of this ordinance;
  - (3) Violate or fail to perform any condition, stipulation, or safeguard set forth in any certificate issued pursuant to this ordinance or continue to use or occupy the premises or building as previously authorized by such certificate beyond the duration limit therein stated;
  - (4) Continue construction, renovation, or improvements contrary to a stop work order or notice of violation; or
  - (5) Knowingly make any materially false statement of fact in an application to the Zoning Officer for any approvals required by this ordinance.
- (b) Each day's continuation of a violation of this section may be deemed a separate offense.

### 13.04 PERMIT OR CERTIFICATE REVOCATION

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The Zoning Officer may issue a revocation notice to revoke a permit, certificate, or administrative approval that was issued contrary to this ordinance or that was based upon false information or misrepresentation in the application.

### 13.05 COMPLAINTS REGARDING VIOLATIONS

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Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a complaint. Such written or verbal complaints shall fully state the causes and basis of the complaint and shall be filed with the Zoning Officer.

### 13.06 INSPECTION OF PROPERTY

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The Zoning Officer may inspect any building erected, altered, moved, razed, or converted and any use of land or premises carried on in alleged violation of any of the provisions of this ordinance.

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### 13.07 INJUNCTION

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- (a) The City Council, Planning Commission, BZA, or Zoning Officer may seek an injunction in the circuit court of Logan County to restrain a person or unit of government from violating the provisions of this ordinance.
- (b) City Council, Planning Commission, BZA, or Zoning Officer may also seek a mandatory injunction in the circuit court of Logan County directing a person or unit of government to remove a structure erected in violation of the provisions of this ordinance.
- (c) If the City Council, Planning Commission, BZA, or Zoning Officer is successful in any such suit, the respondent shall bear the costs of the action.

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### 13.08 NOTICE OF VIOLATION

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Upon finding a violation, the Zoning Officer shall order, in writing, the owner, agent, occupant, or operator of such building or premises to correct, within a stated reasonable time, all conditions that are found to be in violation of this ordinance. After such a notice is served, no work, except to correct the violation or comply with the notice, shall proceed on any building or premises included in the violation.

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### 13.09 PENALTIES

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- (a) Whoever violates or fails to comply with, or permits or causes any person in their employ to violate or fail to comply with, any of the provisions of this ordinance shall be guilty of a misdemeanor and shall be fined not less than 50 dollars and no more than 500 dollars per day. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.
- (b) In addition, or in the alternative, a person who violates or fails to comply with or permits or causes any person in their employ to violate or fail to comply with the provisions of this ordinance shall be deemed to be creating a public nuisance, and the creation thereof may be enjoined, and the maintenance thereof may be abated by action filed by any City official charged with enforcing this ordinance.

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### 13.10 REMEDIES

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- (a) In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, or any land is or is proposed to be used in violation of this ordinance, or any amendment or supplement thereto, City Council, the Law Director, the Zoning Officer, or any adjacent or neighboring property owner who would be especially damaged by such violation, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use.
- (b) The remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

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### 13.11 SPECIAL PROVISIONS

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- (a) The provisions of this chapter are supplemental to and do not abrogate the powers and authority extended to agencies, bureaus, departments, commissions, divisions, and officials of the state government by other state statutes, and those powers and authority shall remain in full force and effect.
- (b) The powers of supervision and regulation by the divisions of the state government over municipal, county, and other local governmental units and persons are also not abrogated and shall continue in full force and effect.

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### 13.12 AFFECTED PARTIES

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The owner or tenant of any building, structure, premises, or part thereof, and any architect, engineer, surveyor, builder, contractor, agent, or other people who commit, participates in, assists in, or maintains a violation may be found guilty of a separate offense and suffer the penalties herein provided.

### **13.13 OTHER ACTIONS**

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Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

### **13.14 GENERAL REPEALER**

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All acts or parts of acts, including special legislative charters, inconsistent with the provisions of this chapter are hereby repealed to the extent of their inconsistency, except as provided in this chapter.



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## Chapter 14: Definitions

### 14.01 PURPOSE

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It is the purpose of this chapter to define words, terms, and phrases or identify references contained in this ordinance.

### 14.02 GENERAL RULES FOR INTERPRETATION

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The following rules shall apply for construing or interpreting the terms and provisions of this ordinance.

(a) **Meanings and Intent**

All provisions, terms, phrases, and expressions contained in this ordinance shall be interpreted in accordance with the general purposes set forth in Section [1.01: Purpose](#) and the specific purpose statements set forth throughout this ordinance. When a specific section of this ordinance gives a different meaning than the general definition provided in this chapter, the specific section's meaning and application of the term shall control.

(b) **Headings, Illustrations, and Text**

In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

(c) **Lists and Examples**

Unless otherwise specifically indicated, lists of items or examples that use terms like "for example," "including," and "such as," or similar language is intended to provide examples and are not exhaustive lists of all possibilities.

(d) **References to Other Regulations or Publications**

Whenever reference is made to a code, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such code, statute, regulation, or document unless otherwise specifically stated.

(e) **Delegation of Authority**

Any act authorized by this ordinance to be carried out by a specific official of the City may be carried out by a designee of such official.

(f) **Technical and Nontechnical Terms**

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(g) **Public Officials and Agencies**

All public officials, bodies, and agencies to which references are made are those of the City of Logan unless otherwise indicated.

(h) **Mandatory and Discretionary Terms**

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

(i) **Conjunctions**

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

- (1) "And" indicates that all connected items, conditions, provisions, or events apply; and
- (2) "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

(j) **Tenses and Plurals**

Words used in the present tense include the future tense. Words used in the singular number include the plural number, and the plural number includes the singular number unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

(k) **Terms Not Defined**

If a term used in this ordinance is not defined in this chapter, the Zoning Officer shall have the authority to provide a definition based upon the definitions used in accepted sources, including but not limited to, A Planners Dictionary, A Glossary of Zoning, Development, and Planning Terms, and A Survey of Zoning Definitions, published by the American Planning Association. The Zoning Officer may also rely on Webster's Dictionary or a similar source for the definition of terms.

## **14.03 DEFINITIONS**

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**Abut, Adjoin, or Adjacent**

The land, lot, or property adjoining the property in question along a lot line or separated only by an alley, easement, or street.

**Access**

Any driveway or other point of entry and/or exit onto or from a street, road, or thoroughfare which connects to the general street system.

**Accessibility Ramps**

Permanent or portable ramps utilized to provide a disabled person with accessibility to a structure.

**Accessory Dwelling Units**

Attached or detached living quarters located on a lot with an existing principal dwelling where the accessory dwelling unit is designed for the use of persons employed on the premises or for the temporary use of guests of the occupants of the principal dwelling.

**Active Recreational Facilities**

Any park or recreational facility that is owned, managed, or operated by the City of Logan, Logan County, the State of West Virginia, or a nonprofit agency. Such park or recreational facility requires grading of the land, construction of facilities, lighting, or is developed for athletic fields, tennis courts, swimming pools, skate parks, disc golf, golf courses, and other similar outdoor facilities. Such uses may include accessory retail uses that are customarily incidental recreational uses, including, but not limited to, souvenir or concession stands.

**Administrative, Business, or Professional Offices**

A building or portion of a building wherein services are performed involving predominately administrative, professional, or clerical operations and wherein no retail trade is carried on.

**Adult Arcade**

Adult arcade shall mean any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing specified sexual activities or specified anatomical areas.

### **Adult Bookstore, Adult Novelty Store, or Adult Video Store**

A commercial establishment that, for any form of consideration, has as a significant or substantial portion of its stock-in-trade in, derives a significant or substantial portion of its revenues from, devotes a significant or substantial portion of its interior business or advertising to, or maintains a substantial section of its sales or display space for the sale or rental of any of the following:

- Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations, which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
- Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

An adult use may have other principal business purposes that do not involve the offering for sale, rental, or viewing of materials exhibiting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an "adult bookstore," "adult novelty store," or "adult video store." The existence of other principal business purposes does not exempt an establishment from being categorized as an "adult bookstore," "adult novelty store," or "adult video store" so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, such materials that exhibit or describe "specified sexual activities" or "specified anatomical areas."

### **Adult Cabaret**

A night club, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features any of the following:

- Persons who appear in a state of nudity or semi-nudity;
- Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

### **Adult Entertainment**

The sale, rental, or exhibition, for any form of consideration, of books, films, video cassettes, magazines, periodicals, or live performances that are characterized by an emphasis on the exposure or display of "specified anatomical areas" or "specified sexual activity."

### **Adult Entertainment Business**

A restaurant, coffee shop, juice bar, bar, or any business establishment in which employees participate in the conduct of the business in a state of nudity.

### **Adult Motion Picture Theater**

A commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

### **Adult Theater**

A theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or semi-nudity or live performances that are characterized by their emphasis upon the exposure of "specified anatomical areas" or "specified sexual activities."

### **Adult Use**

An adult arcade, adult bookstore, adult entertainment business, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, or nude or seminude model studio. An establishment in which a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated pursuant to the WVC, is not an "adult use."

### **Agricultural – Raising of Crops**

Any use of land for the growing and harvesting of legal agricultural crops and trees for commercial agricultural purposes. Agricultural uses include but are not limited to, the raising of crops, horticulture, floriculture, and viticulture and the necessary accessory uses for parking, treating, or sorting the products; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities. Buildings occupied as residences by persons engaged in agricultural operations shall not be considered to be used for agricultural purposes.

### **Air-Activated Graphic**

A sign, all or any part of, which is designed to be moved by the action of forced air so as to make the sign appear to be animated or otherwise have motion. See also the definition for “Sign, Balloon.”

### **Alley**

A minor, service roadway of not more than 20 feet in width, providing a secondary means of public access to abutting property and not intended for general traffic circulation, but is not a public or private street as defined by this ordinance.

### **Alteration**

- Any change, addition, or modification in construction, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as “altered” or “reconstructed;” any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction or removal of any structure.
- Any change of copy, sign face, color, size, height, shape, illumination, position, location, construction, or supporting structure of any sign.

### **Amateur Radio Antennas**

A system of cables, electrical conductors, insulators, metallic or nonmetallic tubing, poles, reflecting discs, rods, wires, or similar objects used for transmission or reception of radio signals or electromagnetic waves for amateur radio service.

### **Animal Boarding Facilities**

Any building, structure, or land, or combination thereof, used, designed, or arranged for the boarding, breeding, or care of domestic animals or pets for profit. Such use may also include training and daycare facilities.

### **Animal Hospitals/Clinics and Animal Grooming**

A building where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Such uses shall not have any outdoor facilities for the boarding or keeping of animals. Such use may include facilities for animal grooming.

### **Antenna**

Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of radio or electromagnetic waves when such system is either external to or attached to the exterior of a structure.

### **Appeal**

A review procedure by which a person may call into question an administrative decision made in accordance with this ordinance. See Section [3.05](#).

### **Applicant**

Unless otherwise specified, an owner of a property or an agent for the owner, including a subdivider, developer, attorney, or similar representative, who has filed an application for development review pursuant to [Chapter 3: Review Procedures](#).

### **Application**

The process by which the applicant submits a request for any type of development review or approval identified in [Chapter 3: Review Procedures](#). Applications include all written documentation, verbal statements, and representations in whatever forms and quantities required by the City.

**Assembly Halls or Conference Centers**

Facilities or buildings available for lease by private parties that may include kitchen facilities for the preparation or catering of food, the sale of alcoholic beverages for on-premises consumption during scheduled events not open to the public, and/or outdoor gardens, decks, or reception facilities.

**Automotive Repair and Service (Major)**

Any general repair, rebuilding, reconditioning, body or fender work, framework, painting, or the replacement of major parts of motor vehicles (e.g., major engine repair). This use type may also include towing services that provide towing or conveyance of a wrecked, inoperable, disabled, or illegally parked motor vehicle but shall not include storage of such vehicles on site.

**Automotive Repair and Service (Minor)**

Any structure or premises used for the sale of vehicle parts and fluids, excluding fuel sales, including lubrication of motor vehicles and replacements or installation of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair, or spray painting. Such uses shall also include establishments that sell parts or tires for vehicles as a retail establishment, regardless if the parts are installed on-site.

**Awning**

A shelter projecting from and supported by the exterior wall of a building, constructed of non-rigid materials on a supporting framework. See also the definition of “canopy.”



*Figure 14-A: Examples of traditional awnings*

**Basement or Cellar**

That portion of a building where the floor level is more than four feet below the adjoining finished grade.

**Bed and Breakfast Establishments**

Any place of lodging that provides four or fewer rooms for rent on a temporary basis, is the owner’s personal residence, is occupied by the owner at the time of rental, and where meals may be served to guests.

**Berm**

An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise. The height of a berm shall be measured from the average natural grade at the base of the berm.

**Block**

The property lying between the two nearest intersecting streets, crossing or terminating, or between the nearest such street and a railroad right-of-way, unsubdivided acreage, a river or live stream, or between any of the foregoing and any other barrier to the continuity of development or the corporate lines of the City.

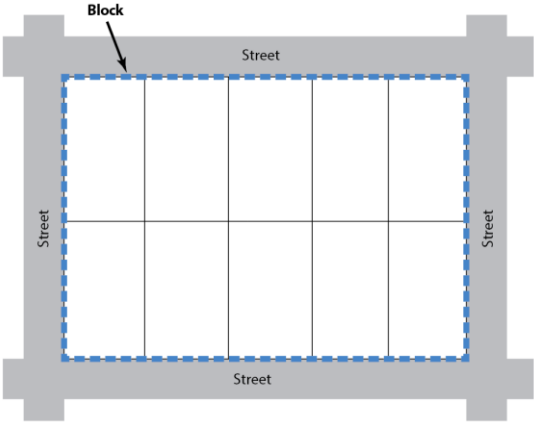


Figure 14-B: Illustration of block

**Block Face**

All lots that have frontage on the same street as the subject lot between an intersecting street or other boundaries.

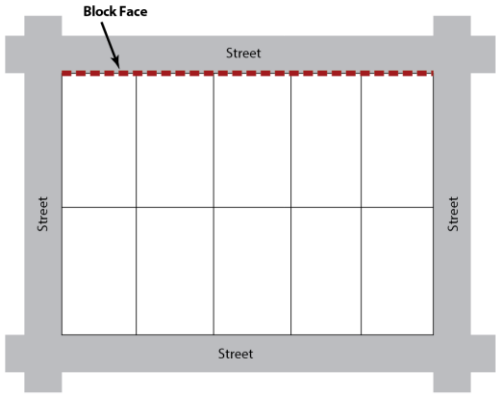


Figure 14-C: Illustration of a block face

**Building**

Any structure of more or less permanent construction, having one or more floors and a roof supported by columns or walls, which is completely enclosed and is designed or intended for the shelter or protection of persons, animals, or property. When separated by party walls, each portion of such building shall be considered a separate structure. The term shall be used synonymously with "structure," unless otherwise noted, and shall be construed as if followed by the words "parts or parts thereof."

**Building Height**

The vertical distance of a building as measured in Section [4.08](#).

**Building Unit**

Any building subdivided into separate units or spaces and any interior space occupying any portion of the ground floor of any building provided that each unit or space has its own exterior entrance and is separated from other such spaces by a party wall or walls.

**Building, Accessory**

A subordinate building detached from, but located on the same lot as, the principal or main building, the use of which is incidental and accessory to the principal building or use.

**Building, Nonconforming**

A building or portion thereof, lawfully existing on the effective date of this ordinance, or amendments thereto, and that does not conform to the provisions of the code in the district in which it is located.

**Building, Principal or Building, Main**

A building occupied by the main use of the lot on which said building is located.

**Caliper**

The American Association of Nurserymen standard for trunk measurement of nursery stock. The caliper of the trunk shall be taken six inches above the ground up to and including a four-inch caliper size and 12 inches above the ground for a caliper size greater than four inches.

**Canopy**

A permanent structure made of cloth, metal, or other material attached or unattached to a building for the purpose of providing shelter to patrons or automobiles or as a decorative feature on a building wall. A canopy is not a completely enclosed structure but typically is supported by features other than the building facade (e.g., structural legs, building extensions, etc.). See also the definition of “awning.”



Figure 14-D: Example of a canopy and related sign

**Carport**

A roofed shelter, open on at least two sides, that is designed as a shelter for operable automobiles. A carport may be freestanding or may be formed by the extension of a roof from the side of a building.



Figure 14-E: Example image of a detached carport.

**Cellular**

Wireless transmission technology that uses a grid of antennas (cell sites) to send and receive signals from mobile telephones. The antenna's "hand-off" signals as the user travels between cell sites, enabling the same frequency, or channel, to be used by many callers simultaneously.

**Cellular or Wireless Communications Antenna**

Any structure or device used to receive transmitted electromagnetic waves between cellular phones, pagers, commercial mobile services, wireless services, and ground-wired communications systems, including both directional antennas, such as panels, microwave dishes, and satellite dishes, and omnidirectional antennas, such as whips and other equipment utilized to serve personal communication services.

**Cemeteries**

Land used for the burial of the human dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

**Change**

Any alteration, addition, demolition, removal, or construction involving any property subject to the provisions of this ordinance.

**City**

The City of Logan, West Virginia

**City Council**

City Council or Council means the legislative body of the City of Logan, West Virginia

**City Engineer**

The City Engineer for the City of Logan, West Virginia. This may include consultants utilized by the City for engineering purposes.

**Collocation**

The use of a wireless telecommunications facility, comprising a single wireless telecommunications tower, building, or other structure permanently affixed to real property, supporting two or more antennas, disks, pods, or other similar devices used for telecommunications by more than one telecommunications provider, whether public or private. Collocation shall apply to such devices whether readily discernible to the naked eye or camouflaged.

**Commercial and Business Support Services**

A profit-making activity that renders services to other commercial or industrial businesses such as, but not limited to, courier services, information technology consultants, and internet providers.

**Commercial Greenhouses**

An establishment used for the growing, storage, and sale of legal garden plants, shrubs, trees, or vines for retail or wholesale sales. Greenhouses that are part of a larger agricultural use shall be considered accessory to the principal agricultural use of the land.

**Commercial Message or Speech**

Any sign, wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

**Commercial Recreational Facilities (Indoors)**

A facility for any indoor profit-making activity which is providing participatory and/or spectator activities, such as, but not limited to, live performances, bowling alleys, commercial recreation, video game rooms, billiard halls, indoor skating rinks, bingo parlors, and similar entertainment activities. Commercial recreational facilities shall not include "adult use."

**Commercial Recreational Facilities (Outdoors)**

Land or facilities for any profit-making activity which is providing outdoor participatory and/or spectator activities such as, but not limited to, privately managed or owned parks, amusement parks, water parks, rollerblade rentals, pay-to-play athletic fields, golf courses, miniature golf courses, driving ranges, outdoor ice-skating rinks, batting cages or swimming pools. Commercial recreational facilities shall not include "adult use."

**Common Area**

Any land area and/or facilities that are held in common ownership by the residents through a homeowners' association, community association, or other legal entity or which is held by the individual members of a condominium association as tenants-in-common.

**Community Gardens**

A single piece of land that is gardened collectively by a group of people that may include individual garden plots designated for individual gardens.



**Completed Application**

An application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.

**Comprehensive Plan**

The currently adopted long-range plan intended to guide the growth and development of the city, based on study and analysis of the city's existing conditions, including population and housing, historic and natural features, general land use patterns and zoning regulations, and other development considerations. References to the comprehensive plan may include supplemental plans adopted by the City of Logan, including, but not limited to, a transportation plan, parks and recreation plan, etc.

**Condominium**

A multi-family dwelling or development containing individual owners' dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of a homeowners' association and/or West Virginia law.

**Construction**

The act of constructing an addition to an existing building or structure or the erection of a new principal or accessory structure on a lot of property.

**Construction Dumpster**

A structure that is used for the collection of debris on a temporary basis in conjunction with a construction project.

**Contractor Equipment and Storage Yards**

An unenclosed area or portion of a lot upon which a construction contractor maintains its principal office or a permanent business office used to store and maintain construction equipment and other materials customarily used in the trade carried on by a construction contractor.

**County**

Logan County, West Virginia

**Cultural Facilities**

Public or private facilities used for display, performance, or enjoyment of heritage, history, or the arts. This use includes but is not limited to, museums, libraries, art performance venues, cultural centers, and interpretative sites. Such use shall not include "theaters."

**Deck**

A flat surface that is not paved, which is capable of supporting weight similar to a floor, constructed outdoors and elevated from the ground, and that is either freestanding or attached to a building. Decks may also include stairways. Decks are unenclosed by solid or nonsolid walls or a roof.



*Figure 14-F: Example of a deck.*

**Dedication**

The intentional and voluntary appropriation or transfer of land from the private owner to the City or other public agency for the land to be pledged to a proper public use or purpose.

**Density**

The number of dwelling units permitted or built per acre of total land area.

**Detached Accessory Building**

A subordinate building detached from, but located on the same lot as, the principal or main building, the use of which is incidental and accessory to the principal building or use.

**Developer**

Any individual, subdivider, firm, association, syndicate, partnership, corporation, trust, or other legal entity commencing proceedings under this ordinance to affect the development of land for himself or herself or for another.

**Development**

Any building, construction, renovation, mining, extraction, grading, dredging, filling, excavation, or drilling activity or operation; any material change in the use or appearance of any structure or in the land itself; the division of land into parcels; any change in the intensity or use of land, such as an increase in the number of dwellings units in a structure or a change to a commercial or industrial use from a less intense use.

**District**

See the definition of "Zoning District."

**Drive-Through Facilities**

Any portion of a building from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions. The term "drive-through" shall also include "drive-up" and "drive-in" but shall not include vehicle washing establishments, automotive fuel sales, or automotive repair and service establishments.

**Driveway**

A private access way used by vehicles and pedestrians for access to a parking space, garage, dwelling, structure, or use of land.

**Dwelling**

A building designed or used exclusively as the living quarters for one or more families or housekeeping units.

**Dwelling Unit**

A single unit of one or more rooms providing complete, independent living facilities for one family, or alternatively by one housekeeping unit.

**Dwelling, Four-Family**

A building, or portion thereof, designed with four dwelling units.

**Dwelling, Multi-Family**

A building or portion thereof designed with five or more dwelling units,

**Dwelling, Single-Family**

A building designed for or used exclusively for residential purposes by one family or housekeeping unit.

**Dwelling, Three-Family**

A building, or portion thereof, designed with three dwelling units.

**Dwelling, Two-Family**

A building, or portion thereof, designed with two dwelling units.

**Easement**

A right granted by the owner of land to other parties to use such land for a specific purpose, such as public utility lines or for access to other properties.

**Educational Institutions (Higher Education)**

Any private or public secondary educational institution that includes, but is not limited to, secretarial schools, colleges, and universities, business schools, cosmetology schools, seminaries, or any other institution providing collegiate-level curriculum and other post-secondary school educational opportunities.

**Educational Institutions (Preschool and K-12)**

A public or private facility that provides a curriculum of primary, elementary, secondary, or college preparatory academic instruction, including, but not limited to, preschools, kindergartens, elementary schools, junior high schools, and high schools. This definition shall not be deemed to include colleges, trade or business schools, or other post-secondary education facilities. See "educational institutions (higher education)."

**Electronic Message Center**

A sign designed so that the characters, letters, or illustrations can be changed or rearranged automatically on a lampbank or through mechanical means (e.g., electronic or digital signs).

**Essential Services**

The erection, construction, alteration, or maintenance by public utilities or City departments, boards, or commissions of overhead, surface or underground gas, electrical steam, or water, distribution or transmission systems, collection, communication, supply, or disposal systems, including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, poles, electrical substation, gas regulator stations and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such City utility or City department, board, or commission or for the public welfare, health, safety, and comfort shall be exempt from the regulations of this ordinance. Provided, however, that the installation shall conform to Federal Communications Commission and Federal Aviation Agency rules and regulations and those of other authorities having jurisdiction.

**FAA**

The Federal Aviation Administration

**Facade**

The exterior walls of a building or building face exposed to public view; the exterior face of a building that gives it a distinctive character.

**Facade, Front**

The facade of a building that contains the primary entrance of the building.

**Facade, Primary**

For the purpose of the sign regulations, a primary facade shall be as defined in Section [11.04\(c\)\(7\)](#).

**Facade, Secondary**

For the purpose of the sign regulations, a secondary facade shall be as defined in Section [11.04\(c\)\(7\)](#).

**Family**

One or more persons, with their direct lineal descendants and adopted children (and including the domestic employees thereof), together with not more than two persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit.

**FCC**

The Federal Communications Commission, which is primarily responsible for the administration of the Telecommunications Act of 1996.

**Fence**

Any accessory wall or structure composed of wood, metal, stone, vinyl, or other material erected in such a manner and positioned to enclose, partially enclose, screen, or divide any premises or part of premises. Trellises or other structures supporting or for the purpose of supporting vines, flowers, and other vegetation when erected in such position as to enclose, partially enclose, screen, or divide any premises or any part of any premises shall be included within the definition of a fence.

**Financial Institutions**

Any building, property, or activity of which the principal use or purpose of which is for depository purposes and including the provision of financial services including, but not limited to, banks, credit unions, savings, and loan institutions.

**Flag**

Any fabric or other flexible material attached to or designed to be flown from a flagpole or similar device.

**Floor Area**

The sum of the gross horizontal areas of each floor of the principal building measured in accordance with Section [4.08\(e\)\(1\)](#).

**Food Services**

An establishment whose principal business is the preparation of food and beverages for serving off-site. This includes catering services where there is no on-site restaurant or area for the serving of prepared foods and drinks.

**Footcandle**

A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one standard candle

**Fraternal, Charitable, and Service-Oriented Clubs**

A building or portion thereof or premises owned or operated by an entity, person, or group of persons for a social, educational, religious, or recreational purpose but not primarily for profit or to render a service that is customarily carried on as a business.

**Frontage**

All of the property abutting on one side of a street or place (crossing or terminating) or, if the street or place is dead-ended, then all of the property abutting on one side between an intersecting street or place and the dead end of the street or place.

**Frontage, Building**

The length of an enclosed building facing a public or private street. When a business does not front a public right-of-way, the Zoning Officer shall have the authority to designate the building frontage. In structures with more than one business, the frontage of each business shall be calculated separately in determining its sign area. See [Figure 14-G](#).

**Frontage, Street or Frontage, Lot**

The distance between the side lot lines measured along the required front setback line. In the case of a corner lot, frontage shall be measured along the shortest front lot line. Property lines that abut limited access roads shall not be construed to be included within any calculation of frontage. See [Figure 14-G](#).

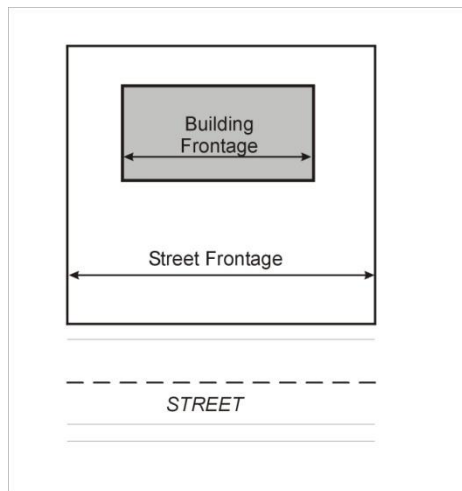


Figure 14-G: Illustration of building frontage versus street frontage.

**Fuel Stations**

An establishment that sells unleaded and diesel gasoline or any other fuel used in vehicles as part of a retail activity available to the general public. Such use shall not include electric charging stations that are located in individual parking spaces.

**Funeral Homes and Mortuaries**

Any dwelling or establishment used and occupied by a professional licensed mortician for human burial preparation and funeral services.

**Gambling Facilities**

The operation or conducting of any games played with cards, roulette wheels, dice, craps, slot machines, video lottery terminals, mechanical, electromechanical, or electronic amusement devices or machines for the return of money, cash, or prizes, or anything that could be redeemed for money, cash, or prizes. This definition does not apply to games of chance operated by charitable organizations licensed under West Virginia state law.

### **Garage**

An accessory building primarily intended for and used for the enclosed storage or shelter of motor vehicles of the owner or occupant of the principal building that is attached or detached from the principal building.



*Figure 14-H: Example image of a detached garage.*

### **Government Offices and Buildings**

Buildings or office space utilized for the provision of services by the City of Logan, Logan County, the State of West Virginia, or the Federal Government that does not include outdoor activities other than parking. Such uses include but are not limited to the municipal building, fire stations, police stations, government offices, and other similar uses.

### **Grade**

- "Finished grade" means the elevation of the finished surface of the ground adjoining the building after final grading and normal settlement at the front of the building.
- "Natural grade" means the elevation of the undisturbed natural surface of the ground prior to any excavation or fill.

### **Grading**

The stripping, cutting, filling, or stockpiling, or any combination thereof, of earth-disturbing activity, inclusive of land in its cut or filled conditions

### **Grass**

A species of perennial grass grown as permanent lawns or for landscape purposes.

### **Ground Cover**

A plant growing less than two feet in height at maturity that is grown for ornamental purposes. Ground covers are used as an alternative to grasses. On slopes, ground covers control erosion while eliminating the maintenance of mowing on hillsides. Ground covers also provide permanent covering of open ground to prevent erosion and/or create visual appeal.

### **Group Residential Facilities**

A facility that is owned, leased, or operated by a behavioral health service provider which provides residential services and supervision for six to 12 individuals who are disabled and has not more than three staff persons who reside on the premises, is licensed by the Department of Health and Human Resources, and complies with the state Fire Commission for residential facilities. For the purposes of this definition, disabled shall mean any person who has a physical or mental impairment that substantially limits one or more major life activities or a record of such impairment or being regarded as having such an impairment. A physical or mental impairment includes but is not limited to, diseases and conditions such as orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV infection, developmental disabilities, mental illness, drug addiction (other than addiction caused by current illegal use of a controlled substance), and alcoholism.

### **Halfway Houses**

A licensed home for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently. Such placement is pursuant to the authority or consent of the West Virginia Department of Corrections. This use shall be subject to the rules and regulations for the dwelling unit type for which the persons are housed in, to include the limitation of the number of persons permitted to live within a dwelling unit type.

**Hedge**

A barrier of natural vegetation usually consisting of evergreen trees, shrubs, or tall grasses that can be used to enclose, screen, or separate areas.

**Home Occupations**

A business, profession, occupation, or trade that is conducted within a residential dwelling unit for the economic gain or support of a resident of the dwelling and is incidental and secondary to the residential use of the lot and does not adversely or perceptively affect the character of the lot or surrounding area.

**Hospitals**

An institution providing inpatient and outpatient medical and/or surgical care, diagnosis, and treatment for sick or injured persons, including beds for overnight care, laboratories, medical offices, training facilities, and other necessary accessory facilities. Such uses may include ambulance service.

**Hotels**

A facility offering fewer than 30 days of consecutive lodging accommodations, in individual rooms or suites, on a daily rate, to the general public and potentially providing additional accessory services such as, but not limited to, restaurants, meeting rooms, and recreational facilities. Such facilities shall provide only internal access to the individual rooms or suites.

**Housekeeping Unit**

Five or fewer unrelated persons occupying a single dwelling unit, living as a single group, and doing their own cooking on the premises as distinguished from a group occupying a hotel, motel, or other group living arrangement.

**Improvements**

Street pavement or resurfacing, curbs, gutters, sidewalks, water lines, sewer lines, storm drains, street lights, flood control and drainage facilities, utility lines, structures, landscaping, and other related matters normally associated with the subdivision of raw land into building sites.

**Industrial Service Uses**

Establishments primarily engaged in rendering services to office, business, retail, or industrial establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; office equipment rental and leasing; commercial research; development and testing; photo finishing; machine repair, and personal supply services.

**Landscaping**

The improvement of a lot, parcel, tract of land, or portion thereof, with grass, shrubs, and trees. Landscaping may include pedestrian walks, flower beds, trees, shrubs, and ornamental objects such as fountains, statuary, and other similar natural and artificial objects. In no case shall landscaping include the use of artificial plants or flowers as a replacement for living plant material unless such an artificial plant closely resembles its natural counterpart in size, form, and color.

**Light Fixture**

The assembly that holds the lamp in a lighting system. It includes the elements designed to give light output controls, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

**Light, Cutoff**

An artificial outdoor light source designed to ensure that no light is directly emitted above a horizontal line parallel to the ground as regulated and illustrated in Section [7.02](#).

**Light, Non-Cutoff**

An artificial outdoor light source designed to allow light to be directly emitted above a horizontal line parallel to the ground as regulated and illustrated in Section [7.02](#).

**Loading Area**

An off-street space or berth for the loading or unloading of freight carriers on the same lot as the structure they serve.

**Loading Space**

An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials that has an appropriate means of access.

**Lot**

A parcel of land occupied, or to be occupied, by a main building and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such open spaces as are required and having the minimum size required for a lot under the provisions of this ordinance. Every lot shall abut upon and have permanent access to a public street and have a minimum frontage required in the zoning district in which the lot is located.

**Lot Area**

The total area within the lot lines of a lot, excluding any street right-of-way or other legal public dedication. See Section [4.08](#).

**Lot Depth**

The mean horizontal distance between the front lot line and the rear lot line as measured in the general direction of the side lot lines.

**Lot Line**

The boundary line defining the limits of the lot. Lot line is synonymous with "property line."

**Lot Line, Front**

In the case of an interior lot, means that line separating such lot from the street. In the case of a corner lot or double frontage lot, the front lot line is that line separating such lot from either street. See Section [4.08](#).

**Lot Line, Rear**

A lot line opposite a front yard. A rear lot line is generally parallel to or less than 45 degrees to the front street right-of-way line. See Section [4.08](#).

**Lot Line, Side**

A lot line generally extending perpendicular to the front and rear lot lines. The side lot line extends between the front lot line and the rear lot line. See Section [4.08](#).

**Lot of Record**

A lot that is part of a subdivision, the part of which has been recorded in the office of the Clerk of the Logan County Commission, or a parcel of land the deed to which was recorded prior to the adoption of this ordinance.

**Lot Width**

The horizontal distance between the side lot lines as measured at right angles to the lot depth at the front setback line. See Section [4.08](#).

**Lot, Corner**

A lot that adjoins the point of intersection or meeting of two or more streets and in which the interior angle formed by the street lines is one 135 degrees or less. See [Figure 14-I](#).

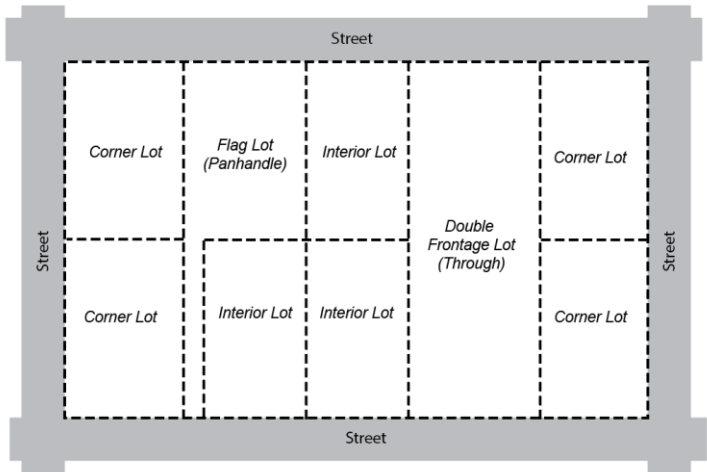


Figure 14-I: Illustration of typical lot types.

**Lot, Curved or Lot, Cul-De-Sac**

A lot with frontage along a curved street or cul-de-sac. See Section [4.08](#).

**Lot, Double Frontage (Through)**

A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot. See Section [4.08](#).

**Lot, Flag (Panhandle)**

A lot that has a frontage on, or is abutting, a public street but where access is provided through a narrow strip of land that fronts or has access to the street. See Section [4.08](#).

**Lot, Interior**

A lot that has a single street frontage, a rear lot line, and at least two side lot lines. See Section [4.08](#).

**Lot, Nonconforming**

A lot that does not meet the minimum lot width, street frontage, and/or lot area requirements of the applicable zoning district.

**Luminaire**

The complete lighting unit, including the lamp, the fixture, and other parts.

**Machinery and Heavy Equipment Sales, Leasing, Storage, and Service**

An establishment engaged in the temporary storage for the sale or repair of tractor-trailer trucks and other equipment or vehicles used in commercial, industrial, or construction enterprises such as, but not limited to, bulldozers, cranes, backhoes, rollers, and lifts.

**Manufactured Home**

A building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403, and that has a permanent label, or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards.

**Manufactured Housing**

See the definition of "mobile home" and "manufactured home."

**Manufacturing and Production (Heavy or Outdoors)**

An establishment engaged in manufacturing, assembly, fabrication, packaging, or other industrial processing of products primarily from extracted or raw materials, or the bulk storage and handling of such products and materials, or an industrial establishment having the potential to produce noise, dust, glare, odors or vibration beyond its lot line. Such use shall also include any manufacturing or assembly facility that requires outdoor storage areas that exceed 500 square feet in area.

**Manufacturing and Production (Indoors)**

The manufacturing, processing, or assembly of products within a fully enclosed structure where noise, odor, light, or vibrations is not noticeable from the adjacent properties. See also "manufacturing and production (heavy or outdoors)."

**Maximum Extent Feasible**

That no feasible and prudent alternative exists, and all possible efforts to comply with the regulation or to minimize the potential harm or adverse impacts have been undertaken. Economic considerations may be taken into consideration.

**Mechanical Equipment**

Equipment, devices, and accessories, the use of which relate to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.

**Medical/Dental Clinics and Health Centers**

Office or clinic uses concerned with the diagnosis, treatment, and care of human beings. This definition includes 24-hour urgent care centers but does not include "hospitals," "medication maintenance facilities or dispensaries," "skilled nursing facilities," or "personal care facilities." The use shall not include any ambulance service or overnight stays.

**Memorial and Monuments**

A statue, building, or other structure erected to commemorate a famous or notable person, place, or event.



**Microbrewery, Microdistillery, or Microwinery**

An establishment where beer, liquor, wine, or other alcoholic beverage is manufactured on the premises. The manufacturing may be the principal use of the facility or may be subordinate to a restaurant, bar, or tavern. A microbrewery, microdistillery, or microwinery may include some off-site distribution of its alcoholic beverages consistent with state law.

**Mixed-Use Buildings**

A building that contains a commercial or office use and a residential use within a single building as provided for in this ordinance and where the residential uses are located on upper floors only.

**Mobile Home**

A building unit or assembly of closed construction that is fabricated in an off-site facility is more than 35 body feet in length or, when erected on site, is 320 or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home as defined in this ordinance.

**Modification**

Any change in use, addition, or alteration of a building or structure, or any change in type and/or increase in the quantity of regulated substances used, stored, handled, or produced.

**Multi-Tenant Use**

A principal building with multiple uses of a similar use classification (e.g., commercial, industrial, etc.) but that has multiple tenant spaces and/or multiple use types. A strip mall or strip center with a mixture of retail uses such as restaurants, retail stores, and personal service establishments is an example of a multi-tenant building. Such use does not include any use within the residential use classification.

**Nonconforming Site Condition**

A site improvement that was legally established but no longer conforms to the parking, landscaping, architectural, or other design standards for the site exclusive of the lot area, lot width, or other site development standards established in this ordinance. See also "lot, nonconforming."

**Nonconformity, Legal**

Lots, uses of land, structures, and uses of structures and land in combination, lawfully existing at the time of enactment of this ordinance or its amendments, which do not conform to the regulations of the applicable zoning district, and are therefore incompatible. See also the definitions for "use, nonconforming," "lot, nonconforming," "building, nonconforming," "nonconforming site condition," and "structure, nonconforming."

**Nudity, Nude, or State of Nudity**

The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering; or the showing of the female breasts with less than a fully opaque covering of any part of the nipple.

**Nursery Schools and Day Care Centers (Adult or Child)**

A facility administering to the needs of infants, toddlers, pre-school children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any portion of the 24-hour day in a building other than the child's own home. This use may include but is not limited to, after-school programs, office day care centers, and principal structures used for only day care/nursery school programs. This term may also include adult day care centers where persons other than children, family members, or guardians care for an adult for a portion of a 24-hour day in a building other than the adult's home.

**Nursery Schools or Day Care Centers**

As an accessory use, this term shall have the same meaning as "nursery schools and day care centers (adult or child)."

**Occupant**

A person who, on a regular basis, spends nights at a residence. A person is considered an occupant regardless of whether they spend the majority of their nights at a residence if the times they do stay overnight are regular and recurrent. In addition, a person shall be considered an occupant if their clothes or other daily living supplies are maintained at the residence.

**Ordinance Text or Zoning Map Amendment**

An amendment or change to the text of this ordinance or to the zoning map as reviewed and decided upon by the City Council in accordance with Section [3.03](#).

**Outdoor Dining**

Areas on sidewalks (public or private), patios, or other unenclosed areas, excluding vehicular use areas, that are designated for outdoor seating where patrons may be served food and beverage for on-site dining.

**Outdoor Display or Sales**

The placement of small products or materials for sale outside of a retail or wholesale sales establishment.

**Outdoor Lighting**

Any source of light that is installed or mounted outside of an enclosed building or structure, not including streetlights installed or maintained along public streets by a government agency or public utility. See Section [7.02](#).

**Outdoor Storage and Bulk Sales**

A facility or lot used for the outdoor storage of materials and/or vehicles that are to be used for construction or for manufacturing processes and where such uses are the principal use of the lot. Such use may also include the sales of materials related to construction or manufacturing where the sales are direct to contractors or businesses and not open to the general public for retail sales. This use may also include the outdoor storage of fleet vehicles.

**Outdoor Vending Machines and Drop-Off Boxes**

Vending machines are small machines that are capable of accepting money in return for the automatic dispensing of goods (e.g., drink machines, snack machines, video machines). Drop-off boxes are small collection facilities where recyclable materials, clothing, or household goods are accepted by the public (e.g., neighborhood recycling stations and thrift store collection boxes).

**Owner**

Any individual, firm, association, syndicate, co-partnership corporation, trust, or any other legal entity, having legal title to or sufficient proprietary interest in the land.

**Parking Aisle**

The driveway or access drive by which a vehicle enters and departs a parking space.

**Parking Area**

An area designed for the parking of vehicles that includes parking spaces and any driveways or access drives specifically related to the parking spaces.

**Parking Lots**

An outdoor area made up of marked parking spaces and associated access drives where motor vehicles may be stored for the purpose of temporary off-street parking. Also known as a parking area.

**Parking Space**

A suitably surfaced and permanently maintained area on privately owned property, either within or outside of a building, of sufficient size to store one standard automobile.

**Passive Parks, Open Spaces, and Natural Areas**

Any park or recreational facility where there is no grading of the land, and no construction of facilities, lighting, or development of ball fields, with the exception that such passive parks, recreational facilities, and conservation areas may include the development of trails and sidewalks.

**Patio**

An unenclosed outdoor hard-surfaced area that is no higher than 18 inches above the ground. If a pergola or other roof structure is attached to the principal building and extends over the patio, then the patio and roofing shall be considered a porch.



*Figure 14-J: Illustrative example of a patio.*

**Pedestrian Way**

A public or private right-of-way solely for pedestrian circulation.

**Pennants**

A triangular or irregular piece of fabric or other material, whether or not containing a message of any kind, commonly attached by strings or strands, or supported on small poles, intended to flap in the wind.

**Performance Standard**

A criterion established to control enclosure, dust, smoke, fire and explosive hazards, lighting, glare and heat, noise, odor, toxic and noxious matter, vibrations, and other conditions created by or inherent in uses of land or buildings. See Section [7.03](#).

**Person**

Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county or State agency within West Virginia, the federal government, or any combination thereof. An agency is further defined in the West Virginia Code as any governmental entity of the State and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.

**Personal Care**

Personal care means the provision of personal services, such as help in walking and getting in and out of bed; assistance with bathing, dressing, and feeding; preparation of a special diet; and supervision over medications that can be self-administered. See the definition of "skilled nursing or personal care facilities."

**Personal Services**

Establishments that are primarily engaged in providing services generally involving the care of the person or person's possessions. Personal services may include but are not limited to laundry and dry-cleaning services, barber shops, beauty salons, health and fitness studios, music schools, informational and instructional services, tanning salons, and portrait studios.

**Places of Worship**

A religious institution where a congregation of any denomination regularly participates in or holds religious services, meetings, and other activities, including buildings in which the religious services are held and which may include accessory indoor uses such as, but not limited to, day care or educational institution facilities.

**Planning Commission**

The City Planning Commission of the City of Logan, West Virginia

**Playsets, Treehouses and Trampolines**

Recreational equipment for children that may include, but is not limited to, swings, slides, monkey bars, and play enclosures.

### **Porch**

An unenclosed area with a roof that is attached to a building but not used for livable space. A porch also includes paved areas without a roof if the surface area is higher than 18 inches above the adjacent grade (e.g., stoops).



*Figure 14-K: Examples of a front porch (left) and back porch (right).*

### **Portable Storage Unit**

A portable enclosed unit of durable construction or material, not to exceed eight feet wide by eight feet tall by 16 feet long, designed for permanent or temporary storage, which can be transported by vehicle and left on-site.

### **Public Parking Lots or Garages**

An outdoor area or structure owned by a government agency that contains marked parking spaces and associated access drives where motor vehicles may be stored for the purpose of temporary off-street parking.

### **Public Utility Buildings and Facilities**

Structures and land used for storage, transmission, or recovery facility for water, sewerage, telephone, electric or gas, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Service Commission of West Virginia. Such uses may also include salt storage or other outdoor activities necessary for the efficient operations of the local, state, or federal government.

### **Raceway or Wireway**

An elongated metal enclosure used to mount individual channel lettering and to conceal related transformers and wiring.

### **Real Estate Sales/Model Homes**

A dwelling unit temporarily converted into a sales and display office or a temporary sales office established in a development or subdivision for the purpose of providing an example of the units in the development.

### **Research and Development Facilities**

An establishment or facility for carrying on the investigation in the natural, physical, or social sciences or engineering and development as an extension of investigation with the objective of creating end products. Such establishment shall not include the manufacturing or assembly of products beyond the development of prototype systems or products. All activities shall take place within an enclosed building.

### **Residential Community Centers**

A building used for the meeting, recreation, or social activity designed to accommodate and serve the residents of a subdivision or development with which the use is associated and that may be privately owned or jointly owned by property owners.

### **Restaurants, Taverns, and Bars**

An establishment whose principal business is the selling of food and beverages to the customer in a ready-to-consume state, in individual servings, to be consumed within the building or as takeaway. This use also includes establishments whose primary purpose is providing or dispensing, for on-site consumption, any fermented malt beverage, malt beverage, special malt, vinous, or spirituous liquors. The sale of food products, including, but not limited to, sandwiches and light snacks, may be a secondary use to the service of the aforementioned drinks.

### **Retail Businesses**

Any business selling goods, wares, or merchandise directly to the ultimate consumer for direct consumption and not for resale. Retail business use includes but are not limited to, such activities as supermarkets, stores that sell electronics, hardware, apparel, footwear, appliances, furniture, department stores, and discount stores.

### **Retail Commercial Uses**

For the purposes of accessory uses, this term shall mean “retail businesses” that are accessory to the principal use.

### **Right-of-Way**

A strip or area of land dedicated for use as a public roadway, railroad, or dedicated for other public uses. For streets, the right-of-way typically includes the paved roadway, curbs, lawn strips, sidewalks, lighting, drainage facilities, and utilities and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

### **Roadway**

See the definition of “street.”

### **Roof Line**

Either the edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette. In regards to sign placement, where a building has several roof levels, the pertinent roofline or parapet shall be the one belonging to that portion of the building on whose wall the sign is located.

### **Satellite Dishes**

A parabolic dish antenna that includes its structural supports that is used for the reception of various satellite television programming signals.

### **Screening**

A method of visually shielding or obscuring a structure, parking, mechanical equipment, refuse collection center, or incompatible land use, from another and from public view by fencing, walls, beams, or densely planted vegetation.

### **Seasonal Agricultural Sales**

A temporary structure or vehicle used in the sale of agricultural products such as fruits, vegetables, and juices where such facilities may sell agricultural products not grown on-site. Seasonal sales, including the sale of such items as trees, pumpkins, seasonal produce, and similar agricultural products, which may be permitted on a temporary basis pursuant to Section [6.02](#).

### **Self-Storage Facilities**

A building that contains varying sizes of individual, compartmentalized, or controlled-access stalls, lockers, or buildings for the dead storage of a customer’s goods or wares where the access to such stalls or lockers can occur within the inside of the building or from the exterior of the building and where there is no outdoor storage. Self-storage facilities shall also include buildings used for storage of personal or business items, regardless of commercial purposes, where such storage exceeds 40 percent of the total floor area of the building.

### **Semi-Nudity or Semi-Nude Condition**

A state of dress in which opaque clothing covers not more than the genitals, pubic region, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

### **Setback**

The required minimum horizontal distance between a lot line or the proposed right-of-way, whichever is more restrictive, and a building, surface parking lot, or structure as established by this ordinance.

### **Setback Line**

A line established by this ordinance generally parallel with and measured from the lot line or the right-of-way, whichever is more restrictive, defining the minimum distance a building, structure, parking area, or outdoor storage area shall be located from the said lot or thoroughfare line, except as may be provided in this ordinance. For example, a front yard setback line is the line formed by applying the minimum front yard setback from any applicable front lot lines.

**Setback, Building**

The setback required from any right-of-way and the principal or accessory building as established in this ordinance.

**Setback, Front**

The minimum distance required between a building, structure, parking area, outside storage area, or other use of the property and the front lot line. See Section [4.08](#).

**Setback, Rear**

The minimum distance required between a building, structure, parking area, outside storage area, or other use of the property and the rear lot line. See Section [4.08](#).

**Setback, Side**

The minimum distance required between a building, structure, parking area, outside storage area, or other use of the property and a lot line that is shared with another lot where such lot line is defined as a side lot line. See Section [4.08](#).

**Short-Term Rental**

The leasing of any residential property, either the entire dwelling unit or individual rooms, for a period of time less than 30 consecutive days to one additional family or housekeeping unit. This use includes but is not limited to, homes or rooms being rented through services such as AirBnB, VRBO, HomeAway, etc. This shall be defined as an accessory use that is distinct from “bed and breakfast.”

**Shrub**

A self-supporting, deciduous, or evergreen woody plant, normally branched near the base, bushy, and less than 15 feet in height.

**Sidewalk**

That portion of the road right-of-way, easement, or private property that is improved for the use of pedestrian traffic by the general public.

**Sign**

Any object, device, display or structure, or part thereof situated outdoors or adjacent to the interior of a window or doorway which is used for advertising, identifying, displaying, directing, or attracting attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, pictures, logos, figures, designs, symbols, fixtures, colors, illumination or projected images.

**Sign Area**

The entire display area of a sign, including the advertising surface located on one or more sign faces and any framing, trim, and molding, but not including the supporting structure as measured pursuant to Section [11.04](#).

**Sign Copy**

Those letters, numerals, figures, symbols, logos, and graphic elements that comprises the content or message of a sign.

**Sign Face**

The surface of the sign upon, against, or through which the message of the sign is exhibited.

**Sign Height**

The vertical distance of a sign, from top to bottom, as measured in accordance with Section [11.04](#).

**Sign Structure**

Any structure which supports, has supported, or is capable of supporting a sign, including any decorative cover.

**Sign, A-Frame**

A freestanding sign which is ordinarily in the shape of an “A” or some variation thereof, which is readily moveable and is not permanently attached to the ground or any structure. See also the definition of T-frame signs.

**Sign, Awning**

A permanent sign painted on, printed on, or attached flat against the surface of an awning.

**Sign, Balloon**

A sign that is an air-inflated object, which may be of various shapes, made of flexible fabric, resting on the ground or a structure, and equipped with a portable blower motor that provides a constant flow of air into the device. Balloon signs are restrained, attached, or held in place by a cord, rope, cable, or similar method. See also the definition of “Air-Activated Graphic.”

**Sign, Banner**

A temporary sign constructed of canvas, plastic, fabric, or similar lightweight, non-rigid material that can be mounted to a structure with a cord, rope, cable, or a similar method. Where a banner sign is supported by stakes or another type of supporting structure for posting in the ground, such sign shall be classified as a temporary “yard sign.”

**Sign, Building**

Any permanent sign attached to any part of a building, including an awning, canopy, marquee, projecting, hanging, or wall signs.

**Sign, Canopy**

A permanent sign attached to the soffit or fascia of a canopy of a covered entrance or walkway, or to a permanent awning or marquee.

**Sign, Changeable Copy**

A sign designed so that the characters, letters, or illustrations can be changed or rearranged manually or electronically without altering the sign display surface. See also the definition of “sign, manual changeable copy” and “electronic message center.”

**Sign, Drive-Through Facility**

Any permanent signage allocated along a drive-through lane that is oriented toward the customer or user in the drive-through lane.

**Sign, Driveway**

A small permanent sign located near driveway access points and/or at the intersection of internal access drives.

**Sign, Feather**

A temporary sign that is constructed of cloth, canvas, plastic fabric, or similar lightweight, non-rigid material and that is supported by a single vertical pole mounted into the ground or on a portable structure.

**Sign, Freestanding**

Any sign supported upon the ground by a monument, pedestal, pole, bracing, or other permanent measure and not attached to any building or other structure.

**Sign, Illuminated**

Any sign which has characters, letters, figures, designs, or outlines illuminated externally or internally by any light source other than non-reflected natural daylight.

**Sign, Manual Changeable Copy**

A changeable copy sign designed so that the characters, letters, or illustrations can be changed or rearranged manually. May also be known as readerboards.

**Sign, Monument**

A permanent freestanding sign, not attached to a building, that is placed upon or supported by the ground independently of any other structure and is limited to a height not to exceed eight feet. Monument signs, unlike pole signs, typically are on a monument or pedestal structure.



Figure 14-L: The above image provides an example of two monument signs.

**Sign, Nonconforming**

Any sign which was erected legally prior to the adoption of this ordinance but which does not comply with subsequently enacted sign restrictions and regulations or a sign which does not conform to the sign code requirements.

**Sign, Permanent**

A sign permitted by this ordinance to be located on the premises for an unlimited period of time and designed to be permanently attached to a structure or the ground that is constructed of rigid, non-flexible materials.

**Sign, Pole**

A sign which is supported wholly by a pole or poles and designed so as to permit pedestrian or vehicular traffic to flow underneath the bottom of the sign cabinet or copy.



Figure 14-M: The above image provides an example of a pole sign.

**Sign, Portable**

A temporary sign that may be placed outside, during business hours, in accordance with this ordinance and all other applicable ordinances and resolutions. See the definition of “sign, T-frame” and “sign, A-frame.”

**Sign, Projecting**

A permanent sign that is affixed perpendicular to a building or wall and extends more than 18 inches beyond the face of such building or wall.

**Sign, Roof**

Any sign erected on a roof.



**Sign, Signature Wall**

A wall sign that is typically placed beneath the roof line of a tall building wall facing Interstate 75.

**Sign, Temporary**

A sign that is neither permanently anchored to the ground, nor permanently affixed to a structure, nor mounted on a chassis, and/or is intended for a limited period of display.

**Sign, T-Frame**

A temporary sidewalk sign which is ordinarily in the shape of an upside-down “T” or some variation thereof, which is readily moveable and is not permanently attached to the ground or any structure. See also the definition for A-frame signs.

**Sign, Wall**

A permanent sign attached directly to an exterior wall of a building and which does not extend more than 18 inches from nor above the roof line or beyond the limits of the outside wall, with the exposed face of the sign in a plane parallel to the building wall. Murals and other painted signs are considered wall signs pursuant to this section.

**Sign, Window**

Any sign that is applied to the interior or exterior of a window or door, or a sign located near a window or door within a building, for the purpose of being visible and read from the outside of the building.

**Sign, Yard**

Any temporary sign placed on the ground or attached to a supporting structure, posts, or poles that is not attached to any building.

**Skilled Nursing**

Those nursing services and procedures employed in caring for the sick require training, judgment, technical knowledge, and skills beyond those which the untrained person possesses. It involves administering medications and carrying out procedures in accordance with the orders, instructions, and prescriptions of the attending physician or surgeon. See the definition of “skilled nursing or personal care facilities.”

**Skilled Nursing or Personal Care Facilities**

A long-term or short-term in-patient care facility that provides skilled nursing services or personal care in a facility that is not in a traditional dwelling type (e.g., single-family dwelling). Such facilities shall not mean the same as “hospitals” or “group homes.” Examples include nursing homes, rehabilitation facilities, memory care facilities, etc.

**Solar Panels**

The equipment and requisite hardware that provides and is used for collecting, transferring, converting, storing, or using incident solar energy for water heating, space heating, cooling, generating electricity, or other applications that would otherwise require the use of a conventional source of energy such as petroleum products, natural gas, manufactured gas, or electricity produced from a nonrenewable resource. Such systems include passive solar energy systems that capture the sun's energy in building design and construction components, solar thermal energy systems that convert sunlight to heat, as in a hot water tank or swimming pool, and photovoltaic solar energy systems that convert sunlight to electricity.

**Specified Anatomical Areas**

- The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below a point immediately above the top of the areola.

**Specified Sexual Activities**

Specified sexual activities mean any of the following:

- The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or
- Excretory functions as part of or in connection with any of the activities set forth in Section [4.07\(i\)](#).

**Stacking Space**

A portion of the vehicular use area on a site that is dedicated to the temporary storage or "standing" of vehicles engaged in drive-through use of the site or development.

**Static/Instant Message Change**

On electronic message centers, a static or instant message change is when one message changes to another message instantly without scrolling, flashing, or other movements of the message.

**Story**

That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

- "First story," as applied to the residential district, means the lowest story or the ground story of any building, the floor of which is less than four feet below the average contact ground level at the exterior walls of the building.
- "Half story," as applied to the residential districts, means a partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are less than four feet above the floor of such story.

**Streamer**

A ribbon-shaped or cord-like rope that may have pennants and/or banners attached and which is stretched or hung between two or more supports.

**Street**

A right-of-way dedicated or deeded and accepted for public use, which provides for vehicular and pedestrian traffic. A street will typically include:

- The paved area, or cartway, principally for use by motorized vehicles and usually bordered with curbs and gutter;
- A sidewalk between the paved area and right-of-way line principally for use by pedestrians; and
- A landscaped area between the sidewalk and paved area that is often called a "tree lawn."

**Street Line**

The street right-of-way line.

**Street, Arterial**

A public street that carries vehicular traffic of a State or Federal highway route, carrying heavy loads and large volumes of traffic, usually on a continuous route.

**Street, Collector**

A street that carries or is expected to carry large amounts of vehicular traffic whose origin or destination is not primarily in abutting properties. Collector streets are intended to provide access to neighborhoods or sub-neighborhoods and to carry traffic from local streets to the arterial street system, including the principal entrance and circulation routes within a residential subdivision.

**Street, Cul-de-Sac**

A short street having one open end to traffic and the other end permanently terminated by a vehicle turnaround.

**Street, Dead-End**

A street temporarily having only one outlet for vehicular traffic and intended to be extended or continued in the future.

**Street, Local**

A street designed primarily for providing access to residential, commercial, or other abutting property through driveways or other access points.

**Street, Private**

An area set aside to provide access for vehicular traffic within a development that is not dedicated or intended to be dedicated to the City and that is not maintained by the City.

**Street, Public**

A street that has been dedicated or deeded to the public for public use and which affords principal access to abutting property.

**Structure**

That which is constructed on or under the ground or attached or connected thereto, including but not limited to: buildings, barriers, bridges, bulkheads, chimneys, fences, garages, outdoor seating facilities, parking areas, platforms, pools, poles, streets, tanks, tents, towers, sheds, signs, walls, and walks; and excluding trailers and other vehicles whether on wheels or other supports.

**Structure, Accessory**

A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

**Structure, Nonconforming**

A structure or portion thereof, lawfully existing on the effective date of this ordinance, or amendments thereto, and which does not conform to the provisions of the code in the district in which it is located.

**Structure, Temporary**

A structure permitted for a limited duration with the intent that such use will terminate or the structure will be removed automatically upon expiration of the fixed time period. A temporary structure is without a foundation or footing.

**Subdivision**

The division of any parcel of land, shown as a unit or as contiguous units on the last preceding tax roll, into two or more parcels, sites, or lots, for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures, not involving the division, combination, alteration, or allocation of land for the opening, widening or extension of any street or streets, and the division or allocation of land as open spaces for common use by owners, occupants or leaseholders or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities, shall be exempted.

**Swimming Pools**

Any pool, lake, or open tank, primarily used for swimming or wading, not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than three feet and as further defined in Section [6.01\(e\)\(17\)](#).

**Telecommunications**

All communications services and the use thereof, whether by means of public or private providers, and includes cellular telecommunications, personal wireless services, and amateur radio broadcasting, by any transmission, emission, or reception of signals, writing, images, and sounds, or information of any nature by wire, radio, visual or the electromagnetic system.

**Temporary Special Events**

A temporary use on private property that is not usual or customary for that property and the zoning district in which the subject property is located (e.g., festivals, circuses, and other temporary events).

**Theaters**

Any building or part of a building used for the showing of motion pictures or for dramatic, dance, musical, live, or pre-recorded performances. Such use may include a lobby area and refreshment stand for the patrons.

**Tower (Wireless Telecommunications)**

Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

**Transitional Housing**

Housing and supportive services that are provided to homeless individuals and families for no longer than 24 months to enable them to obtain and maintain independent, permanent housing.

**Transmission Equipment (Wireless Telecommunications)**

Equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

**Tree**

A self-supporting woody, deciduous, or evergreen plant with a well-defined central trunk or stem which normally grows to a mature height of 15 feet or more in Logan County, West Virginia, as applicable.

**Tree, Deciduous**

Generally, a tree that loses all of its leaves for part of the year. Sometimes called a broad-leaf tree or a hardwood tree.

**Tree, Evergreen**

A tree that remains green throughout the year.

**Use**

Any purpose for which a lot, building, or other structure, or a tract of land may be designated, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

**Use, Accessory**

A use located on the same lot with the principal use of a building or land but incidental and subordinate to and constructed subsequent to the principal use of the building or land.

**Use, Conditional**

A use that may be appropriate or desirable in a specified zoning district but requires special approval through the conditional use approval process (See Section [3.05.](#)) because, if not carefully located or designed, it may create special problems such as excessive height or bulk or abnormal traffic congestion.

**Use, Nonconforming**

Any building or land lawfully occupied by a use that was in accordance with the zoning regulations, if any, in existence when the use commenced and which, through subsequent enactments or changes of zoning regulations either prior to the passage of this ordinance or by the passage of this ordinance or amendments thereto, does not conform or did not conform thereafter with the use regulations of the district in which it is situated.

**Use, Permitted**

A use that is permitted in a specified zoning district through either a zoning certificate or site plan review, as may be applicable.

**Use, Permitted with Standards**

A use that is permitted in a specified zoning district through either a zoning certificate or site plan review, as may be applicable, provided such use meets the additional use-specific standards set forth in this ordinance.

**Use, Principal or Use, Main**

The main use of land or buildings, as distinguished from subordinate or accessory uses. A principal use may be either permitted, permitted with standards, or conditionally permitted.

**Use, Temporary**

A use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time and does not involve the construction or alteration of any permanent structure.

**Variance**

A modification of the strict terms of these regulations where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of these regulations would result in a practical difficulty. See Section [3.05.](#)

**Vehicle**

Every device, including a motorized bicycle, in, upon, or by which any person or property may be transported or drawn upon a street or highway, except motorized wheelchairs and devices other than bicycles moved by human power. Where a vehicle type is not specifically defined in this ordinance, such vehicle shall be considered as defined by the West Virginia Revised Code.

**Vehicle Sales and Leasing**

Any building or land where new or used passenger cars, pick-up trucks, motorcycles, boats, trailers, and other recreational vehicles, in operational condition, are sold or leased to customers.

**Vehicle Washing Establishments**

The use of a site for washing and cleaning passenger vehicles, recreational vehicles, or other light-duty equipment. This shall include establishments that provide car detailing services.

**Vehicle, Recreational**

A vehicle or a vehicular portable structure designed and constructed to be primarily used for recreational purposes or for the purpose of a temporary dwelling used for travel, recreation, or vacation. Recreational vehicles may include but are not limited to, trailers, boats, jet skis and other personal watercraft, snowmobiles, and the following uses.

**Vehicular Use Area**

The entire paved area encompassing all parking spaces, loading areas, stacking spaces, and the access drives that provide access to those spaces, but that does not include the entry drive or driveway with no direct access to a parking space, stacking space, or loading space. For residential uses, the vehicular use area shall include the driveway, garage, and any other parking areas.

**Violation**

The failure of a structure or other development to be fully compliant with the regulations of this ordinance.

**Wall**

An architectural partition with a height and length greater than its thickness that is used to divide or enclose an area or to support another structure.

**Wall, Retaining**

A retaining wall is a structure that holds back soil or rock from a building, structure, or area. Retaining walls prevent downslope movement or erosion and provide support for vertical or near-vertical grade changes.

**Warehouses**

A business establishment primarily engaged in the long-term storage (over 30 days) of goods and merchandise within a single building (not individual compartments) that may contain loading and unloading docks. Warehouses shall not include any building facade that contains loading docks or garages that occupy more than 40 percent of the facade width. See also "self-storage facilities."

**Wholesale Establishments**

An establishment or place of business primarily engaged in selling merchandise to retailers, including associated showrooms and warehousing; to industrial, commercial, institutions, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**Windblown Devices**

Objects and signs designed to inform or attract attention, all or part of which is set in motion by or remains inflated by wind, mechanical, electrical, or any other means and may include, but are not limited to, pennants, ribbons, streamers, spinners, or similar objects.

**Wireless Communications Towers and Antenna**

A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines for the provision of personal wireless services.

**Yard**

An open space on the same lot with a building unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this ordinance. See Section [4.08](#). for rules of measurement and determination for all yard types.

**Yard, Front**

Unless otherwise stated in Section [4.08](#), a front yard is an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.

**Yard, Rear**

Unless otherwise stated in Section [4.08](#), a rear yard is an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building.

**Yard, Side**

Unless otherwise stated in Section [4.08](#), a side yard is an open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building.

**Zoning Certificate**

A permit issued by the Zoning Officer stating that a proposed development or activity complies with this ordinance as established in Section [3.06](#).

**Zoning District**

An area within the City limits for which the regulations and requirements governing use are uniform as defined by [Chapter 4: Zoning Districts](#).

**Zoning District, Base**

The base zoning district is the zoning district established for each property that includes any of the residential and nonresidential zoning districts established in Section [4.02](#).

**Zoning District, Nonresidential**

The term “nonresidential zoning district” shall include the B-1, B-2, B-3, GI, and P-I Districts, regardless if residential uses are permitted.

**Zoning District, Overlay**

A special secondary zoning district that lies over an underlying base zoning district. Such overlay district provides development control which alters some of the base zoning district regulations.

**Zoning District, Residential**

The term “residential zoning district” shall include the R-1, R-2, or R-3 Districts.

**Zoning Map**

An accurate map depicting the City of Logan, West Virginia, and indicating the official boundaries of the zoning districts established by this ordinance. See Section [4.04](#).

**Zoning Officer**

The Zoning Officer for the City of Logan, West Virginia. The individual designated to administer and enforce this ordinance unless otherwise stated.