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Mullin & Lonergan Associates, Inc.
Pittsburgh-Philadelphia, Pennsylvania

Enacted: December 14, 1998

Chapter 13 Zoning Ordinances

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ARTICLE 1313
ZONING PURPOSES AND AUTHORITY

ARTICLE 1313
ZONING PURPOSES AND AUTHORITY

Section 1313.01 **Short Title**

This Ordinance and Ordinances supplemental or amendatory thereto, shall be known and may be cited as the "Zoning Ordinance of the City of Huntington, West Virginia".

Section 1313.02 **Purposes**

This Ordinance is enacted pursuant to a Comprehensive Plan for the following purposes:

A. To promote, protect, and facilitate one (1) or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, civil defense, disaster evacuation, airports, and national defense facilities; and the provision of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds, and other public requirements.

B. To prevent one (1) or more of the following: over crowding of land; blight; danger and congestion in travel and transportation; loss of health; life or property from fire; flood; panic; or other dangers.

Section 1313.03 **Authority**

This Ordinance is enacted pursuant to the authority contained in the Urban and Rural Planning and Zoning Act, Chapter Eight of the Code of West Virginia, as amended, and in accordance with the Charter of Huntington, West Virginia, 1960.

Section 1313.04 **Use of Property**

No building, land area, or water body shall hereafter be used or occupied and no building or part thereof shall be erected, altered, or relocated unless in conformance with the regulations herein specified for the Zoning District in which it is located. The use or occupation of any building, land area, or water area, or part thereof, which is not specifically permitted by any rule or regulation of the ordinance, is a violation of this ordinance.

Section 1313.05 **Effective Date**

This Ordinance shall take effect on the day of enactment.

Section 1313.06 **Statement of Consistency**

This Ordinance is enacted with consideration for the natural and manmade environment of the City, the character of this community, its various parts and the suitability of the various parts for particular uses and structures. Furthermore, this Ordinance is enacted in accordance with an overall program, the *City of Huntington Comprehensive Plan*.

Section 1313.07 **Building Code**

The City of Huntington, in accordance with State code, has enacted a Building Code. The Building Code and this Zoning Ordinance are complimentary and the requirements of each document must be considered with the most restrictive applying.

ARTICLE 1315
DEFINITIONS

ARTICLE 1315

DEFINITIONS

<u>Section 1315.01</u> **Interpretation of Words**

For the purpose of this Ordinance, certain terms and words used herein shall be interpreted or defined as follows:

1. Words used in the present tense shall include the future.
2. Words used in the singular shall include the plural.
3. Words used in the plural shall include the singular.
4. The word "person" includes a profit or non-profit corporation, company, partnership, individual or an association of individuals.
5. The word "lot" includes the words "plot" or "parcel."
6. The terms "shall" and "will" are always mandatory.
7. The word "may" is permissive.
8. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, "arranged" or "designed" to be used or occupied.
9. The word "building" includes the word "structure".
10. Unless otherwise specified, all distances shall be measured horizontally.
11. The masculine shall include the feminine.

<u>Section 1315.02</u> **Meaning of Words**

Unless otherwise stated, the following words shall, for the purpose of this Ordinance have the following meanings:

5. ACCESSORY STRUCTURE - A structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building.

10. ACCESSORY USE - A use customarily incidental and subordinate to the principal use and located on the same lot with such principal use.

15. ADULT DAY CARE CENTER - A use providing supervised care and assistance primarily to persons who are over age 60, mentally retarded or physically handicapped who need such daily assistance because of their limited physical abilities, Alzheimer disease or mental retardation. This use shall not include persons who need oversight because of behavior that is criminal or violent. This use may involve occasional overnight stays, but shall not primarily be a residential use. The use shall involve typical stays of less than a total of 60 hours per week.

20. ADULT BOOKSTORE - Any commercial establishment in which is offered for sale as a substantial or significant portion of its stock in trade video cassettes, movies, books, magazines or other periodicals or other media which are distinguished or characterized by their emphasis on nudity or sexual conduct or on activities which if presented in live presentation would constitute adult entertainment.

25. ADULT BUSINESS - An adult bookstore, commercial movie theater or movie house, or other adult entertainment as defined herein. In the event that an activity or business which might fall under a use category other than adult business is combined with and/or includes activities which constitute an adult bookstore, adult movie theater or movie house or adult entertainment as defined herein, then such activity or business shall constitute an adult business and shall be governed by those provisions in this Ordinance applicable to any other use category.

30. ADULT ENTERTAINMENT - A commercial establishment providing, either as a sole use or in connection with or in addition to other uses, entertainment consisting of any exhibition, display, or dance which involves the exposure to view of any portion of the female breast below the top of the areola, male genitals, female genitals, or the pubic hair, anus, or cleft of the buttocks of any person or male genitals in a discernibly turgid state even if completely and opaquely covered.

35. ADULT MOVIE THEATER OR MOVIE HOUSE (including Adult Mini-Theaters or Adult Arcades) - Any commercial establishment to which the public is permitted or invited, where for any form of consideration, films, motion pictures, video cassettes, slides or similar photograph reproductions are regularly shown depicting actual acts of masturbation, sexual intercourse, oral copulation, sodomy or displaying human genitals in a state of sexual stimulation, arousal, or tumescence, or depicting excretory functions as part of or in connection with any of the activities set forth in this section.

40. AGRICULTURAL USE - Any portion of land used for agriculture including horticulture truck gardening, floriculture, trees, grain, forage crops, or any use of the same general character, but not the raising of livestock.

45. ALLEY - A public service way providing a secondary means of public access to abutting property and not intended for general traffic circulation.

50. ALTERATION - Any change, addition, or modification in construction or occupancy of a structure.

55. ALTERATION, STRUCTURAL - Any change in the supporting members of a building such as bearing walls, columns, beams, or girders, or in the dimensions or configurations of the roof or exterior walls.

57. ANIMAL HOSPITAL / CLINIC - A use or structure intended or used primarily for the testing and treatment of animals on an emergency or outpatient basis; synonymous with veterinary hospital.

60. ANTENNA, STANDARD - A device, partially or wholly exterior to a building, that is used for receiving and /or transmitting short-wave or citizens band radio frequencies or for receiving television, radio or similar frequencies, but not including a satellite dish antennae or a commercial communication antennae. This includes any accessory supporting structures.

65. AREA, BUILDING - The total of the exterior areas taken on a horizontal plane at the main floor of the principal building and all accessory buildings, exclusive of uncovered porches, terraces, and steps.

70. AREA, LOT - The total area within the lot lines.

75 BAR OR TAVERN - Premises used primarily (gross revenue from alcoholic beverages sale are greater than ½ of total revenue) for sale or dispensing of alcoholic beverages by the drink for on site consumption, and where food may be available for consumption on the premises as accessory to the principal use.

80. BASE FLOOD - The flood which has been selected to serve as the basis upon which the flood plain management provisions of this and other ordinances have been prepared; for purposes of this Ordinance, the one-hundred (100) year flood.

85. BASEMENT - A space having one-half or more of its floor-to-ceiling height above the average adjoining grade and with a floor-to-ceiling height of not less than 6 1/2 feet. However, for the purposes of flood plain management a basement is any area of the building having its floor subgrade (below ground level) on all sides.

90. BED AND BREAKFAST OR TOURIST HOUSE - A house or portion thereof, where short term lodging rooms and meals are provided. The operator of the house shall live on the premises or in adjacent premises.

95. BEDROOM - A private room planned and intended for sleeping, separable from other rooms by a door, and accessible to a bathroom without crossing another bedroom.

100. BILLBOARD - See SIGN, BILLBOARD.

105. BLOCK - A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity to development.

110. BOARD - The Board of Zoning Appeals of the City of Huntington.

115. BOARDING HOUSE - A residential use in which: a) 2 or more individual rooms that do not meet the definition of a dwelling unit are rented for habitation or b) a dwelling unit that includes greater than the permitted maximum number of unrelated persons. A boarding house shall not include a use that meets the definition of hotel, dormitory, motel, life care center, personal care center, group residential facilities, or nursing home. A college fraternity or sorority house used as a residence shall be considered a type of boarding house. A boarding house may either involve or not involve the providing of meals to residents. This use shall only involve renting living accommodations for minimum periods of five consecutive days.

120. BUFFER YARD - A strip of land that a) separates one use from another use or feature, and b) is not occupied by any building, parking, outdoor storage or any use other than open space or approved pedestrian pathways. A buffer yard may be part of the minimum setback distance, but land within an existing or future street right-of-way shall not be used to meet a buffer yard requirement.

125. BUILDING - Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature. When separated by party walls, without any opening through walls, each portion of a building shall be considered a separate structure.

130. BUILDING CODE - The building code of the City of Huntington as adopted by Ordinance 1711 of the City of Huntington.

135. BUILDING COVERAGE - The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot. See Figure 1315.A

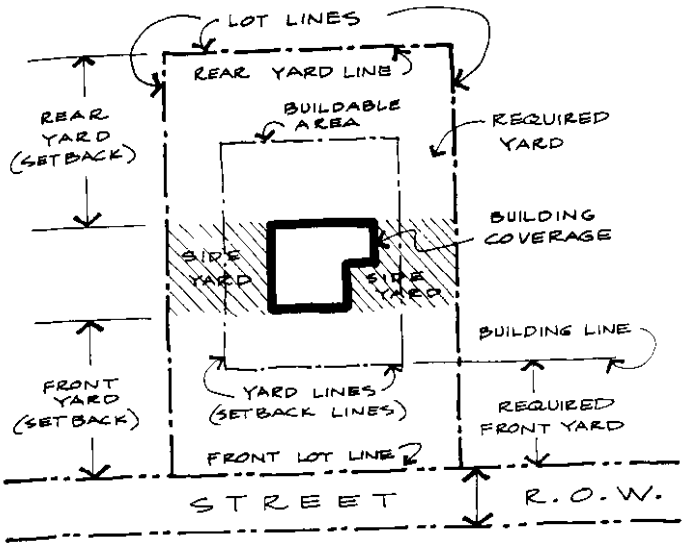


Figure 1315.A

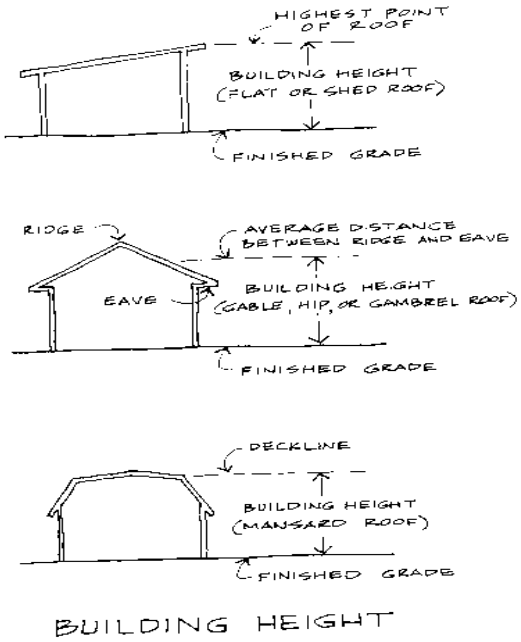


Figure 1315.B

140. BUILDING HEIGHT - The vertical distance measured from the average elevation of the finished grade of the structure to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs. See Figure 1315.B

145. BUILDING LINE - A line parallel to the street line that passes through the point of the principal building nearest the front lot line. See SETBACK LINE.

150. BUILDING PERMIT - A permit signed by the Code Official stating that proposed improvement, development, or use compare with the provisions of this Ordinance and the Building Code.

155. BUILDING, PRINCIPAL - A building in which is conducted the principal use of the lot on which it is located. Where a part of an accessory building is attached to the principal building in a substantial manner, as by a roof, such accessory building shall be considered a part of the principal building, provide that a carport shall not be considered a part of the principal building.

160. BUILDING WIDTH - The horizontal measurement between two structural walls of one building that are generally parallel, measured in one general direction that is most closely parallel to the required lot width. For a townhouse, this width shall be the width of each dwelling unit.

165. BUSINESS - The engaging in the purchase, sale, barter or exchange of goods, wares, merchandise or services; the maintenance or operation of offices, or recreational and amusement enterprises for profit.

170. CAMP, PUBLIC - Any area or tract of land used or designed to accommodate two (2) or more camping parties, including cabins, tents, or other camping outfits.

175. CARPORT - An open space for the storage of one (1) or more vehicles in the same manner as a private garage, which may be covered by a roof supported by columns or posts except that one (1) or more walls may be the walls of the main building to which the carport is an accessory building or extension.

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

185. CERTIFICATE OF APPROPRIATENESS - A certificate issued by the Huntington Historic Preservation Commission indicating its approval of plans for additions to a landmark, building, structure or site; removal or demolition of a landmark, building, structure or site; or new construction within a designated Historic District Zone.

190. CERTIFICATE OF OCCUPANCY - A certificate signed by the Code Official as defined by City Ordinances stating that the Occupancy and Use of Land or a Building or Structure complies with the provisions of this Ordinance and the Building Code.

193. CHARITABLE ORGANIZATIONS - As regards exempt tax status, such includes: Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.

195. CLEAR-SIGHT TRIANGLE - The triangular area formed by two (2) intersecting street centerlines and a line interconnecting points established on each centerline and further described by Section 1314.04 of this Ordinance.

200. CLINIC OR MEDICAL HEALTH CENTER - An establishment where patients are admitted for examination and treatment by two or more licensed physicians, dentists, psychologists, chiropractors, or social workers, and their professional associates, and where patients are not usually lodged overnight.

205. CLUB - Buildings or lands owned or operated by a corporation, association, or persons for a social, education, or recreational purpose; but not primarily for profit or to render a service that is customarily carried on as a business.

210. CODE OFFICIAL - The officer or other designated authority charged with the administration and enforcement of this code, the Building Code, or other pertinent City development codes.

215. COMMERCIAL COMMUNICATIONS TOWER/ANTENNAE - A structure, partially or wholly exterior to a building, used for transmitting or retransmitting electronic signals, such as but not limited to antenna used for transmitting commercial radio or television signals or cellular telephone communications. This shall not include a standard antenna.

220. COMMISSION - The Planning Commission of the City of Huntington.

225. COMMON OPEN SPACE - A parcel or parcels of land or an area of water suitable for recreational purposes or a combination of such land and water within a development site and designed and intended for the use or enjoyment of residents of the development, not including streets, off-street parking areas, and areas set aside for public facilities. Common open space shall be substantially free of structures, but may contain such improvements as are in the development plan as finally approved and as are appropriate for the recreation of residents.

230. COMPREHENSIVE PLAN - The Comprehensive Plan for the City of Huntington, West Virginia.

235. CONDOMINIUM - An estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a residential building, such as an apartment. A condominium may include, in addition, a separate interest in other portions of such real property. A condominium is an ownership arrangement, not a land use; therefore, it is allowed in any

district and under the same restriction as the land uses that it comprises. A condominium shall not negate lot nor other requirements intended to provide adequate light, air, and privacy.

240. CONGREGATE HOUSING - A residence for four or more elderly persons (age 60 and older) within which are provided living and sleeping rooms, meal preparation, laundry services, and room cleaning. Congregate housing may also provide other services, such as transportation for routine social and medical appointments and counseling.

245. CONVENTIONAL SUBDIVISION - A subdivision in which all or most of a plot or parcel is divided into lots and streets with little or no area reserved as common open space.

250. DAY CARE, CHILD - A use involving the supervised care of children under age 16 outside of the children's own home primarily for periods of less than 18 hours during the average day. This use may also include educational programs that are supplementary to State-required education, including a "nursery school." The following three types of day care are permitted without regulation by this Ordinance: 1) care of children by their own relatives or 2) care of one to three children within any dwelling unit, in addition to children who are relatives of the care giver. See also the definition of ADULT DAY CARE CENTER.

A. CHILD DAY CARE CENTER, AS AN ACCESSORY USE. A type of day care use that provides care for six or fewer children at one time who are not a relative of the care giver. See Section 1341.13.

B. CHILD DAY CARE CENTER, AS A PRINCIPAL USE. A type of day care use that provides care for seven or more children at any one time who are not relatives of the primary operator. See Section 1341.25.

255. DECK - A constructed open area, usually attached to or part of and with direct access to or from, a building.

260. DENSITY - A measure of the number of dwelling units which occupy, or may occupy, an area of land.

265. DEVELOPER - The legal or beneficial owner or owners of a lot or of any land included in a proposed development including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests in such land.

270. DEVELOPMENT - The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance, and any use or extension of the use of land.

275. DEVELOPMENT PLAN - A drawing, including a legal or site description, of the real estate involved which shows the location and size of all existing and proposed Lots, Building, Structures, and Yards; location and dimension of the Building Lines and easements; widths and lengths of all entrances and exits to and from said real estate; location of all adjacent or adjoining Streets; all of which presents a unified or organized arrangement of Streets, Lots, Buildings and Public and Service Facilities and other improvements such as landscape development, and Public Parking Areas, all of which shall have a functional relationship to the real estate comprising the planned development and to the use of properties immediately adjacent thereto.

280. DISABILITY - A physical or mental impairment which substantially limits one or more major life activities or a record of such impairment or being regarded as having such an impairment. This term does not include the illegal use of or addiction to a controlled substance.

285. DISTRICT OR ZONING DISTRICT - An area constituted by or pursuant to this Ordinance and delineated by text and map as to location, extent, nature, and contents.

290. DORMITORY - A building used as group living quarter for students, religious order, or other groups as an associated use to a college, university, boarding school, orphanage, convent, monastery, or other similar use. Individual dormitory rooms do not include kitchens, except a group kitchen is permitted in each dormitory to serve all residents.

295. DRIVE-IN USE - An establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

300. DWELLING - A building or portion thereof, used primarily as a place of abode for one or more human beings, but not including hotels, motels, lodging or boarding houses, or tourist homes as defined in this Ordinance.

305. DWELLING TYPE:

(a) RESIDENTIAL CONVERSION UNIT - To be considered a conversion, any proposed alteration must be confined to the interior of an already existing structural shell. Any proposal to extend the sides or increase the height of an existing structure or to alter the foundation shall not be considered a conversion and shall be required to meet the appropriate provisions established in that district for that particular use.

(b) ATTACHED – A one-family dwelling attached to two or more one-family dwellings by common vertical or "party" walls and also referred to as row houses or fee-simple townhouses.

(c) SINGLE-FAMILY DETACHED - A dwelling unit which is designed for and occupied by not more than one-family and surrounded by open space or yards.

(d) SINGLE-FAMILY SEMI-DETACHED - Two (2) dwelling units accommodating two (2) families which are attached side by side through the use of adjoining walls, and having one (1) side yard adjacent to each dwelling unit.

(e) TWO-FAMILY DETACHED - Two (2) dwelling units accommodating four (4) families, two (2) units of which are located directly over the other two (2) units. A combination of both the single-family semi-detached and the two-family detached structures.

(f) MULTI-FAMILY DWELLING UNITS - Any building or structure having more than two (2) dwelling units.

(g) MANUFACTURED HOME - A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC 5401, et. seq.), which became effective June 15, 1976.

(h) MODULAR HOME - A factory-fabricated, transportable building consisting of units designed to be incorporated at a building site on a permanent foundation into a permanent structure, to be used for residential purposes and which bears a seal of compliance with regulations of the CABO one- and two-family building code or the BOCA code and other building codes adopted by the City of Huntington by ordinances.

(i) MOBILE HOME - A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

310. DWELLING UNIT - Any building or portion thereof which is designed and used exclusively for residential purposes of one family, and includes complete kitchen and bathroom facilities.

315. EDUCATIONAL INSTITUTION - Public or parochial pre-primary, primary, grade, high, preparatory school or academy; junior college, college or university, if public or founded or conducted by or under the sponsorship of a religious or charitable organization.

320. EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this Ordinance.

325. EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - The preparation of additional sites by the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

330. FAMILY - One or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit; provided that a group of four or more persons who are not within the second degree of kinship shall not be deemed to constitute a family. Notwithstanding the definition in the preceding sentence, a family shall be deemed to include four or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit, if said occupants are disabled persons as defined in this Ordinance. (See DISABILITY).

335. FENCE - An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

338. FIREARMS SALES ESTABLISHMENTS - An establishment engaged in the sale, manufacture for sale, or repair of fire arms, ammunition and ammunition components, and hunting or shooting equipment. (05-26-15)

340. FLEA MARKET - An occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage sales.

345. FLOOD - A general and temporary inundation of normally dry land areas.

350. FLOOD PLAIN - 1) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; 2) an area subject to the unusual and rapid accumulation or run-off of surface waters from any source.

355. FLOODWAY - The channel of a river or other watercourse and the adjacent land area that must be reserved to discharge the base flood without increasing the water surface elevation of that flood more than one foot at any point.

360. FLOOD PROOFING - Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their content.

365. FLOOR AREA, GROSS - The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

370. FLOOR AREA, GROUND - The square foot area of a residential building within its largest outside dimensions computed on a horizontal plane at the ground floor level exclusive of open porches, breeze-ways, terraces, garages, and exterior stairways.

375. FLOOR AREA, NET - The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

380. FLOOR AREA RATIO - The gross floor area of all buildings on a lot divided by the lot area.

390. FRATERNITY OR SORORITY - See "Boarding House"

395. FRONTAGE - That side of a lot abutting on a street; the front lot line.

400. FRONT YARD - See "Yard, Front."

405. GARAGE, PRIVATE - An enclosed building for the storage of one or more motor vehicles. No business, occupation or service shall be conducted in a private garage that is accessory to a dwelling, except as may be allowed as a home occupation.

410. GARAGE, PUBLIC - Any building, except those defined herein as a private garage, used for the storage, or care of motor vehicles, or where such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

415. GARAGE SALE - The accessory use of any lot for the occasional sale or auction of only common household goods and furniture and items of a closely similar character.

420. GOVERNING BODY - The City Council of the City of Huntington, West Virginia.

425. GRADE - The degree of rise or descent of a sloping surface.

430. GRADE, ESTABLISHING - The elevation of the centerline of the streets as officially established by the municipal authorities.

435. GRADE, FINISHED - The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

440. GROUP RESIDENTIAL FACILITY - A facility which provides residential services and supervision for individuals who are listed as having a disability or is occupied as a residence by individuals who are disabled.

445. HALFWAY HOUSE - 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 of the West Virginia Department of Corrections.

450. HEIGHT - See "Building, Height Of."

455. HELIPORT - An area, either at ground level or elevated on a structure, licensed or approved for the loading and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

460. HISTORIC STRUCTURE -

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historical district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior; or,

2. Directly by the Secretary of the Interior in states without approved programs.

465. HOME OCCUPATION - A routine, accessory and customary non-residential use conducted by a resident within or administered from a portion of a dwelling or its permitted accessory.

470. HOMEOWNERS ASSOCIATION - A community association, other than a condominium association which is organized in a development in which individual owners share common interests in open space or facilities.

475. HOSPITAL - An institution providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, heliport and staff offices which are an integral part of the facility, provided such institution is operated by, or treatment is given under direct supervision of licensed physicians.

Types of hospitals include general, mental, chronic disease, and allied special hospitals such as cardiac, contagious disease, maternity, orthopedic, cancer and the like.

480. HOTEL, MOTEL or INN - A building or buildings including rooms rented out to persons as clearly transient and temporary living quarters. Any such use that customarily involves the housing of persons for periods of time longer than 30 days shall be considered a "boarding house" and shall meet the requirements of that use. A hotel, motel or inn may include a restaurant, nightclub, newsstand or tavern, provided that such uses are clearly accessory to the principal use of overnight accommodations.

485. HOUSEHOLD PET - Animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, and rodents.

490. ILLUMINATED SIGN - See "SIGN, ILLUMINATED".

495. IMPROVEMENT LOCATION PERMIT - See "Building Permit"

500. INDUSTRY - Those fields of economic activity including forestry, fishing, hunting, trapping; mining; construction; manufacturing; transportation, communication, electric, gas and sanitary services; and wholesale trade.

510. INSTITUTIONAL USE - A non-profit or quasi-public use or institution such as a church, library, public, or private school, hospital, or municipally owned or operated building, structure or land used for public purpose.

515. JUNKYARD - Any place at which personal property is or may be salvaged for reuse, resale, or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or assorted; including, but not limited to used or salvaged base metal or metals, their compounds or combinations, used or salvaged rope, bags, paper, rags, glass, rubber, lumber millwork, brick and similar property except animal matter; and used motor vehicles, machinery or equipment which is used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.

520. KENNEL - An establishment licensed to operate a facility housing four or more dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

525. LANDOWNER - The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land.

530. LIGHTING:

(a) DIFFUSED - That form of lighting wherein the light passes from the source through a translucent cover or shade.

(b) DIRECT OR FLOOD - That form of lighting wherein the source is visible and the light is distributed directly from it to the object to be illuminated.

(c) INDIRECT - That form of lighting wherein the light source is entirely hidden, the light being projected to a suitable reflector from which it is reflected to the object to be illuminated.

532. LIMITED VIDEO LOTTERY/KENO ESTABLISHMENT - Any establishment offering limited video lottery/Keno forms of entertainment. This shall include any establishment which requires a license from the West Virginia Lottery Commission to operate.

535. LOADING SPACE - An off-street space or berth used for the loading or unloading of commercial vehicles.

540. LOT - A designated parcel, tract or area of land established by a plat, subdivision, or as otherwise permitted by law and to be used, developed or built upon as a unit. See Figure 1315.C.

545. LOT AREA - The total area within the lot lines of a lot, excluding any street rights-of-way.

550. LOT, CORNER - A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees. See Figure 1315.C.

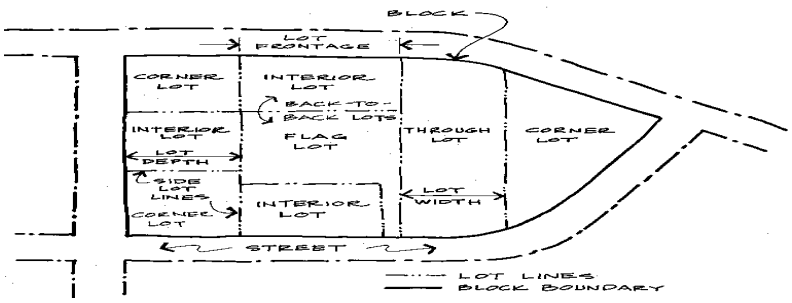


Figure 1315.C

555. LOT COVERAGE - The area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.

560. LOT DEPTH - The average horizontal distance between the front and rear lot lines. For lots where the front and rear lot lines are not parallel, the lot depth should be measured by drawing lines from the front to rear lot lines, at right angles to the front lot line, every ten feet and averaging the length of these lines. See Figure 1315.C.

565. LOT, FLAG - A lot not fronting on or abutting a public road and where access to the public road is a narrow, private right-of-way. See Figure 1315.C.

570. LOT, FRONTAGE - The length of the front lot line measured at the street right-of-way line. See Figure 1315.C.

575. LOT, INTERIOR - A lot other than a corner lot or through lot. See Figure 1315.C.

580. LOT LINE - A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

585. LOT LINE, FRONT - The lot line separating a lot from a street right-of-way. A corner or through lot shall have two front lot lines.

590. LOT LINE, REAR - The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

595. LOT LINE, SIDE - Any lot line other than a front or rear lot line. See Figure 1315.C.

600. LOT, MINIMUM AREA OF - The smallest lot area established by the zoning ordinance on which a use or structure may be located in a particular district.

605. LOT OF RECORD - A lot which exists as shown or described on a plat or deed which is recorded in the Office of the Clerk of the County Court of either Cabell or Wayne County.

610. LOT, REVERSE FRONTAGE - A through lot which is not accessible from one of the parallel or non-intersecting streets upon which it fronts.

615. LOT, THROUGH - A lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot. See Figure 1315.C.

620. LOT WIDTH - The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line. See Figure 1315.C.

625. LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

630. MANUFACTURED HOMES - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

635. MANUFACTURED HOME PARK - A site with required improvements and utilities for the long-term parking of mobile homes which may include services and facilities for the residents.

640. MANUFACTURED HOME SUBDIVISION - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

645. MARINA - A facility for storing, servicing, fueling, berthing, and securing and launching of private pleasure craft that may include the sale of fuel and incidental supplies for the boat owners, crews, and guests.

650. MEDICAL OFFICE - A use involving the treatment and examination of patients by State-licensed physicians or dentists, provided that no patients shall be kept overnight on the premises. This use may involve the testing of tissue, blood or other human materials for medical or dental purposes.

655. MOTEL - See HOTEL.

660. MULTI-USE BUILDING - A building containing two or more distinct uses.

665. NEW CONSTRUCTION - Structures for which the start of construction as herein defined commenced on or after the effect date of this Ordinance and includes any subsequent improvements to such structures.

670. NEW MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this Ordinance.

675. NIGHTCLUB - A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing or other forms of entertainment are permitted and includes the term Cabaret.

680. NONCONFORMING LOT - A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

685. NONCONFORMING SIGN - Any sign lawfully existing on the effective date of an ordinance, or an amendment thereto, which renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

690. NONCONFORMING STRUCTURE OR BUILDING - A structure or building the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to a zoning ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

695. NONCONFORMING USE - A use or activity which was lawful prior to the adoption revision or amendment of a zoning ordinance, but which fails, by reasons of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

700. NURSING HOME - A facility licensed by the State for the housing and intermediate or fully-skilled nursing care of three or more persons.

705. OFFICE - A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government.

710. OFFICE BUILDING - A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand.

715. OFFICE PARK - A development on a tract of land that contains a number of separate office buildings, supporting uses and open space designed, planned, constructed and managed on an integrated and coordinated basis.

720. ONE-HUNDRED (100) YEAR FLOOD - A flood that has one chance in one-hundred or a one percent chance of being equaled or exceeded in any given year.

725. OPEN SPACE - Any parcel of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

730. OWNER - The duly authorized agent, attorney, purchaser, devisee, fiduciary or any person having vested or equitable interest in the lot in question.

735. PARKING AREA - Any public or private land area designed and used for parking motor vehicles including parking lots, garages, private driveways and legally designated areas of public streets.

740. PARKING AREA, PRIVATE - A parking area for the private use of the owners or occupants of the lot on which the parking area is located.

745. PARKING AREA, PUBLIC - A parking area available to the public, with or without compensation, or used to accommodate clients, customers, or employees.

750. PARKING BAY - The parking module consisting of one or two rows of parking spaces and the aisle from which motor vehicles enter and leave the spaces.

755. PARKING LOT - An off-street, ground level area, usually surfaced and improved, for the temporary storage of motor vehicles.

760. PARKING SPACE - A space for the parking of a motor vehicle within a public parking area.

763. PAWNSHOP - Any business that loans money on deposit of personal property or deals in the purchase or possession of personal property on condition of selling the same back again to the pledger or depositor, or loans or advances money on personal property by taking chattel mortgage security thereon, and takes or receives such personal property. (04-27-15)

765. PERSON - Any individual or group of individuals, corporation, partnership, association or other entity, including State and local governments and agencies.

770. PERSONAL CARE HOME - A facility licensed or registered by the State for the housing and intermediate care of three or fewer persons.

775. PERSONAL SERVICE - An establishment that provides a service oriented to personal needs of the general public and which does not involve primarily retail or wholesale sales or service to businesses. Personal services include barber and beauty shops, massage therapy, photography studios, shoe repair shops, household appliance repair shops, dry cleaning and laundry, and other similar establishments.

780. PETS, KEEPING OF - The keeping of domestic animals that are normally considered to be kept in conjunction with a dwelling for the pleasures of the resident family. This shall include dogs, cats, small birds, gerbils, rabbits and other animals commonly sold in retail pet shops.

785. PLACE - An open, unoccupied, officially designated space other than a street or alley, permanently reserved for use as the principal means of access to abutting property.

790. PLANNED UNIT DEVELOPMENT - A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

795. PLAT - A map or chart indicating the subdivision or re-subdivision of land, either filed or intended to be filed for record.

800. PONDING BASIN - A designated area to store excess storm run off or stream water.

805. PORCH - A roofed open area, which may be screened, usually attached to or part of and with direct access to or from, a building.

810. PRINCIPAL BUILDING - The building in which the principal use of a lot is conducted. Any building that is physically attached to a principal building shall be considered part of that building.

815. PRINCIPAL USE - A dominant use(s) or main use on a lot, as opposed to an accessory use.

820. PRINCIPALLY ABOVE GROUND - Where at least 51 percent of the actual cash value of a structure, less land value, is above ground.

825. PRIVATE SCHOOL - Private, primary, grade, high, preparatory school or academy, but not including trade or business schools.

830. PROFESSIONAL OFFICE - Any office or business conducted by an individual or association including engineers, lawyers, doctors, dentists, architects, chiropractors and veterinarians who or that must be licensed under the Laws of the State.

835. PUBLIC RIGHT-OF-WAY: Land reserved for use as a road, street, alley, crosswalk, pedestrian way or other public purpose.

840. PUBLIC UTILITY INSTALLATIONS - The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, steam, or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire

alarm boxes, police call boxes, traffic signals, hydrants, transmission towers or poles, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal departments or commissions or for the public health or safety or general welfare.

845. RECREATION, PUBLIC - Recreation facilities and/or programs operated by the government or non-profit organization.

850. RECREATION, PRIVATE - Recreation facilities and/or programs operated by business for profit.

855. RECREATIONAL VEHICLE - A vehicle which is:

a. Built on a single chassis.
b. 400 square feet or less when measured at the largest horizontal projection.
c. Designed to be self-propelled or permanently towable by a light duty truck.
d. Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

860. RECYCLING COLLECTION CENTER - A use for collection and temporary storage of more than 500 pounds of common household material for recycling, but that does not involve processing or recycling other than routine sorting, baling and weighing of materials. This term shall not include the indoor storage of less than 500 pounds of household recyclables and their customary collection, which is a permitted by-right accessory use in all zoning districts, without additional regulations. A recycling collection center is also a permitted by-right accessory use to a public or private primary or secondary school, a religious use, a City-owned use, an emergency services station or a college or university.

865. RELIGIOUS USES - Buildings, synagogues, churches, religious retreats, monasteries, seminaries and shrines used primarily for religious and spiritual worship and that are operated for non-profit and non-commercial purposes. A religious use may include one dwelling unit as an accessory use for housing of employees of the religious use and their family. If a religious use is primarily residential in nature, it shall be regulated under the appropriate dwelling type.

870. REPAIR SHOP - Shops for the repair of appliances, watches, guns, bicycles and other household items.

875. RESIDENTIAL ACCESSORY BUILDING, STRUCTURE OR USE - A use or structure that is clearly accessory, customary and incidental to a principal residential use on a lot, including the following uses and uses that are very similar in nature: garage (household) carport, tennis court, garage sale, basketball backboard, household swimming pool, volleyball court, gazebo, storage shed, greenhouse, children's playhouse and children's play equipment.

880. RETAIL SERVICES - Establishments providing services or entertainment, as opposed to products, to the general public; including eating and drinking places, hotels and motels, finance, real estate and insurance, personal services, motion pictures, amusement and recreation services, health, educational and social services, museums and galleries.

885. RESTAURANT - Premises used primarily for the on site preparation, sale, serving, and or consumption of food and non-alcoholic beverages, and where alcoholic beverages by the drink also may be served for consumption on the premises as an accessory to the principal use.

890. RIGHT-OF-WAY - Land reserved for the public or others for use as a street or other purpose. Unless otherwise stated, "right-of-way" shall mean the existing street right-of-way.

(a) RIGHT -OF-WAY, EXISTING OR LEGAL - The line separating a lot from the established official street right-of-way that either the City or the State will own after the completion of any proposed land use or development of a use under this Ordinance.

(b) RIGHT-OF-WAY, FUTURE OR ULTIMATE - Land that is dedicated or is required to be defined or reserved for future dedication for uses as a street and for related public improvements. The terms "ultimate right-of-way", "right-of-way reserved for future dedication", and "future right-of-way" shall have the same meaning.

895. RIGHT-OF-WAY LINES - The lines that form the boundaries of a right-of-way.

900. SATELLITE DISH ANTENNA OR SATELLITE ANTENNA - A ground-based reflector, usually parabolic in shape, that receives electronic signals from a satellite. This term shall also include any pedestal or attached structure.

905. SCHOOL - A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, middle schools, and high schools.

910. SELF-STORAGE DEVELOPMENT - A building or group of buildings divided into individual separate access units which are rented or leased for the storage of personal and small business property.

911. SELF-STORAGE, INDOORS – A Structure containing separate, individual and private storage spaces of varying sizes that are leased or rented by individual lease for varying periods of time, with the use contained within one building and the storage bays accessed primarily from the interior of the building.

915. SETBACK - The required minimum horizontal distance between the building line and the related front, side, or rear property line.

920. SHELTER/EMERGENCY - A facility whose general purpose is to provide temporary food, clothing, or sleeping arrangements to persons, families, or parts of families on a temporary occupancy who are homeless or displaced due to urgent events, such as fire, flood, or incidents of domestic violence. The shelter shall have appropriate supervisory personnel. The maximum occupancy for an emergency shelter is 20 persons. Such facility must meet all applicable standards of the Department of Health, State Fire Marshal, and any other Federal, State, County or City agency which has regulatory power over the said facility.

925. SHELTER/MISSION - A facility whose general purpose is to provide temporary food, clothing or sleeping arrangements to persons, families, or parts of families on a temporary occupancy who are homeless or displaced. Short term counseling during stay may also be provided. The shelter shall have appropriate supervisory personnel. Such facility must meet all applicable standards of the Department of Health, State Fire Marshal, and any other Federal, State, County or City agency which has regulatory power over the said facility.

930. SHOPPING CENTER - A group of three or more retail business and service uses on a single site with common parking facilities.

935. SIGN - Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images excluding national or state flags, window displays, graffiti, athletic scoreboards, or the official announcements or signs of government. See Figure 1315.D.

940. SIGN, ANIMATED OR MOVING - Any sign or part of a sign which changes physical position by any movement or rotation or which gives the visual impression of such movement or rotation.

945. SIGN AREA - The entire face of a sign including the advertising surface and any framing, trim or molding, but not including the supporting structure. The copy of signs composed of individual letters, numerals, or other devices shall be the sum of the area of the smallest rectangle or other geometric figure encompassing each of said letter or device.

950. SIGN, AWNING, CANOPY OR MARQUEE - A sign that is mounted or painted on, or attached to, an awning, canopy, or marquee that is otherwise permitted by ordinance. See Figure 1315.D.

955. SIGN, BACK TO BACK - An off-premise sign consisting of two sign facings oriented in opposite directions with not more than one face per sign facing

960. SIGN, BILLBOARD OR OFF-PREMISE - A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located. The following shall not be considered an off-premise sign: Directional or Official Sign authorized by law, Real Estate Signs, or On-Premise Signs.

965. SIGN, BUSINESS - A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.

970. SIGN, BUSINESS PARK IDENTIFICATION - A sign which identifies the name of the integrated business park and/or the individual tenants and addresses of the individual tenants of the business park. Such signs are usually located at the principal access points of the business park.

975. SIGN, CHANGEABLE COPY - A sign which is designed to be changed on a regular basis and does not have one permanent message. Such signs usually have a sign board with interchangeable letters, numbers, and/or logos can be attached in order to advertise special sales or advertise special items for sale. Also ELECTRONIC MESSAGE BOARDS.

980. SIGN, CONSTRUCTION - A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project

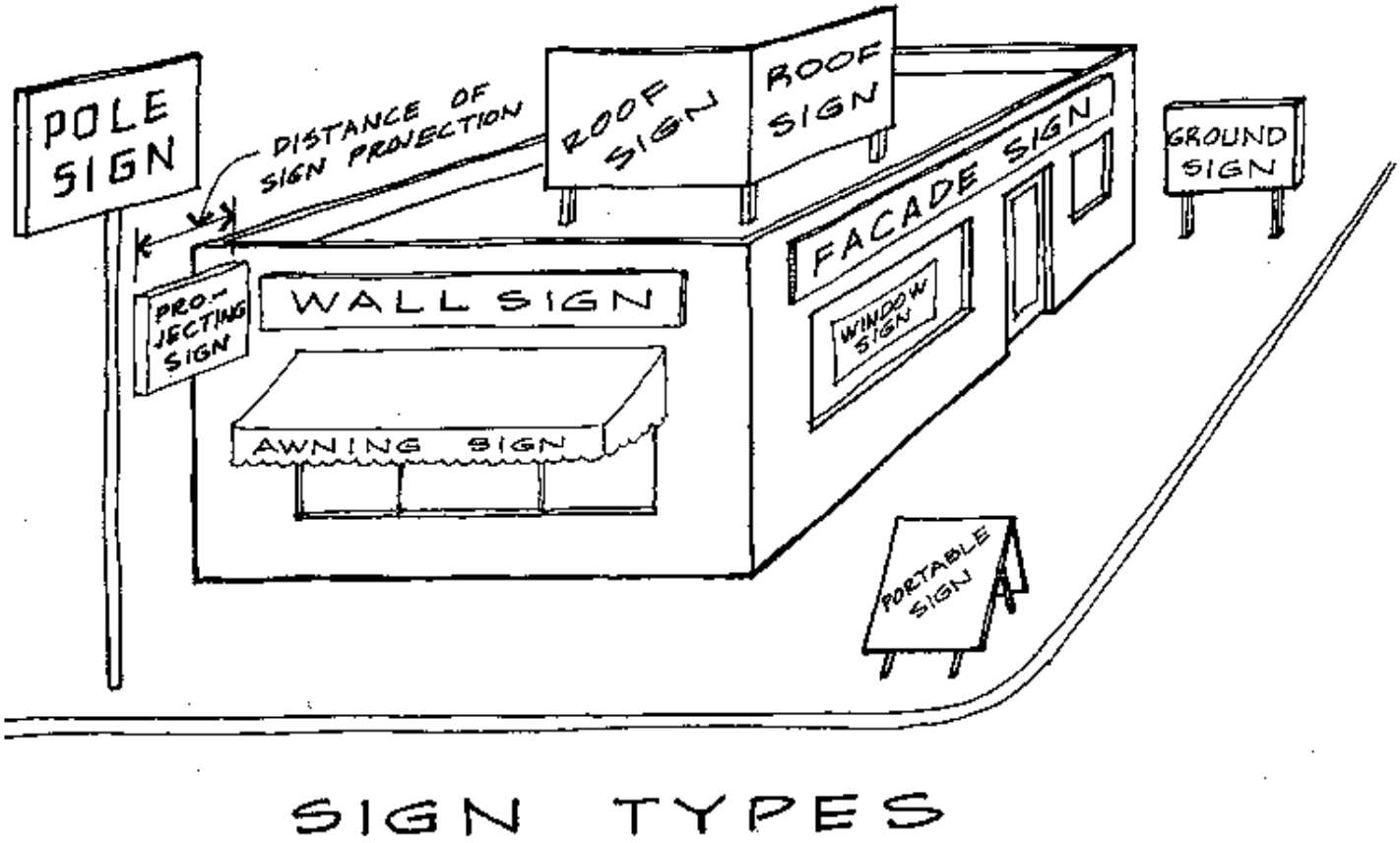


Figure 1315.D

985. SIGN, DIRECTIONAL - Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one-way", "entrance", and "exit".

990. SIGN, FACE - The area or display surface used for the message and visible in one direction at one time. Artificial light or color effects by any means whatsoever.

1000. SIGN, FREE STANDING - Any non-movable sign not affixed to a building.

1005. SIGN, GOVERNMENTAL - A sign erected and maintained pursuant to and in discharge of any governmental functions, or required by law, ordinance or other governmental regulation.

1010. SIGN, GROUND - Any sign, other than a pole sign, placed upon or supported by the ground independent of any other structure. See Figure 1315.D.

1015. SIGN, HOME OCCUPATION - A sign containing only the name and occupation of a permitted home occupation.

1020. SIGN, IDENTIFICATION - A sign giving the nature, logo, trademark or other identifying symbol; address, or any combination of the name, symbol and address of a building, business, development or establishment on the premises where it is located.

1025. SIGN, ILLUMINATED - A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed towards the sign.

1030. SIGN, MEMORIAL - A sign, tablet or plaque memorializing a person, event, structure or site.

1035. SIGN, NAME PLATE - A sign, located on the premises, giving the name or address, or both, of the owner or occupant of a building premises.

1040. SIGN, OFF-SITE DIRECTIONAL - A sign of any nature which is located not on the site it is advertising or directing customers to.

1045. SIGN, ON-SITE DIRECTIONAL - A sign of any nature which is located on the site it is advertising or directing customers to.

1050. SIGN, POLE - A sign that is mounted on a free-standing pole or other support so that the bottom edge of the sign face is six feet or more above ground. See Figure 1315.D.

1055. SIGN, POLITICAL - A temporary sign announcing or supporting political candidates or issues in connection with any national, state or local election.

1060. SIGN, PORTABLE - A sign that is not permanent, affixed to a building, structure or the ground. See Figure 1315.D.

1065. SIGN, PRIVATE SALE OR EVENT - A temporary sign advertising private sales of personal property such as "house sales," "garage sales," "rummage sales" and the like or private not-for-profit events such as picnics, carnivals, bazaars, game nights, art fairs, craft shows and Christmas tree sales.

1070. SIGN, PROJECTING - A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building. See Figure 1315.D.

1075. SIGN, REAL ESTATE - A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located.

1080. SIGN, RESIDENTIAL DEVELOPMENT DESIGNATION - A permanent sign which is erected to indicate the name of a residential subdivision or development. Such signs are usually located at the principal access points of such a development.

1085. SIGN, ROOF - A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable or hip roof or the deck line of a building with a mansard roof. See Figure 1315.D.

1090. SIGN, TEMPORARY - A sign of any nature which is designed and erected to advertise or bring attention to a temporary event, sale, issue, or item. Such signs are usually not erected of a permanent material and in a permanent manner contrary to permanent signs.

1095. TRI-VISION SIGN - An off-premise sign comprised of sections which rotate to display a series of advertisements, each advertisement being displayed for at least six (6) seconds continuously without movement; the during of move of section between advertisements not exceeding two (2) seconds.

1100. "V" TYPE SIGN - An off-premise sign structure which consists of sign facings placed at angles to each other, oriented in different directions and not exceeding 10 feet apart at the nearest point to each other.

1105. SIGN, WALL - A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than 12 inches from such building or structure. See Figure 1315.D.

1110. SIGN, WINDOW - A sign that is applied or attached to the exterior or interior of a window or located in such manner within a building that it can be seen from the exterior of the structure through a window. See Figure 1315.D.

1115. SINGLE-FAMILY DWELLING - See DWELLING, SINGLE FAMILY.

1120. SITE PLAN - A plan, prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land. Site development features include sanitary sewers, drainage, grading, pavement, walkways, electric lines, communication lines, water lines, gas lines, adjacent roadway, and landscaping features.

1125. SPECIAL PERMITS - Uses that are publicly operated and those uses traditionally affected with a public interest and those uses entirely private in character but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property and public facilities.

1130. SPECIAL SCHOOL - Any school which has as its primary purpose the instruction, care and rehabilitation of typical or exceptional children or adults such that the usual statutory educational requirements expressly or implicitly do not apply.

1135. START OF CONSTRUCTION - For other than new construction or substantial improvements under the Coastal Barrier Resources Act, Pub. Law 97-348, includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of the slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory building, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building whether or not that alteration affects the external dimensions of the building.

1140. 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 be no floor above it, then the space between any floor and the ceiling next above it.

1145. STORY, HALF - That portion of a building under a sloping gable, hip, or gambrel roof, the wall plates on at least two opposite exterior walls of which are not more than three (3) feet above the floor level of such half-story.

1150. STORY, HEIGHT OF - The vertical distance from top to top of two (2) successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is no ceiling, to the top of the roof rafters.

1155. STREET - Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct, and any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

1160. STRUCTURAL ALTERATION - Any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.

1165. STRUCTURE - A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. However, regarding flood plain management a structure is a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

1170. SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

1175. SUBSTANTIAL IMPROVEMENT - Any repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred "substantial damage", as defined herein, regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
b. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

1180. SWIMMING POOL, HOUSEHOLD - A man-made area with walls of man-made material intended to enclose water at least 30 inches deep for recreational bathing or swimming and that is intended to serve the residents of only one dwelling unit and their occasional guests.

1185. SWIMMING POOL, NON-HOUSEHOLD - A man-made area with walls of man-made material intended to enclose water at least 30 inches deep for recreational bathing or swimming and that does not meet the definition of a "household" swimming pool. This includes: 1) a "semi-public" pool that serves only residents of a development or members of a club and their occasional guest or 2) a "public" pool intended to serve the general public.

1190. TEMPORARY STRUCTURE - A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

1195. TEMPORARY USE - A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

1200. TRADE OR BUSINESS SCHOOL - Secretarial or business school or college when not publicly owned or conducted by or under the sponsorship of a religious, charitable or non-profit organization; or a school conducted as a business enterprise for teaching instrumental music, dancing, barbering or hair dressing, drafting or for the teaching of industrial or technical arts.

1205. TRAILER (TRAVEL AND RELATED CAMPING AND RECREATIONAL EQUIPMENT) - Shall include travel trailers, pickup coaches, motorized homes and recreational equipment as follows:

(a) TRAVEL TRAILER - A portable structure built on a chassis, designed to be towed and used as a temporary dwelling for travel, recreational and vacation purposes, and permanently identified as a travel trailer by the manufacturer of the trailer.

(b) PICKUP COACH OR RECREATION VEHICLE - A structure designed primarily to be mounted on a pickup or other truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation purposes.

(c) MOTORIZED HOME OR RECREATION VEHICLE - A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

(d) BOAT - A vessel designed to travel on water.

(e) BOAT TRAILER: A trailer designed to haul a boat as defined above.

1210. USE - The specific purpose for which land, water or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

1215. VARIANCE - A modification of the specific requirements of this Ordinance granted by the Board of Zoning Appeals in accordance with the terms of this Ordinance for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and district.

1220. YARD - An open space that lies between the principal or accessory building or buildings and the nearest lot line. Such yard is unoccupied and unobstructed from the ground upward except as may be specifically provided in the Zoning Ordinance. See Figure 1315.E.

1225. YARD DEPTH - The shortest distance between a lot line and a yard line.

1230. YARD, FRONT - A space extending the full width of the lot between any building and the front lot line, and measured perpendicular to the building at the closest point to the front lot line. Such front yard is unoccupied and unobstructed from the ground upward, other than by steps, walks, terraces, driveways, lamp posts, and similar appurtenances. Covered porches whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard. See Figure 1315.E.

1235. YARD LINE - A line drawn parallel to a lot line at a distance therefrom equal to the depth of the required yard.

1240. YARD, REAR - A space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line. Such rear yard is unoccupied and unobstructed from the ground upward other than by accessory buildings which do not occupy more than 30 percent of the required space, and steps, walks, terraces, driveways, lamp posts, and similar structures. See Figure 1315.E.

1245. YARD, REQUIRED - The open space between the lot line and the buildable area within which no structure shall be located except as provided in the Zoning Ordinance. See Figure 1315.E

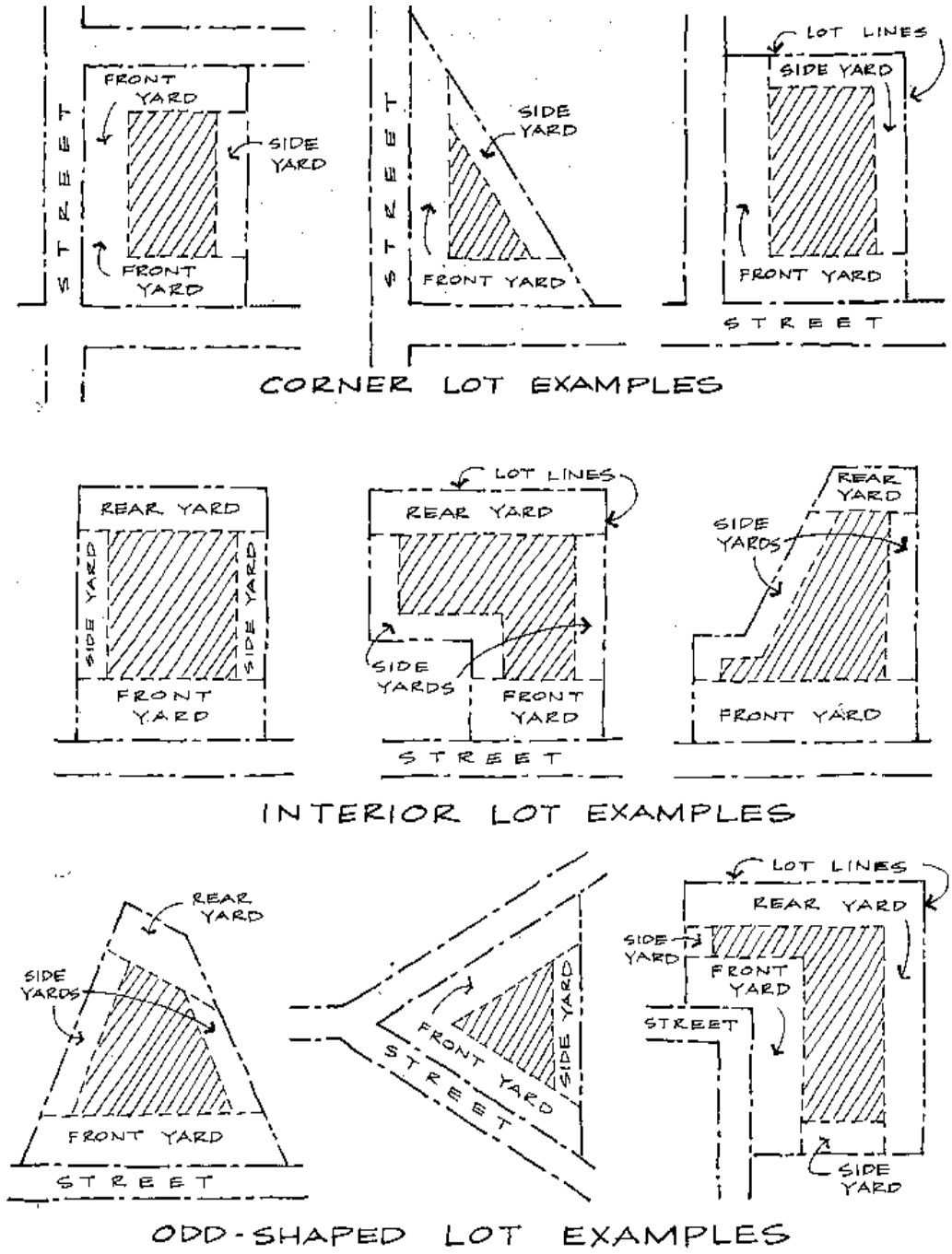
1250. YARD, SIDE - A space extending from the front yard to the rear yard between the principal building and the side lot line measured perpendicular from the side lot line to the closest point of the principal building. Such space is unoccupied and unobstructed from the ground upward other than by architectural appurtenances projecting not more than 24 inches from the building, or open or lattice-enclosed fire escapes or fireproof outside stairways, projecting not more than four feet, and certain accessory uses in accordance with the provisions of this Ordinance. See Figure 1315.E.

Figure 1315.E

1255. ZONE DISTRICTS - A specifically delineated area or district within which regulations and requirements uniformly govern the use, placement, spacing and size of land and buildings.

1260. ZONING - A legal and administrative process whereby a municipality divides its territory into Districts and applies to each District a number of regulations to control the use of land, the height and bulk of buildings, and the area of ground built upon.

1265. ZONING MAP - The map or maps, which are a part of this Zoning Ordinance, and delineate the boundaries of the zone districts.



ARTICLE 1317
ESTABLISHMENT OF DISTRICTS AND ZONE MAP

ARTICLE 1317

ESTABLISHMENT OF DISTRICTS AND ZONE MAP

Section 1317.01 **Establishment of Zoning District**

The following Zoning Districts are hereby established in the City of Huntington:

R-1 Single-family Residence District
R-2 Single-family Residence District
R-4 Two-family Residence District
R-5 Multi-family Residence District
C-1 Neighborhood Commercial District
C-2 Highway Commercial District
C-3 Central Business District
I - 1 General Industrial District
H-1 Historic Preservation District Overlay

Section 1317.02 **Official Zoning Map**

The boundaries of the zoning districts hereby established are shown on the Official Zoning Map bearing the date of adoption of this Ordinance. The Official Zoning Map is hereby declared to be a part of this Ordinance, shows the boundaries of and the area covered by the Districts, notations, reference, indications and other matters shown on the Official Zoning Map are as much a part of this Ordinance as if they were fully described herein.

Section 1317.03 **District Boundaries**

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

A. District boundary lines, unless otherwise indicated on the Map, follow or are parallel to the centerline of streets and streams; and to lot or property lines as they exist on a recorded deed or plan of record in the Clerk of the County Court of either Cabell County or Wayne County at the time of the adoption of this Ordinance.
B. Where streets, streams, property lines, or other physical boundaries and delineation are not applicable, boundaries shall be determined by the scale shown on the Official Zoning Map.
C. Where a District boundary is not fixed by dimensions and where it approximately follows lot lines, and where it does not scale more than ten (10) feet therefrom, such lot lines shall be construed to be such boundaries unless specifically shown otherwise.
D. In un-subdivided land or where a District boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by the use of the scale appearing on the maps.

Section 1317.04 **Interpretation of District Boundaries**

In circumstances not covered by Section 1317.03, District Boundaries, the Board of Zoning Appeals shall interpret the intent of the Official Zoning Map as to location of District boundaries.

Section 1317.05 **Procedure Relating to Annexed or Vacated Areas**

A. When the City initiates an Ordinance for the annexation of property to the City, the Planning Commission shall prepare an Ordinance to amend this Zoning Ordinance embracing the proposed zoning provisions to be established for such area proposed to be annexed. Procedure on the proposed Ordinance to amend this Ordinance shall progress concurrently with the procedure on the annexation Ordinance in

order that the zoning amendment may be adopted by the City Council at the same time as the annexation Ordinance.

B. Whenever any Street, Place, Alley, Public Way, Railroad Right-of-way, Waterway, or other similar area is vacated by proper authority, the Districts adjoining each side of such Street, Alley, Public Way, Railroad Right-of-way, or similar area shall be extended automatically to the center of such vacation and all area included in the vacation shall then and thenceforth be subject to all appropriate provisions of the extended Districts. In the event of a partial vacation, the adjoining District, or District nearest the portion vacated, shall be extended automatically to include all of the vacated area.

ARTICLE 1319
APPLICATION OF REGULATIONS

ARTICLE 1319

APPLICATION OF REGULATIONS

<u>Section 1319.01</u> **Use of Property**

A. No building or land shall be used and no building shall be erected, reconstructed or structurally altered, which is arranged, intended or designed to be used for any purpose other than a use which is permitted and specified in a district in which such building or land is located.

B. Environmentally Sensitive Lands Regulations. In order to prevent inappropriate development from taking place and to protect persons and property from hazards resulting from the inappropriate development of lands containing environmentally sensitive areas, the environmentally sensitive lands requirements impose a set of regulations in addition to those of the zoning district. The environmentally sensitive lands areas regulations apply to all applications for a zoning permit, a building permit or a land development permit. Any use classified as a permitted use, or special exception in an underlying zoning district may be allowed within the designated zoning district provided that no more than the stated percent of the following types of areas may be altered, regraded, cleared, or built on:

1. Floodplain - subject to Article 1349 of this Zoning Ordinance.
2. Naturally occurring or manmade lakes; ponds; watercourses; and perennial streams in which water has a definite channel, bed, and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water - 0 percent.
3. Wetland margins consisting of the area for fifty (50) feet from a wetlands to an uplands integral to the wetlands providing temporary refuge for wetlands fauna during high water episodes, critical habitat for animals dependent upon, but not resident in wetlands, and slight variations of wetland boundaries over time due to hydrologic or climatologic effects- no more than 20 percent.
4. Steep slopes where the inclination (vertical distance over horizontal distance) is 25 percent or more -no more than 20 percent.
5. Steep slopes of 15 percent to 25 percent - no more than 30 percent.
6. Wetlands consisting of those lands in the City subject to inundation of soils which are characteristic and categorized as being Alluvial or High Water Table Soils by the Soil Survey of Cabell County or Wayne County West Virginia prepared by the United States Department of Agriculture (Soil Conservation Service) - 0 percent.
7. Ponding basins as designated by the Huntington Flood Wall Advisory Board and subject to Article 1349 of this Zoning Ordinance.

C. Application Procedure. All applications for a zoning permit, a building permit or a land development permit shall include an inventory and analysis of the site. The inventory shall include the total acreage of the tract, to the nearest tenth of an acre, consisting of the environmentally sensitive lands listed in part B of this Section. The following site features shall be inventoried and mapped in sufficient detail to allow evaluation of the inventory by the City relative to the intent of the overlay district.

1. Topographic contours at twenty (20) foot intervals, showing slopes of between 15 percent and 25 percent and slopes of more than 25 percent.
2. Location of wetlands and areas subject to inundation of soils which are characteristic and categorized as being Alluvial or High Water Table Soils by the Soil Survey of Cabell County or Wayne County West Virginia prepared by the United States Department of Agriculture (Soil Conservation Service).
3. Hydrologic characteristics of the site, including surface water bodies, floodplain, and hydric soils as per the Cabell County Soil Survey and the Wayne County Soil Survey.
4. Vegetation of the site, defining locations and boundaries of woodland area and vegetation associations in terms of species and size.
5. Areas designated as ponding basins by the Huntington Flood Wall Board.

<u>Section 1319.02</u> **Effect of Establishment of Districts**

Following the effect date of this Zoning Ordinance:

A. Any use not permitted by this Zoning Ordinance shall be deemed to be prohibited, unless such use is deemed by the Planning Commission to not be contrary to the spirit of this ordinance.

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

ARTICLE 1321
R-1 RESIDENCE DISTRICT
AND
R-2 RESIDENCE DISTRICT

ARTICLE 1321

R-1 RESIDENCE DISTRICT
AND
R-2 RESIDENCE DISTRICT

Section 1321.01 **Purpose**

The purpose of the R-1 and R-2 districts is to establish and maintain areas where the use consists of largely single-family residential use at low densities generally in a range of five to nine units per acre. These areas are to be developed compatible and respectful of the scale, texture and quality of existing housing and related uses.

Section 1321.02 **Permitted Uses**

A. Single-family detached dwellings
B. Home occupations in agreement with Section 1341.22 of this Zoning Ordinance.
C. Accessory uses and accessory buildings incidental to the above uses and located on the same lot.
D. Public Utility Installations
E. Special Permits listed in Section 1321.04 and in agreement with Article 1359 of this Ordinance.

Section 1321.03 **Bulk and Area Regulations**

	R-1 District	**R-2 District**
Minimum Lot Area	8,400 square feet	4,800 square feet
Minimum Lot Width	70 feet	40 feet
Minimum Front Yard Setback	Principal Structure - 20% of lot depth (see also Section 1341.02.C) Accessory Structure - behind rear wall of Principal Structure	Principal Structure - 20% of lot depth (see also Section 1341.02.C) Accessory Structure - behind rear wall of Principal Structure
Minimum Side Yard Setback	Principal Structure - 20% of lot width with neither side yard being less than 5 feet (see also Section 1341.02.D) Accessory Structure - 3 feet	Principal Structure - 20% of lot width with neither side yard being less than 5 feet (see also Section 1341.02.D) Accessory Structure - 3 feet
Minimum Rear Yard Setback	Principal Structure - 20 feet (see also Section 1341.02.D) Accessory Structure - 3 feet	Principal Structure - 20 feet (see also Section 1341.02.D) Accessory Structure - 3 feet
Maximum Lot Coverage	40 percent	40 percent
Maximum Building Height	Principal Structure - not to exceed 2 1/2 stories or 35 feet Accessory Structure - 15 feet	Principal Structure - not to exceed 2 1/2 stories or 35 feet Accessory Structure - 15 feet

<u>Section 1321.04</u> **Special Permit. See Article 1359 for Special Permit Procedures and Regulations applicable to specific uses identified as permitted Special Permits.**

A. Fire Station or Police Station
B. Municipal or Government Building
C. Public Park or Public Recreational
D. Redevelopment of Closed School or Other Public Building
E. Community Center
F. School
G. Religious Uses
H. Telecommunication Tower or Antenna
I. Planned Unit Development
J. Parking for Uses Within the Zone When Not Located on the Same Lot it Was Designed to Serve

ARTICLE 1323
R-4 RESIDENCE DISTRICT

ARTICLE 1323

R-4 RESIDENCE DISTRICT

Section 1323.01 **Purpose**

The purpose of the R-4 district is to establish and provide areas for primarily single-family residential land use at moderate densities of no more than two units per lot. These areas are to be developed compatible and respectful of the scale, texture and quality of existing housing and related uses.

Section 1323.02 **Permitted Uses**

A. Single-family detached dwellings
B. Conversion apartments of no more than two units and two-family dwellings in agreement with Section 1323.04 of this Ordinance.
C. Home occupations in agreement with Section 1341.22 of this Zoning Ordinance.
D. Personal Care Home
E. Public Utility Installations
F. Accessory uses and accessory buildings incidental to the above uses and located on the same lot.
G . Special Permits listed in Section 1323.05 and in agreement with Article 1359 of this Ordinance.

Section 1323.03 **Bulk and Area Regulations**

Minimum Lot Area	3,000 square feet
Minimum Lot Width	30 feet
Minimum Front Yard	Principal Structure - 20% of lot depth (See also Section 1341.02.C) Accessory Structures - behind rear wall of principal structure
Minimum Side Yard	Principal Structure - 20% of lot width with neither side yard being less than 5 feet (see also Section 1341.02.D) Accessory Structures - 3 feet
Minimum Rear Yard	Principal Structure - 15 feet (see also Section 1341.02.D) Accessory Structure - 3 feet
Maximum Lot Coverage	50%
Maximum Building Height	Principal Structures - not to exceed 2 1/2 stories or 35 feet Accessory Structures - 15 feet

Table 2

Section 1323.04 **Residential Conversion of Single-Family Detached Dwellings.**

A. The maximum number of dwelling units after conversion is limited to two (2).
B. Each dwelling unit shall contain within the unit a complete kitchen, toilet and bathing facility; shared facilities shall not be permitted.
C. The appearance of a single-family dwelling unit shall be maintained. For the converted structure necessary changes in the number or placement of windows to provide adequate light and air will be allowed, but shall be minimized; any changes which occur shall be of one manner consistent with the architectural character of the dwelling. No stair cases shall be allowed in the front of buildings to access upper floors.

D. Except for parking in driveways, no parking spaces shall be located in the front yard. Parking areas shall be designed so that each vehicle has access to the street without the necessity of moving another vehicle. All newly constructed driveways and parking spaces shall be set back a minimum of five (5) feet from all property lines. Off-street parking shall be designed to be accessible from the lowest order street on which the property fronts. Except for driveway and walkway accesses, buffering shall be placed around off-street parking areas which contain three (3) or more spaces. Plant material or fences shall be used. Material used in screen plantings shall be multi-stemmed evergreen species and shall be at least three (3) feet in height when planted. The plant material shall produce a visual screen of at least four (4) feet in height within two (2) years. Fences shall be four (4) to five (5) feet in height and shall provide a visual screen.

Off-street parking improvements shall be provided based on the number of bedrooms per dwelling unit with 1 1/2 spaces for one sleeping room plus 1/4 space for each additional sleeping room. All parking areas shall also comply with Article 1343 of the City of Huntington Zoning Ordinance.

E. Garbage and refuse pickup and other utility areas shall be provided and shall be located so as not to detract from the aesthetic character of the neighborhood and shall be enclosed and shielded from view by fencing, walls, or shrubbery. Planted material or fences shall meet the standards for buffering of parking areas specified above.

F. Certification of adequate sewer and water services shall be provided by the applicant.

G. Basement or cellar dwelling units shall be permitted only if all exterior walls of the dwelling unit are at least four (4) feet above the average finished grade level of the adjoining ground.

<u>Section 1323.05</u> **Special Permit. See Section 1359 for Special Permit Procedures and Regulations applicable to specific uses identified as permitted Special Permits.**

A. Fire Station or Police Station
B. Municipal or Government Building
C. Public Park or Public Recreational
D. Child Care Center
E. Bed and Breakfast
F. Nursing Home
G. Adult Day Care
H. Parking for Permitted Uses Within the Zone When not Located on the Same Lot it was Designed to Serve
I. Schools
J. Religious Uses
K. Commercial Communication Tower or Antenna
L. Planned Unit Development
M. Boarding House
N. Manufactured Home Park
O. Reuse of Closed Schools or Other Public Buildings

ARTICLE 1325
R-5 RESIDENCE DISTRICT

ARTICLE 1325

R-5 RESIDENCE DISTRICT

Section 1325.01 **Purpose**

The purpose of the R-5 district is to accommodate, in central locations convenient to services and City institutions, higher density multi-family housing consisting of three or more units.

Section 1325.02 **Permitted Uses**

A. Single-family detached dwellings.
B. Single-family attached/townhouse dwellings.
C. Multi-family dwellings.
D. Conversion apartments and two-family dwellings in agreement with Section 1323.04 of this Ordinance.
E. Home occupations in agreement with Section 1341.22 of this Zoning Ordinance.
F. Personal Care Home
G. Congregate Housing
H. Shelter/Emergency
I. Boarding House
J. Religious Uses
K. Accessory uses and accessory buildings incidental to the above uses and located on the same lot.
L. Special Permits listed in Section 1325.04 and in agreement with Article 1359 of this Ordinance.

Section 1325.03 **Bulk and Area Regulations**

	Single or Two-family Dwellings	Multi-family Dwellings	Single-family Attached / Townhouse Dwellings
Minimum Lot Area	3,000 square feet	3,600 square feet	2,000 square feet
Minimum Lot Width	30 feet	30 feet	20 feet
Minimum Front Yard	Principal Structure - 20% of lot depth (see also Section 1341.02.C) Accessory Structure - must be located beyond rear wall of principal structure	Principal Structure - 20% of lot depth (see also Section 1341.02.C) Accessory Structure - must be located behind rear wall of principal structure	Principle Structure - 25 feet (see also Section 1341.02.C); Accessory Structure – must be located behind rear wall of principle structure
Minimum Side Yards	Principal Structure - 20% of lot width, with neither side yard being less than 5 feet (See also 1341.02.) Accessory Structure - 3 feet	Principal Structure - 20% of lot width, with neither side yard being less than 5 feet (See also 1341.02.) Accessory Structure - 3 feet	Principle Structure - 0 feet; Accessory Structure - 3 feet
Minimum Rear Yard	Principal Structure - 15 feet Accessory Structure - 3 feet	Principal Structure - 15 feet Accessory Structure - 3 feet	Principle Structure - 20 feet; Accessory Structure - 3 feet
Maximum Lot Coverage	60 percent	60 percent	60 percent
Maximum Building Height	Principal Structure - 3 stories, not to exceed 35 feet; Accessory Building - 15 feet	Principal Structures - 5 stories, not to exceed 55 feet Accessory Building - 15 feet	Principle Structure - 3 stories, not to exceed 35 feet; Accessory Building - 15 feet

A. Supplemental Regulations. A Site Plan shall meet the following requirements, in addition to the requirements set forth in this Ordinance:

1. Structures having a height of more than three (3) stories shall increase side yard by one foot for each additional story above two (2) stories.
2. In the event that more than one building is proposed, they shall be designed to be located so that not more than two (2) buildings are in a straight, unbroken line. Each multi-family use building shall be designed with setbacks or breaks of not less than six (6) feet to all exterior walls for every two (2) building units. Each apartment complex of dwelling units shall have a compatible architectural theme with variations in design to provide attractiveness to the development, which shall include consideration of landscaping techniques, building orientation to the site and to other structures, topography, natural features and individual dwelling unit design, such as varying unit widths, staggering unit setbacks, providing different exterior materials, changing roof lines and roof designs, altering building heights, and changing types of windows, shutters, doors, porches, colors, and vertical or horizontal orientation of the facades, singularly or in combination of each dwelling unit.
3. Regulations found in Section 1323.04 shall apply for residential Conversions.

<u>Section 1325.04</u> **Special Permit. See Article 1359 for Special Permit Procedures and Regulations applicable to specific uses identified as permitted Special Permits.**

A. Fire Station or Police Station
B. Municipal or Government Building
C. Public Park or Public Recreational
D Manufactured Home Park
E. Country Club or Golf Course
F. Commercial Greenhouse
G. Day Care, Child or Adult
H. Nursing Home
I. Nursing Home Conversions
J. Outdoor Commercial Recreation Enterprise
K. School
L. Public Camp
M. Special School
N. Stadium or Coliseum
O. Reuse of Closed Schools or Other Public Buildings
P. Shelter/Mission
Q. Halfway House
R. Commercial Communication Tower or Antenna
S. Planned Unit Development
T. Parking for Uses Permitted Within the Zone When Not Located on the Same Lot it is Designed to Serve
U. Offices for Charitable Organizations

ARTICLE 1327
C-1 NEIGHBORHOOD COMMERCIAL DISTRICT

ARTICLE 1327

C-1 NEIGHBORHOOD COMMERCIAL DISTRICT

Section 1327.01 **Purpose**

The purpose of the C-1 district is to conveniently provide goods and services to the residents of the neighborhoods while maintaining and promoting the sense of community provided by the commercial hub located in the neighborhood.

Section 1327.02 **Permitted Uses**

A. Stores and shops for the conduct of any retail business, excluding drive-in establishments and provided that a retail store in the C-1 Districts shall not include a store in excess of ten thousand (10,000) square feet of floor area
B. Personal service establishments
C. Offices for professional services
D. Restaurants, excluding drive-in or drive-through
E. Minor repair and servicing operations, indoor only, of any article for sale which is permitted in this district
F. Attended laundry and retail dry cleaning service, not including bulk processing on or from other premises
G. Religious uses
H. Financial Institutions
I. Funeral Homes
J. Schools
K. Day Care, Child or Adult
L. Commercial Greenhouses
M. Fraternal Organizations, Private Clubs, Lodges, and Social Halls which do not serve alcoholic beverages
N. Single-family, Two-family, and Multi-family Uses in conformance with Articles 1321, 1323, and 1325 of this Ordinance
O. Residential Flats above permitted non-residential uses
P. Accessory uses and accessory buildings incidental to the above uses and located on the same lot
Q. Special Permits listed in Section 1327.05 and in agreement with Article 1359 of this Ordinance

Section 1327.03 **Bulk and Area Regulations**

Minimum Lot Area	2,500 square feet
Minimum Front Yard	None (see also Section 1341.02.C)
Minimum Side Yard, if adjoining a residential district	5 feet
Minimum Side Yard, if not adjoining a residential district	None
Minimum Rear Yard	15 feet (see also Section 1341.02.D)
Maximum Lot Coverage	75 percent
Maximum Building Height, Principal Uses	3 stories, not to exceed 45 feet
Maximum Building Height, Accessory Uses	15 feet

A. Parking See Article 1343
B. Signs See Article 1345
C. Landscaping See Article 1347

Section 1327.04 **Supplementary Regulations**

A. Any principal commercial building may contain more than one use and organization. Any lot may contain more than one principal structure, provided that each principal structure is located in a manner which will allow the possibility of subdividing the lot in a manner that each structure and resulting lot would conform to the zoning requirements, including frontage on a public street. Where any lot contains more than one principal building, all buildings shall be compatibly designed, whether constructed all at one time or in stages over a period of time.

All building walls facing a street or residential district line shall be suitably finished for aesthetic purposes, which shall not include unpainted or painted cinder block or concrete block walls. Preferred building materials include brick, wood, stone or other natural materials.

B. No merchandise, products, waste equipment or similar material or objects shall be displayed or stored outside except for the display of fresh produce. Temporary displays of merchandise for special promotions or events may be permitted by the Mayor's Office.

Section 1327.05 **Special Permit. See Article 1359 for Special Permit Procedures and Regulations applicable to specific uses identified as permitted Special Permits.**

A. Public Park or Public Recreational
B. Clinic or Medical Health Center
C. Outdoor Commercial Recreation Enterprise

D. Practice Golf Driving Range
E. Private Recreational Development
F. School
G. Public Camp
H. Railroad Right-of-way and Uses essential to Railroad Operation
I. Stadium or Coliseum
J. Convenience Store with Gas Sales
K. Parking Lot Designed to Serve a Use not Located on Same Lot
L. Commercial Communication Tower or Antenna
M. Shopping Center
N. Hospital
O. Automotive Service Station in Agreement with Section 1341.11 of this Ordinance (Includes Convenience Store Offering Sale of Gasoline)
P. Car Wash
Q. Drive-in or Drive-thru Establishments
R. Stores in excess of 10,000 square feet
S. Hotel and Motel
T. Restaurant (alcoholic beverages limited to beer and wine)
U. Animal Hospital
V. Self-Storage, Indoors in Accordance with Section 1341.49 of this Ordinance

ARTICLE 1329
C-2 HIGHWAY
COMMERCIAL DISTRICT

ARTICLE 1329

C-2 HIGHWAY COMMERCIAL DISTRICT

Section 1329.01 **Purpose**

The purpose of the C-2 district is to provide varied professional, personal, and retail services convenient to the neighborhoods in an attractive setting and considerate of traffic safety concerns resulting from location along the major corridors of the City.

Section 1329.02 **Permitted Uses**

A. General retail and personal service uses
B. Restaurants including drive-in operations
C. Automotive service stations in agreement with Section 1341.11 of this Zoning Ordinance
D. Automobile and other vehicular sales and services establishments including major and minor repairs and body repairs
E. Hotels and motels
F. Enclosed commercial recreational facilities such as bowling alleys, skating rinks, pool rooms, game rooms, movie theaters
G. Fraternal organizations, private clubs, lodges and social halls which do not serve alcoholic beverages
H. Funeral homes
I. Animal hospitals, veterinary clinics and kennels
J. Clinic or Medical Health Center
K. Car washes in agreement with Section 1341.10 of this Zoning Ordinance
L. Governmental Buildings
M. Self-Storage Operations in agreement with Section 1341.15
N. Commercial Greenhouses
O. Day Care, Child or Adult
P. Nursing Homes
Q. Religious uses
R. Radio and television stations and studios
S. Dry Cleaning plants and laundries
T. Shopping Center
U. Public or Private Recreational
V. Printing or Publishing
W. Laboratory
X. Bus Terminal
Y. Financial Institution
Z. Firearms Sales Establishments
AA. Office for Business and Professional Uses
BB. Uses permitted in Articles 1321, 1323, 1325
CC. Accessory uses and accessory buildings incidental to the above uses and located on the same lot
DD. Special Permits listed in Section 1329.06 and in agreement with Article 1359 of this Ordinance

Section 1329.03 **Bulk and Area Regulations**

Minimum Lot Area	2,500 square feet
Minimum Front Yard	15 feet (see also Section 1341.02.C)
Minimum Side Yard, if adjoining a residential district	15 feet
Minimum Side Yard, if not adjoining a residential district	5 feet
Rear Yard	15 feet
Maximum Lot Coverage	90%
Maximum Building Height, Principal Uses	150 feet
Maximum Building Height, Accessory Uses	20 feet

Section 1329.04 **Supplementary Regulations**

A. Any principal building may contain more than one (1) use and/or organization. Any lot may contain more than one (1) principal building structure, provided that each principal structure is located in a manner which will allow the possibility of subdividing the lot in a manner that each structure and resulting lot would conform to the zoning and subdivision regulations, including frontage on a public street.

B. All buildings shall be compatibly designed, whether constructed all at one (1) time or in stages over a period of time. All building walls facing any street or residential district shall be suitably finished for aesthetic purposes, which shall not include unpainted or painted cinder block walls.

C. All portions of the property not utilized by buildings or paved surfaces shall be landscaped, utilizing combinations such as landscaped fencing, shrubbery, lawn area, ground cover, rock formations, contours, existing foliage and the planting of conifers and/or deciduous trees native to the area in order to either maintain or re-establish the tone of the vegetation in the area and lessen the visual impact of the structures and paved areas. The established grades on any site shall be planned for both aesthetic and drainage purposes. The grading plan, drainage facilities and landscaping shall be coordinated to prevent erosion and silting, as well as assuring that the capacity of natural or man-made drainage system is sufficient to handle the water generated and anticipated both from the site and contributing upstream areas. Additional landscaping regulations of Article 1347 of this Zoning Ordinance shall apply.

Section 1329.05 **General Circulation Design Standards**

All applications for a zoning permit, a building permit in an area of the City in the C-2 districts shall provide a Traffic Circulation Plan. The plan shall indicate how the traffic and circulation plan for the land development relates to existing and proposed development adjoining the land development, to the site's terrain, the overall design of the land development and the road network of the City.

<u>Section 1329.06</u> **Special Permit. See Article 1359 for Special Permit Procedures and Regulations applicable to specific uses identified as permitted Special Permits.**

A. Public Park or Public Recreational
B. Bars or Night Clubs
C. Cemetery or Crematory
D. Mobile Home Park
E. Outdoor Theater
F. Outdoor Commercial Recreation Enterprise
G. Private Recreational Development
H. Public Camp
I. Railroad Right-of-Way and Uses essential to Railroad Operation
J. Stadium or Coliseum
K. Halfway House
L. Penal or Correctional Institution
M. Commercial Communication Tower or Antenna
N. Tattoo Parlor
O. Adult Uses
P. Hospital
Q. Limited Video Lottery/Keno Establishment
R. Pawnshops

ARTICLE 1331
C-3 CENTRAL BUSINESS DISTRICT

ARTICLE 1331

C-3 CENTRAL BUSINESS DISTRICT

Section 1331.01 **Purpose**

The purpose of the C-3 district is to ensure continuation of the highly diverse and integrated land uses serving a variety of missions to an assortment of persons. It also serves to provide a cohesive and viable central business district for the City of Huntington, while preventing the intrusion of certain incompatible commercial or industrial uses.

Section 1331.02 **Permitted Uses**

A. General Retail
B. Offices for Business and Professional uses
C. Financial institutions
D. Hotels and motels
E. Clinic or Medical Health Center
F. Restaurants, not including drive-thru
G. Funeral homes
H. Personal service establishments
I. Fraternal organizations, lodges and social halls
J. Philanthropic institutions
K. Parking lots and garages (public and private)
L. Professional business and teaching schools
M. Schools including colleges and universities and their accessory uses
N. Governmental buildings, libraries, art galleries, and museums
O. Indoor recreational uses such as theaters and billiard or pool parlors
P. Religious uses
Q. Day Care, Child or Adult
R. Nursing Homes
S. Small Animal Clinic
T. Radio and television stations and studios
U. Uses permitted in Article 1321, 1323 and 1325 and Residential Flats situated on the floors above permitted non-residential uses. Residential flats shall be located on the floors above permitted commercial uses on the first floor.
V. Multi-family dwellings in agreement with Article 1325.
W. Public or Private Recreational
X. Printing or Publishing
Y. Laboratory
Z. Bus Terminal
AA. Accessory uses and accessory buildings incidental to the above uses and located on the same lot
BB. Special Permits listed in Section 1331.06 and in agreement with Article 1359 of this Ordinance

Section 1331.03 **Bulk and Area Regulations**

Minimum Lot Area	None
Minimum Front Yard	None (see also Section 1341.02.C)
Minimum Side Yard, if adjoining a residential district	5 feet
Minimum Side Yard, not joining a residential district	None
Minimum Rear Yard	15 feet (see also Section 1341.02.D)
Maximum Lot Coverage	90 percent
Maximum Building Height	None

A. Parking — See Article 1343
B. Signs — See Article 1345
C. Landscaping — See Article 1347

Section 1331.04 **Parking Waiver in the CBD**

Off-street parking shall be waived in the C-3 District for the conversion of existing buildings and new construction.

Section 1331.05 **Supplementary Regulations**

Any principal commercial building may contain more than one use and organization. Any lot may contain more than one principal structure so long as all requirements of this section are met. Where any lot contains more than one principal building, all buildings shall be compatibly designed, whether constructed all at one time or in stages over a period of time. All exposed building walls shall be suitably finished for aesthetic purposes, which shall not include unpainted or painted cinder block or concrete block walls. Preferred building materials include brick, wood, stone, or other natural materials.

Section 1331.06 **Special Permit. See Article 1359 for Special Permit Procedures and Regulations applicable to specific uses identified as permitted Special Permits.**

A. Bar or Night Club
B. Railroad Right-of-Ways and Uses Essential to Railroad Operations
C. Outdoor Commercial Recreation Enterprise
D. Private Recreational Development
E. Penal or Correctional Institution
F. Private School
G. Special School
H. Stadium or Coliseum
I. Halfway House

J. Commercial Communication Tower or Antenna
K. Tattoo Parlor
L. Drive-thru Restaurant
M. Air Development Rights
N. Shopping Center
O. Automotive Service Station in Agreement With Section 1341.11 of this Ordinance (Includes Convenience Store Offering Sale of Gasoline)
P. Car Wash
Q. Hospital
R. Limited Video Lottery/Keno Establishment
S. Pawnshop
T. Firearms Sales Establishments

ARTICLE 1333
I-1 GENERAL INDUSTRIAL DISTRICT

ARTICLE 1333

I-1 GENERAL INDUSTRIAL DISTRICT

Section 1333.01 **Purpose**

The purpose of the I-1 district is to provide an area where various industrial activities can be accommodated without creating undesirable or incompatible situations with surrounding land uses and to provide areas where industrial/office/warehouse activities can be accommodated in an integrated plan.

Section 1333.02 **Permitted Uses**

A. Low-nuisance light manufacturing, fabricating, processing, cleaning, servicing, testing, repair, and assembly facilities not listed elsewhere as Permitted or Conditional Uses that are able to conform to the Performance Standards herein
B. Dwelling unit of caretaker or guard
C. Mobile Home Sales
D. Golf Course or Country Club
E. Parks, playgrounds, golf courses, and other publicly owned space
F. Building materials and supply facilities
G. Warehousing, storage, or distribution facilities
H. Food and kindred products processing, packaging, storage and distribution
I. Laundry and clothes cleaning and dyeing establishments
J. Railroads and public or quasi-public utilities including substation
K. Laboratories for scientific, agriculture, or industrial research and development
L. Bulk sales, product distribution centers, warehouses, and flex space within completely enclosed buildings
M. Any office use
N. Beverage distributors
O. Carpentry, cabinet making, furniture repair and upholstery, electrical, metal working, tin smithing, welding, plumbing, heating, ventilating and air-conditioning shops and other similar craft and/or repair facilities when such facilities are in a completely enclosed building and are primarily sales and service facilities and not manufacturing plants
P. Appliance service facilities
Q. Wholesale businesses, storage and warehousing
R. Commercial Communication Tower or Antennae
S. Firearms Sales Establishments
T. Uses permitted in Articles 1327, 1329, and 1331, exclusive of residential uses
U. Building structures and uses owned and operated by the City of Huntington
V. Accessory uses and accessory buildings incidental to the above uses and located on the same lot
W. Special Permit in Section 1333.12 and in agreement with Article 1359 of this Ordinance

Section 1333.03 **Bulk and Area Regulations**

Minimum Lot Area	20,000 square feet
Minimum Front Yard	15 feet
Minimum Front Yard when abutting residential street	25 feet
Minimum Side and Rear Yards when abutting another commercial or industrial zone	15 feet
Minimum Side and Rear Yards when abutting a residential zone	50 feet
Maximum Lot Coverage	90 percent
Maximum Building Height, Principal Uses	7 stories, not to exceed 75 feet
Maximum Building Height, Accessory Building	20 feet

A.	Parking	See Article 1343
B.	Signs	See Article 1345
C.	Landscaping	See Article 1347

Section 1333.03.D **Performance Standards**

The requirements herein are intended to provide a basis for determining the compatibility of land uses that may produce measurable adverse environmental effects on their surroundings.

1) Noise. At no point along a Residential or Commercial District or 125 feet from the plant or operation property line shall the sound pressure level of any operation or plant (except as otherwise noted herein) exceed the decibel limits in the octave bands designated below:

Octave Bands Frequency (Cycles Per Second)	Maximum Permitted Sound Level (Decibels) Along Residence District Boundaries or 125 feet from Plant or Operation Property Line	Maximum Permitted Sound Level (Decibels) Along Commercial District Boundaries or 125 feet from Plant or Operation Property Line
0 to 75	72	79
75 to 150	67	74
150 to 300	61	68
300 to 600	56	62
600 to 1200	50	56
1200 to 2400	45	51
2400 to 4800	41	47
Above 4800	38	38

A. Sound levels shall be measured with a sound-level meter and associated octave band filter, manufactured in compliance with the standards prescribed by the American Standards Association.

B. Exemptions. The following shall be exempt from noise performance standards:

a) Noises of construction or maintenance activities from 7 a.m. to 9 p.m.

b) Noises of safety signals, warning devices, and emergency pressure relief valves.

c) Transient noises of moving sources such as transportation vehicles.

d) Other noises not under the direct control of the property user.

2. Vibration. Any use creating intense earth-shaking vibrations such as are created by a heavy drop forge shall be set back from a Residential District boundary at least 250 feet or at least 150 feet from a Commercial District boundary. No perceptible vibrations shall be permitted at the property line.

3. Smoke, Particulate Matter and Gases. The emission of smoke, dust, fumes, gases, and similar matter which can cause any damage to human or animal health or vegetation, or to other forms of property, or which can cause any soiling or staining of persons or property at the point beyond the lot line of the use creating the emission is prohibited. Standards concerning such emission shall be in accord with the rules and regulations of the West Virginia Division of Environmental Protection.

4. Odor. No activity or operation shall cause at any time the discharge of toxic or noxious odor beyond the lot line of the lot on which it is located.

5. Glare and Heat. Glare, whether direct or reflected, such as from spot lights or high temperature processes, and as differentiated from general illumination, shall be not visible beyond the lot line of the lot on which the use is located.

6. Fire Hazards. No activity or operation shall be established which fails to meet requirements of Life Safety 101, Fire Code.

Section 1333.04 Planned Industrial Development

A Planned Industrial Development (PID) is a flexible development of mixed uses permitted in the I-1 district, developed pursuant to an overall integrated plan. The purpose of a PID is to promote progressive development of land and construction thereon by encouraging planned industrial and business developments to achieve industrial and office development offering greater creativity and flexibility in site plan design than is provided under the strict application of zoning regulations, while at the same time preserving the health, safety, order, convenience, prosperity and general welfare of the City of Huntington and its citizens. Any principal building in a PID may contain more than one use and/or organization provided that the total building coverage of the combined uses does not exceed the maximum improvement coverage specified for the district. Any lot developed as a PID may contain more than one principal building provided that the total improvement coverage specified for the district is not exceeded and the building separation requirements are met. All buildings, signs, walkways, and lighting fixtures shall be compatibly designed whether constructed all at one time or in stages over a period of time. The following provisions shall apply to a PID in the I-1 districts.

Section 1333.05 Use Area Regulations

The aggregate land area devoted to flex building and I-1 districts uses shall not be more than sixty (60%) percent of the gross land area of the PID. The aggregate land area allocated to offices shall

not be less than fifteen (15%) percent of the gross land area of the PID not including office space in flex buildings.

Section 1333.06 **Bulk and Area Requirements**

A. Site size. The total site area shall not be less than five (5) acres and shall have a frontage of at least 400 feet on an approved road.

B. Front yard requirements. All PID's shall have a front yard set back a minimum of sixty-five (65) feet from the road right-of-way, except where reverse and/or side parking is utilized, in which event the front setback can be reduced to no less than forty (40) feet.

C. Side yard and rear yard requirements. Each PID shall have a minimum side yard of twenty (20) feet, except where said property adjoins a residential zone when a minimum thirty-five (35) feet side yard is required. A minimum rear yard of forty (40) feet is required.

D. Building height. No building shall exceed sixty (60) feet and no more than five (5) stories.

E. Minimum distances between buildings. Minimum distances between buildings in a PID shall be measured horizontally in feet and shall be measured away from the front, side and rear of each building. The total minimum separation between buildings shall be the sum of the two abutting distances. The minimum distances shall be forty (40) feet for the front of a building; twenty (20) feet for the side of a building; and twenty-five (25) feet for the rear of a building. No portion of any building shall be closer to any portion of any other building than the combined distances of the abutting requirements for each building, providing that the corner of a building offset more than a twenty degree angle from a line drawn parallel to another building shall be considered a side of the building.

F. Maximum Floor Area Ratio (FAR). The maximum FAR shall be allowed to vary according to the following schedule:

1. Uses in one story buildings .23
2. Uses in multi-story buildings .28

G. Maximum improvement coverage (MIC). The MIC shall be sixty-five (65%) percent. All areas not utilized for buildings, parking, loading access aisles and driveways or pedestrian walkways shall be suitably landscaped with shrubs, ground cover, or similar plantings and maintained in good condition. A portion of the open space may contain a permanent water area.

H. Incentive options for increased FAR/MIC

1. For the provision of a landscaped plaza or interconnecting plaza(s) having pedestrian access from off-street parking areas and/or streets, with the largest dimension of such plaza area fronting on at least twenty-five (25%) percent of the principal structures on the lot, the maximum permitted FAR/MIC may be increased up to five percent.
2. For the provision of varied building(s) sitting on the lot other than in a single line such that an open landscaped pedestrian area is achieved bounded on three (3) sides by the principal structures on the lot, the maximum permitted FAR/MIC may be increased up to five (5%) percent.

   Increases under subparagraphs (a) and (b) above may be cumulative. However, the increases permitted above shall not exceed the maximum permissible FAR of .25/.31 for one (1) story or two (2) or more story buildings, respectively; the MIC shall not exceed 72 percent.

Section 1333.07 **Minimum Buffer Requirements**

Minimum buffer requirements as follows, designed in accordance with Section 1347.05.

A. Front property line, except for a permitted driveway: forty (40) feet.
B. Side yard: Twenty (20) feet, except where said property adjoins a residential zone, in which event a thirty-five (35) foot buffer is required.
C. Rear yard: Fifteen (15) feet, except where said property adjoins a residential zone, in which event a thirty (30) foot buffer is required.

Section 1333.08 **Site Circulation**

Access to and from a PID shall be controlled in the interest of public safety. Each separate use, grouping of attached buildings or groupings of uses permitted as part of a single integrated PID shall have not more than two (2) access ways to the road on which it is located. Insofar as practicable, the use of common access ways by two or more permitted uses shall be provided in order to reduce the number and closeness of access points along the highway. The internal street system shall be an integral feature of the overall design of a PID. It shall be designed for the efficient and safe flow of vehicles without creating a disruptive element to the development.

It shall be required that a comprehensive and detailed vehicular and pedestrian circulation plan be submitted and approved. The circulation plan shall include vehicular access to and from major and collector streets, methods of adequately vehicular and pedestrian circulation patterns, and separation of service and delivery areas from customer and employee areas.

Section 1333.09 **Signs**

Each development in the I-1 districts developed in accordance with the requirements of a PID establishment may have a maximum of two (2) signs, except as otherwise permitted below, in accordance with the following standards:

A. One (1) attached and one (1) freestanding sign is permitted.
B. If there is one business or use on the lot, the single business may elect to use two (2) attached signs and no freestanding sign.
C. For each PID where more than one (1) business or use is located in a particular building or buildings, where said businesses or uses use a common parking lot and/or a common driveway or roadway, no freestanding signs shall be permitted, and instead there shall be one multiple occupancy and tenancy (MOT) sign. A MOT is a sign identifying where there is more than one (1) occupancy and tenancy use a common parking facility and/or a common private drive or roadway and where the names and professions or business names of the various tenants and/or occupants are displayed. The sign shall be setback a minimum of twenty (20) feet from the curb line. The sign may be illuminated by uplights located in surrounding planting beds or internally illuminated.
D. Developments located at the intersection of two (2) public right-of-ways may have one (1) freestanding or MOT sign perpendicular to each.
E. Each building within a PID may have a sign on its facade which cannot exceed fifteen (15) percent of the front wall area. The facade sign shall be flush with the wall surface and may be lighted with properly directed spotlights. Permanent lettering on a window or door is permitted provided that the letters are not more than four (4) inches in height that only the name and specialty of the business is inscribed.

F. Attached sign: Ten (10) percent of the wall surface area of the wall on which the sign is to be placed.
G. Freestanding sign: Twenty-four (24) square feet on any one side; height not to exceed twenty (20) feet.
H. MOT sign: One-half square foot for each foot of linear building frontage on the principal street, with a maximum size of fifty (50) square feet on any one side of the sign; height not to exceed twenty (20) feet.
I. All signs shall be setback a minimum of twenty (20) feet from the road right-of-way

Section 1333.10 **Service Area Screens**

All service areas in a PID, loading docks, trash receptacles, etc., whether located to the side or to the rear of the building, shall be screened from public view by an evergreen vegetative buffer at least six (6) feet in height at the time of planting or a seven (7) foot high solid or louvered wooden fence may be used where space is prohibitive.

No merchandise, products or similar material or objects shall be displayed or stored outside unless appropriately screened and maintained. Any use resulting in the storage of vehicles outside shall have such area entirely enclosed by a solid wood fence, wall, plant material or combination thereof in order to provide a visual barrier between the storage areas and any street, residential zoning district or existing residential use. Such outside storage area shall not exceed ten (10) percent of the lot area and shall be located in the rear yard only.

Section 1333.11 **Landscape Plan**

A Landscaping Plan of a PID shall be provided. Landscaping shall be integrated into building arrangement, topography, parking and buffering requirements. Landscaping shall include trees, bushes, shrubs, ground cover, perennials, annuals, plants, sculpture, art and the use of building and paving materials in an imaginative and aesthetic manner.

A. Natural Topography and Vegetation. The applicant shall use natural topography and vegetation where possible. Large parking areas are not to be stripped of vegetation without requiring reseeding or replanting of all unpaved areas.
B. Saving of Trees. Every attempt shall be made by the applicant to save existing trees even at the loss of parking spaces. Clumps of trees should be saved over single trees. Care should be taken by the approving authority to properly evaluate site clearing proposals recognizing that wild trees often do not survive when their habitat is drastically altered. Where loss of trees is suggested, replacement should be required.
C. Slopes. Slopes in excess of 3:1 shall be avoided unless necessitated by unusual site limitations. All slopes shall be stabilized in a manner acceptable to the approving authority Engineer.
D. Parking Areas in Front of Buildings. Parking lots located in front of buildings shall be landscaped to separate it from adjacent roadways.
E. Screen Areas and Buffers. Tall dense screens are required along non-penetrable side lines, rear property lines and where commercial or industrial parking areas abut residences or residential zones. Evergreens such as, but not limited to, White pine, Austrial pine, Canadian hemlock, Servian spruce, Arborvitae, and upright yews may be used provided they meet specified height requirements.
F. Driveways. The areas adjacent to the driveways shall be planted with low plants or grass.

G. Other Required Landscaped Areas. Where a development plan indicates raised walkways between opposing rows of cars, areas at the end of bays, or where proposed or required by the approving authority, specific planting islands are indicated, these areas shall be landscaped. Planting strips may be as narrow as five (5) feet, with a fifteen (15) to twenty (20) feet width most desirable. All should be raised and protected by permanent concrete curbing. The applicant shall landscape five (5) to ten (10) percent of the parking areas provided.

H. Natural Setting. In proposing a landscaping plan, an applicant shall take care, and the approving authority in reviewing shall require, that a natural setting consistent with prevailing community standards be preserved. Recognizing that a major community asset lies in the preservation of the natural condition of property, all efforts in the area of landscaping shall be exercised to provide consistent landscaping proposals with existing foliage.

I. Landscaping in parking and loading areas shall be shown on the Landscaping Plan. Trees shall be staggered and/or spaced so as not to interfere with driver vision, have branches no lower than six (6) feet, and placed at the rate of at least one (1) tree for every twenty (20) parking spaces. All areas between the parking area and the building shall be landscaped with trees, shrubs and ground cover. Any plantings which do not live shall be replaced within two (2) years, or two (2) growing seasons. A majority of the parking areas shall be obscured from streets by buildings, landscaped berms, natural ground elevations, or plantings, singularly or in combination. All landscaping in parking and loading areas shall also meet the objectives of the Landscaping Section of this Ordinance.

All other provisions of this chapter shall apply.

<u>Section 1333.12</u> **Special Permit. See Article 1359 for Special Permit Procedures and Regulations applicable to specific uses identified as permitted Special Permits.**

A. Airport or Heliport
B. Bars
C. Junk Yard
D. Mineral Extraction, Borrow Pit, Top Soil Removal and their Storage Areas
E. Oil and Gas Exploration
F. Outdoor Theater
G. Penal or Correctional Institution
H. Stadium or Coliseum
I. Motor, rail, or air freight terminal
J. Cemeteries
K. Crematories
L. Fuel storage, bulk
M. Landfills, dumps, incinerators
N. High-nuisance manufacturing and processing operations involving:
   a. slaughterhouses or stock yards
   b. arsenals
   c. batch asphaltic concrete, Portland Cement, or mortar mixing plants
   d. distillation of tar
   e. fat rendering

f. manufacture or treatment of: acid; natural or synthetic rubber, caoutchouc, or gutta percha; creosote; fertilizer; sauerkraut; soap; synthetic polymers; tallow, grease, or lard
g. ore reduction
h. processing or refining of petroleum or coal oil
i. smelters
j. tanning, curing, or storage of rawhides or skins

O. Any manufacturing, fabricating, processing, cleaning, servicing, testing, repair, or assembly facilities that are not listed elsewhere as a Permitted Use or Special Permit, including facilities for abrasive products; boilers and tanks; chemicals; clay; coal; coke and tar products; fiberglass; foundries; glass; metal; textiles; transportation equipment; and any other facilities that are able to conform to the Performance Standards herein for industrial uses.

P. Planned Unit Developments

Q. Radio and Television Towers

R. Recycling Centers

S. Transfer Station for Solid Waste

T. Adult Uses

U. Tattoo Parlor

V. Uses that are not otherwise Permitted Uses or Special Permits in this or any other district and that are similar in the judgment of the Planning Commission to Special Permits in this district.

W. Limited Video Lottery/Keno Establishment

X. Pawnshop

ARTICLE 1335
PLANNED UNIT DEVELOPMENT

ARTICLE 1335

PLANNED UNIT DEVELOPMENT

Section 1335.01 **Purpose**

The provisions of this section are intended for special situations in which:

a. adequate space, light, air, and other objectives of this Code relating to the public health, safety, and welfare can be achieved without the literal application of the detailed zoning and subdivision requirements otherwise applicable, and
b. special amenities and benefits to the community beyond those required by this and other City ordinances can be achieved by allowing more flexible design than is otherwise permitted by such requirements.

These objectives can be achieved where an area of land is planned for development as an integrated unit and where its design is subject to more detailed review and approval by the City than is normally required. The objective of Planned Unit Development (PUD) is therefore not simply to allow exceptions to otherwise applicable regulations. It is instead to encourage a higher level of design and amenity than it is possible to achieve under the usual land development requirements.

It is accordingly the intent of the City to suspend the application of detailed zoning and subdivision standards as provided herein only where such special amenity is achieved. In this way the City may grant the creative developer a desirable flexibility and at the same time not only protect but enhance the welfare of the residents and other users of a development as well as the rest of the community.

Section 1335.02 **Qualification for Filing as a PUD**

A Planned Unit Development may be developed in any district subject to the following requirements:

a. is at least 2 acres in size, and
b. contains more than 2 detached buildings accommodating principal uses, and
c. is initially under the same ownership or control.

A Planned Unit Development may be residential, commercial, office, industrial, or a combination thereof. Flexibility to suspend requirements imposed elsewhere is not conferred upon the PUD applicant as a matter of right but is in all cases subject to a finding by the City that the objectives of these provisions will be served thereby.

Section 1335.03 **Incentives for Planned Unit Developments**

To further a superior level of design and amenity in new development, the following incentives are offered in Planned Unit Developments.

1) Variable Density and Dimensional Zoning Standards
Standards for minimum lot area, minimum lot area per dwelling unit, lot width, building height, floor area ratio, yard dimensions, off-street parking and loading, landscaping and screening, fences, and signs may vary from those established elsewhere in this ordinance.

2) More Than One Principal Building Per Lot
In a Planned Unit Development more than one principal building may be located on a lot.

3) Variable Subdivision Design Standards
Dimensional and design standards for subdivisions and subdivision improvements such as streets, blocks, sidewalks and parkways, but not improvement construction standards, may vary from those established in the City Subdivision Regulations.

4) Mixed Land Uses
Land uses other than those allowed as Permitted or Special Exceptions in the applicable zoning districts may be permitted on up to 30 percent of the net site area of a Planned Unit Development.

Section 1335. 04 Requirements for Planned Unit Developments

1) Site Plan Review
Whether or not a land subdivision is involved, Preliminary and Final Plans for the development shall be filed and approved by the City in conformance with the provisions of Article 1351 of this Ordinance.

2) Required Common Open Space
A minimum of 20 percent of the net site area in residential use in each phase shall be set aside for permanent common open space as defined herein.

3) Quality of Design
To be granted the flexibility permitted hereunder, a Planned Unit Development must evidence a level of design and amenity exceeding that typical of conventional development.
Among the features that may evidence such amenity are:
   a) amount and quality of landscaping
   b) amount, quality, and interconnectedness of common open space
   c) provision of pedestrian or bicycle paths separated from streets
   d) preservation of drainage ways and other natural features
   e) provision of common recreational facilities
   f) enclosed, underground, depressed, or outstandingly landscaped parking areas
   g) varied building setbacks or other measures to reduce monotony in design, and
   h) other features as determined by the Planning Commission or City Council

4) Maintenance of Land Intended For Future Phases
Land designated for future construction phases and other land not intended for immediate improvement shall be landscaped or otherwise maintained with a neat and orderly appearance as specified by the Planning Director.

Section 1335.05 Approval Process

Preliminary Plans and Final Plans for Planned Unit Developments shall be approved only in conformance with Section 18 of Article 5, Chapter 8 of the West Virginia Code and the Approval Criteria provided in Section G of this Article. No Permit for a PUD or phase thereof shall be issued before approval by the City Council of a Final Plan as provided herein.

Section 1335. 06 **PUD Review Committee**

A PUD Review Committee is hereby authorized to review Planned Unit Development filings.

The membership of the Committee shall include the Mayor, the Chairperson of City Council, the Director of Development & Planning, the Planning Director, the Director of Public Works, the Fire Chief, the Chairman of the Board of Zoning Appeals, the Chairman of the Planning Commission, and may include any others appointed thereto by the Mayor. The Committee may seek technical assistance from such other sources as it deems necessary.

The Committee may advise and assist applicants in meeting City objectives but shall have no power to approve or disapprove any filing or in any way restrict the applicant's right to seek formal approval thereof from the Planning Commission and City Council.

The Committee shall, within 30 days after completing its review of any filing, submit to the Planning Commission the complete filing together with a written report noting any deficiencies in compliance with the requirements herein and any recommendations for improvement of the Planned Unit Development to better reflect the objectives of these provisions. A copy of the Committee's report shall also be sent to the applicant.

Section 1335.07 **Final Plan**

1) Filing of Final Plan
The City Council may approve, conditionally approve, or deny a Final Plan of a Planned Unit Development, or any phase thereof, for which it has approved a Preliminary Plan. The Final Plan may be filed, and may be approved, simultaneously with the Preliminary Plan.

The general terms, conditions, and requirements set forth in a Preliminary Plan, or any phase thereof, approved by the City Council shall not be modified, revoked, or otherwise impaired by action of the City. Except that the City Council may rescind approval of a Preliminary Plan, or any phase thereof, and thereby revoke such terms and conditions, if the applicant has failed to file within 3 years of the date of approval of the Preliminary Plan either a Final Plan in conformance therewith or a revised Plan together with an application for an amendment. The City Council may grant an extension of this time period.

A financial surety shall be submitted with the Final Plan and shall provide for the phasing of the installation and improvement of public or common areas and improvements, open spaces, and amenities in a manner generally proportionate to the number of dwelling units or the amount of non-residential floor space, as applicable, to be built in each phase together with the phases that preceded it.

2) Recording of Final Plan
The Final Plan as approved by the City Council shall be filed with the County Recorder as the Final Plat for the PUD under provisions of the City Subdivision Regulations whether or not the PUD involves any subdivision of land. No

Building Permit shall be issued before the approved Final Plan is recorded. The applicant shall pay all recording costs.

3) Amendments to Approved Plan

Approval of an amendment shall be required for:

a. any material change, deletion, or addition made to:
   1. an approved Preliminary Plan, or
   2. an approved Final Plan, or for

b. a Final Plan that does not conform to the Preliminary Plan approved by the City Council.

An applicant seeking approval of an amendment shall file an application therefor with the Planning Director. The application shall describe the amendment sought and provide such other information as the Planning Commission or City Council may require. It shall be accompanied by 10 copies of the proposed amendment and a filing fee.

If the Planning Director determines that the amendment sought is a Minor Amendment as defined herein, he or she shall refer it to the Planning Commission for final action. No public hearing shall be required for a Minor Amendment. An applicant may appeal a decision of the Planning Commission on a Minor Amendment to the City Council.

For amendments other than Minor Amendments, the full Approval Process set forth herein for Preliminary Plans and Final Plans shall be followed.

A Minor Amendment to a Planned Unit Development shall be any change from the previously approved Plan that involves:

1. No change in land use type or housing type, and
2. No change in the location of any structure, off-street parking or loading area, common open space area, or any area or right-of-way to be conveyed to or reserved for a public body, by more than 10 feet in any direction, nor a change in the spacing between any two structures by more than 10 percent, and
3. No change of more than 10 percent in any non-locational quantitative specification of the previously approved Plan, including:
   a. any dimension of any lot, yard, structure, or pedestrian or vehicular thoroughfare
   b. any residential density
   c. amount of common open space acreage
   d. utility line capacity
   e. amount of floor area of non-residential development
   f. amount of land to be conveyed to or reserved for any public body
   g. size or capacity of any off-street parking or loading area
   h. amount or dimensions of proposed tree or ground cover, landscaping, or screening, and

4. No other change that causes the development to fall short of meeting the requirements of any applicable zoning district to any greater degree than already provided on the previously approved Plan.

The Planning Commission may disallow Minor Amendment status if a proposed amendment fails to meet the foregoing criteria when it is considered together with one or more Minor Amendments previously approved for the same development.

The Planning Commission or City Council shall approved, conditionally approve, or disapprove an amendment. An amended Final Plan shall be recorded in accordance with the provisions herein governing recording of a Final Plan.

Section 1335.08 **Approval Criteria for Planned Unit Developments**

In recommending approval or conditional approval of a Preliminary or Final Plan for a Planned Unit Development (PUD), the Planning Commission shall transmit to the City Council written findings of fact that the application meets all of the criteria below, or will meet them when the Commission's conditions are complied with. The City Council shall not be bound by the recommendation of the Planning Commission, but in granting approval or conditional approval, the Council shall also find that all of the following criteria are met or will be met when any conditions to which the approval is made subject are complied with:

1) Superior Design
The PUD represents a more creative approach to the unified planning of development and incorporates a higher standard of integrated design and amenity than could be achieved under otherwise applicable zoning district and subdivision regulations, and solely on this basis modifications to the use and design standards established by such regulations are warranted.

2) Meets PUD Requirements
The PUD meets the requirements for Planned Unit Developments set forth in this Code, and no modifications to the use and design standards otherwise applicable are allowed other than those permitted herein.

3) Consistent With City Plan
The PUD is generally consistent with the objectives of the City Comprehensive Plan as viewed in light of any changed conditions since its adoption.

4) Public Welfare
The PUD will not be detrimental to the public health, safety, morals, or general welfare.

5) Compatible with Environs
Neither the PUD nor any portion thereof will be injurious to the use and enjoyment of other properties in its vicinity, seriously impair property values or environmental quality in the neighborhood, nor impede the orderly development of surrounding property.

6) Natural Features
The design of the PUD is as consistent as practical with the preservation of natural features of the site such as flood plains, wooded areas, steep slopes, natural drainage ways, or other areas of sensitive or valuable environmental character.

7) Circulation
Streets, sidewalks, pedestrian ways, bicycle paths, off-street parking, and off-street loading as appropriate to the planned land uses are provided. They are adequate in location, size, capacity, and design to ensure safe and efficient circulation of automobiles, trucks, bicycles, pedestrians, fire trucks, garbage trucks, and snow plows as appropriate

without blocking traffic within the PUD, or unduly interfering with the safety or capacity of adjacent streets.

8) Open Spaces and Landscaping

The quality and quantity of common open spaces and landscaping provided are consistent with the higher standards of design and amenity required of a PUD. The size, shape, and location of a substantial portion of total common open space provided in residential areas render it useable for recreation purposes.

Open space between all buildings is adequate to allow for light and air, access by fire fighting equipment, and for privacy where walls have windows, terraces, or adjacent patios. Open space along the perimeter of the development is sufficient to protect existing and permitted future uses of adjacent property from adverse effects from the development.

9) Covenants

Where individual parcels are to be later sold, adequate provision has been made in the form of deed restrictions, homeowners or condominium associations, or the like for

a. the preservation and maintenance of any open spaces, thoroughfares, utilities, water retention or detention areas, and other common elements not to be dedicated to the City or another public body

b. such control of the use and exterior design of individual structures, if any, as is necessary for continuing conformance to the PUD Plan, such provision to be binding on all future ownership.

10) Public Services

The land uses, intensities, and phasing of the PUD are consistent with the anticipated ability of the City, the school system, and other public bodies to provide and economically support police and fire protection, water supply, sewage disposal, schools, and other public facilities and services without placing undue burden on existing residents and businesses.

11) Phasing

Each development phase of the PUD can, together with any phases that preceded it, exist as an independent unit that meets all of the foregoing criteria and all other applicable regulations herein even if no subsequent phase should ever be completed. The provision and improvement of public or common area improvements, open spaces, and amenities -- or the provision of financial sureties guaranteeing their improvement -- is phased generally proportionate to the phasing of the numbering of dwelling units or amount of non-residential floor area.

ARTICLE 1337
SPECIAL ZONING DISTRICTS

ARTICLE 1337

SPECIAL ZONING DISTRICTS

Section 1337.01 **Purpose**

The purpose of this section is to provide special regulations where, due to specific local conditions, the normal district requirements of this ordinance do not adequately provide the most appropriate development options.

Section 1337.02 **B&O Right-of-Way Special Zoning District**

A. Statement of Intent. The intent of the B&O Right-of-Way Special Zoning District is to recognize the unique development issues related to building construction and land use along the former B&O right of way in the Westmoreland area of the City of Huntington and to promulgate zoning restrictions which will allow property owners the maximum use of their property while protecting the interests of other property owners in the vicinity.

B. District Boundaries. The boundaries of the B&O Right-of-Way Special Zoning District are Bradley Road to the south, Waverly Road to the north, Huntington floodwall to the west, and Camden Road to the east.

C. Primary Permitted Uses.
   1. Single-family Dwelling
   2. Public Park or Open Space

D. Permitted Accessory Building Uses.
   1. Accessory uses, such as walks, driveways, curbs, retaining walls, mail boxes, lamp posts, and structures of like nature and trees, shrubs, or plants are permitted in any required yard. Vision clearance shall be maintained on corner lots.
   2. Fences not more than seven (7) feet in height shall be allowed in any side or rear yard. No fence shall be allowed in the front yard.
   3. Accessory buildings, not to exceed 150 square feet, are permitted in any side yard. Such buildings shall not occupy more than 20% of the side yard.
   4. An attached carport may extend ten (10) feet into the required side yard.
   5. Swimming pools may be located in any side yard. A pool with a depth exceeding 24 inches must be surrounded by a fence at least four (4) feet in height.
   6. An open porch or deck may be located in the required yard; however, such structure shall not extend more than four (4) feet into a required front or rear yard or ten (10) feet into a side yard.

E. Minimum Lot Size. The minimum lot size within the district shall be 4,800 square feet, with no less than 120 feet lot frontage.

F. Height. No structure shall exceed one (1) story in height.

G. Setbacks. The following minimum setback shall be required. The front yard shall abut Bradley Road, while the Waverly Road frontage shall be considered the rear yard.
   1. Front Yard Setback - 20% of lot depth
   2. Rear Setback - 20% of lot depth
   3. Side Setback - 20 Feet, Each Side

H. Parking. There shall be two (2) off-street spaces per dwelling. Driveway access shall only be permitted from Bradley Road.

<u>Section 1337.03</u> **Special Permit. See Article 1359 for Special Permit Procedures and Regulations applicable to specific uses as permitted Special Permits.**

A. Parking Lot Designed to Serve a Use not located on the Same Lot.

ARTICLE 1339
H-1 HISTORIC PRESERVATION DISTRICT OVERLAY

ARTICLE 1339

H-1 HISTORIC PRESERVATION DISTRICT OVERLAY

Section 1339.01 Purpose

The purpose of the H-1 district overlay is to acknowledge the special and unique character of the City of Huntington's historic districts. These districts include the residential and non-residential land uses representing the community's growth and change during the nineteenth and twentieth centuries. The H-1 district overlay is also established to provide special provisions designed to preserve and protect the historical nature of the community, while at the same time encouraging renovation, rehabilitation and new construction compatible with existing aesthetic patterns to promote and continue the revitalization of the City's historic areas. The intent of all standards and guidelines in the H-1 district overlay is to safeguard the heritage of the City by preserving that part of the City which reflects elements of its cultural, social, economic and architectural history and to promote the use of the historic areas for the education, pleasure and welfare of the City and its visitors. Finally, the H-1 district overlay serves to implement Part One, Chapter Five of the Codified Ordinances of Huntington allowing for the preservation and long-term protection of historic structures in the City.

Section 1339.02 Scope

All owners, occupants, tenants and other persons or entities in control or possession of structures must apply for review by the Historic Preservation Commission and issuance of a "Certificate of Appropriateness" prior to any building permit being issued; or in the event no such permit is required, then prior to any work or activity being commenced. This includes the following activities within the H-1 district overlay or on any historic property (including structure and archaeological resource) or for any structure surveyed or identified in the City of Huntington as listed on the National Register. Activities to be regulated by a "Certificate of Appropriateness" include: demolition, relocation, repair, changes in exterior appearance by means of repainting (whether in the same or in a different color), or addition or new signage or exterior lighting; or excavation or ground disturbance. The "Certificate of Appropriateness" is in addition to any other approvals necessitated by the development proposal and as approved by the Planning Director, Planning Commission, or Board of Zoning Appeals.

Application procedures. The procedure for application for a Certificate of Appropriateness for development and redevelopment in the City of Huntington H-1 district overlay including demolition, relocation, repair, changes in exterior appearance by means of repainting (whether in the same or in a different color), or addition or new signage or exterior lighting; or excavation or ground disturbance are outlined in Article 1353 of this Chapter

Section 1339.03 Permitted Uses and Bulk and Area Regulations

The H-1 district overlay imposes a set of requirements in addition to those of the underlying zoning district within those areas determined to be historic resources designated by the Historic Preservation Commission. All applicable use and bulk and area regulations of the underlying zoning district shall apply in addition to the regulations outlined in the additional Sections of this Article. Only land which is identified on the Zoning Map which is in the H-1 Historic Preservation District Overlay is regulated by this section.

<u>Section 1339.04</u> **Design Standards for New Construction**

A new building in the H-1 districts overlay should be visually compatible with its neighbors in spacing, setback, massing, materials, roof shape, window divisions and siding emphasis. A new building must not be identical with its neighbors in these respects, but attention shall be given to the immediate architectural environment of the new building. Any new building shall support and enhance a block's design unity and sense of character through consideration of silhouette, spacing, setbacks, proportions, volume/mass, entryway, material/surface, shadow/texture, and style/image. In addition, these guidelines apply only to the parts of the building visible from a public way. Within the City's requirements and the requirements of the Building Code, the designer should have free rein.

A. Where the underlying zoning is residential the use shall present a residential atmosphere. To accomplish this, new buildings should be compatible in size, scale, and mass with existing buildings.

B. Rhythms of building spacing should be maintained. In the historic district where there is a pattern of buildings the pattern shall continue.

C. Front of buildings facing the street. The buildings in Huntington are characterized by their linear appearance. The front of nearly every building faces the street. Although this may not be achievable on every site due to other constraints, architectural treatments can achieve the same effect. Parking should be located at the rear and side of buildings.

D. Entrances and porches are often the focus of buildings, particularly when they occur on primary elevations. Together with their functional and decorative features such as doors, steps, balustrades, pilasters and entablatures, they can be extremely important in defining the overall character of a building. The porch treatment of new structures shall relate to the porch treatment of existing adjacent structures. Open porches are strongly encouraged, but screened in porches may be acceptable if well-detailed.

E. The roof, with its shape; features such as cresting, dormers and chimneys; and the size, color and patterning of the roofing material, can be extremely important in defining the building's overall character.

   Roof profiles contribute strongly to the character of a street, and new construction shall relate to the predominant roof shape and pitch of existing adjacent buildings. Where flat roofs appear historically, they almost always project beyond the facade line and are frequently supported by brackets. New roofs should follow the traditional types: gabled, gambrel, hipped and mansard. Roofing material shall be unobtrusive and not call attention to itself, except on buildings where pattern is a part of the overall design.

   Asphalt shingle is acceptable, provided it is a relatively dark shade. Random mingling of shingle shapes and colors should not be permitted, and consideration should be given to whether there is stylistic justification for the use of shaped shingles at all.

F. The proportion, size and detailing of windows in new construction should relate to that of existing adjacent buildings. Most windows in the City's historic districts have a vertical orientation. Also, wooden double-hung windows are traditional in the City's historic districts.

   The use of large picture windows shall not be permitted in domestic structures, nor should any window which is basically horizontal in orientation. Reflective glass is not allowed. Projecting bay windows with a polygonal plan are appropriate. If a bay window is added, a projecting bay window is preferable to a curving bow window.

G. Window type and materials are to be compatible with the front facade and the historic and architectural character of the buildings. Exterior storm windows and doors should be visually unobtrusive. Aluminum shall be painted in an appropriate manner.

H. Stylistic trim using cornices, scroll work, and the like is encouraged. Shutters are appropriate for new structures. Shutters should be paneled or louvered. Plank or board and batten shutters shall not be permitted. Shutters shall not be pierced with sawn initials or other motifs.

Shutters shall be dimensioned to cover the window opening. The height of shutters shall be equal to the distance from the sill to the lintel, and the width of each unit shall be half the width of the frame, all measured on the exterior. Attachment of shutters to the building with hinges is preferable to an immovable mounting.

I. Exterior materials are to be natural in appearance. For siding of new structures, diagonal and vertical siding are generally unacceptable. Siding of new structures shall have the same directional emphasis as the siding on original structures. Clapboard is the preferred siding material of new buildings. Materials which imitate natural materials may be acceptable. Imitative materials such as asphalt siding, wood-textured metal siding or artificial siding stone or brick should not be used. Four-inch metal siding, when installed and carefully detailed, may be acceptable.

J. Paint color for a privately-owned building is essentially a personal choice. Several very good books have been published regarding historic paint colors at various periods in American architectural history (including Century of Color, published by the American Life Foundation in 1981); it would be desirable if these were consulted prior to choosing a color. Colors should be compatible with the historic district's atmosphere and typical of the period from which the architectural style was developed.

Section 1339.05 Design Guidelines for Architectural Restoration

Restoration of buildings should comply with accepted historic preservation guidelines such as the Secretary of Interior's *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* and *Preservation Briefs* published by the National Park Service

A. Windows and Doors. Existing windows and doors, including the window sash, glass, lintels, frames, molding, shutters, and steps, should be retained and repaired whenever possible. If a new window or door must be used, it should be of a material compatible with the front facade. Changing the size or arrangement of windowpanes, muntins, and rails where they contribute to the historic and architectural character of the building is discouraged. Inappropriate window or door features on significant facades are discouraged. Replacement windows in restored and rehabilitated structures should retain the dimensions and pane divisions of the window being replaced. Paired casement windows, although not historically common, are generally acceptable because of their vertical orientation. The use of single-pane windows should not be permitted unless equipped with snap-in muntins.

B. Storm Windows. Exterior storm windows and doors may be installed if they are visually unobtrusive, do not cause damage to existing frames, and can be removed in the future. Storm windows should match the trim color. Mill-finished aluminum can be painted to match.

C. Porches and Steps. Porches and steps that are appropriate to the building and the site should be retained. The original material and architectural features of porches and steps should be retained whenever possible.

D. Roofs. The original roof shape should be preserved. All architectural features that give the roof its essential character should be preserved or replaced in a compatible manner.

E. Architectural Metals. Architectural metals should be cleaned when necessary with an appropriate method that does not erode the surface.

F. Masonry Surface and Re-pointing. Original masonry should be retained whenever possible, without applying any surface treatment, including paint. When re-pointing of mortar joints is absolutely necessary, old mortar should be duplicated in composition, color, texture, method of application, and joint profile. The surface cleaning of structures shall be undertaken with the gentlest means possible.

G. Wood Frame Buildings. Architectural features, such as cornices, brackets, window and door molding and details, clapboard, weatherboard, shingles, and other wood siding, are essential and parts of the character and appearance of frame buildings. They should be retained and preserved whenever possible. Frame buildings should not be resurfaced with new materials that are inappropriate for the building or that will cause deterioration of the original structure.

H. Structural Systems. Existing foundations should not be disturbed with new excavations that could undermine the structural integrity of the building.

I. Mechanical Systems. Exterior cables (e.g., electrical, telephone, and cable TV) should be installed in places where they will be visually unobtrusive. Audio/video antenna and mechanical equipment (e.g., air conditioning and solar panels) should be placed in as inconspicuous a location as possible.

J. Garages. If an ally is adjacent to the dwelling, a new garage should be located off the alley. Where alleys do not exist, garage facing the street or driveway curb cuts may be acceptable. Garage doors should not face the street. If this is found necessary, single garage doors should be used to avoid the horizontal orientation of two-car garage doors. Parking spaces should be screened from the street and sidewalk by landscaping.

K. Walls, Fences, and Railings. Removal or replacement with inappropriate material or design is discouraged where these are historically or architecturally important elements of the design and character of the structure and district.

<u>Section 1339.06</u> Design Guidelines for Storefronts

A. The storefront opening. The storefront opening, where possible, shall be recessed six to twelve inches into the facades storefront opening rather than applied to the face of the facade.

B. The storefront frame. The storefront design shall generally be composed of a hierarchical frame made up of vertical and horizontal elements.

C. The recessed entry. The storefront should have a recessed entry off the sidewalk to create a more intimate sense of entry at the door. The recessed entry should be three feet to six feet deep.

D. The windows. The storefront should be as transparent as possible. Large window areas emphasize display, maximize natural light and allow for visibility into and out of the store.

E. The storefront cornice. The storefront should have a strong horizontal form at its top to separate it from the upper facade and to help certain signage.

F. Materials, color and texture. These characteristics of the storefront design should flatter that of the upper facade and adjacent facades.

G. Proposed changes should be supported by historic photos, blueprints, etc. of the structure.

ARTICLE 1341
GENERAL REGULATIONS

ARTICLE 1341

GENERAL REGULATIONS

Section 1341.01 Height and Orientation

A. Height. No building shall be erected, reconstructed or structurally altered to exceed in height the limits established and specified for the use and the district in which such building is located. In all districts, spires, church steeples, chimneys, cooling towers, elevator bulkheads, fire towers, scenery lofts, transmission lines or towers and distribution poles and lines, and essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances. Standard antenna and similar appurtenances may not exceed the maximum building height by more than twenty five (25) feet.

The maximum building height requirement may be increased if buildings are set back from the side property lines, one (1) foot for each two (2) feet of additional height above the building height requirement, but in no case may height be increased by more than ten feet.

B. Orientation. All residential structures shall be required to have a front door facing the street unless the applicant proves to the satisfaction of the Code Official that the prevailing condition of the developed lots fronting the same street would warrant a different orientation.

Section 1341.02 Exceptions to Minimum Lot Areas, Lot Widths and Yards

A. Corner lots. A setback area equal to the minimum front yard setback shall be provided along all portions of a corner lot abutting any public street, except where the applicant proves to the satisfaction of the Planning Director that the provisions of a smaller setback of a different yard for a residential building will conform with the clearly prevailing yard pattern on numerous existing developed adjoining lots fronting on the same street. The yard directly opposite the front door of the house shall be the designated rear yard.

B. Projections into required yards.

1. Cornices, eaves, sills or other similar architectural features, or other required means of egress, rain leads or chimneys or other similar structures that do not include space usable by persons may extend or project into a required yard not more than four (4) feet. Unenclosed exterior stairways and fire escapes may extend or project into a required side or rear yard not more than four (4) feet.
2. No front porch or deck shall extend into the required front yard unless development patterns within the block are such that a porch would be appropriate. In no case, shall a front porch extend more than eight feet into the required front yard.

C. Front yard setback exception. The front yard setback will conform to the clearly prevailing setback pattern of developed lots within the block fronting the same street. When an unimproved lot is situated between two lots with existing principal buildings that each have front yard setbacks less than the setback required in that district, then the front yard setback may be reduced to a depth equal to the average of the two adjacent lots, provided that in no case shall a front yard be reduced by more than 50 percent of the required front yard for that district.

D. Side and rear yard exceptions. One-half of an alley abutting a side or rear yard may be included in required setback. The required side yard may be reduced where the applicant proves to the satisfaction of the Planning Director that the provision of a smaller side yard

setback will conform to the prevailing side yard pattern of the developed lots fronting the same street. In no event shall the required side yard be reduced to less than three feet.

Section 1341.03 **Vision Clearance on Corner Lots**

A. Intent. To ensure that traffic passing through an intersection or turning onto a street can safely see on coming traffic.

B. A triangular area as described in this Section shall be graded and shall be kept free of sight obstructions between a height of three (3) feet and twelve (12) feet above the established street grade, including structures, non-transparent fences, vegetation and signs, but not including sign posts of less than one foot in width or utility posts or the trunks of trees.

C. This sight distance shall be shown on development plans submitted to the City and be shown on any plan required to be recorded. Such triangle shall serve as a permanent setback line for all such visual obstructions and shall be binding upon present and future owners of the land.

D. The sight triangle shall be measured at the intersection of the right-of-way lines, and the triangular space is determined by a diagonal line connecting two points measured 15 feet along each of the street right-of-way lines. This requirement may be reduced to 8 feet in commercial zones.

Section 1341.04 **Lots**

A. Every building hereafter erected shall be located on a lot with frontage upon a street. In no case shall there be more than one principal building used for residential purposes, and its accessory building, located on one lot, except as provided in this Ordinance.

B Use of existing Lots deficient in area or width. A Single-family Dwelling may be located on any Lot in any District in which Single-family Dwellings are permitted if the Lot was a single parcel in a single ownership or a single parcel separately described or included in a Deed which was or record in the Office of the Clerk of either Cabell or Wayne County, West Virginia, at the time of the passage of this Ordinance, even though the Lot does not have the minimum Lot Area specified for the district. Persons applying for a permit to develop a deficient lot must provide documentation as required by the Planning Director to prove such lot was in existence prior to the enactment of the City's Zoning Ordinance.

Section 1341.05 **Permitted Accessory Uses in All Districts**

An accessory use of a dwelling is only permitted if such use is customarily incidental to the residential use. The following are permitted by-right as accessory uses to a lawful principal use in all districts, within the requirements of this Article.

A. Antennas, Standard as defined, and antennae for emergency service.

B. Day care Center as an accessory use, within the limits on number of children in Section 1341.13.

C. Fence or Wall. (See Section 1341.19)

D. Garage Sale. (See Section 1341.21)

E. Indoor storage that is customarily accessory to a permitted use.

F. Recreation facilities, non-commercial, limited to use by employees of a lot or a development, or residents of a development and their occasional invited guests.

G. Satellite antennae. (see Section 1341.24)

H. Signs as permitted by Article 1345.

I. Swimming pool, household. (See Section 1341.16)
J. Home Occupation (See Section 1341.22)
K. Outdoor lighting designed so as not to cause undue glare upon adjoining premises. Area lighting shall be shielded and directed upon owner's property.
L. Such other accessory use or structure that the applicant proves to the satisfaction of the Planning Director is clearly customary and incidental to a permitted by-right, special permit or conditional principal use.
M. Accessory Private Garage and Carport. (See Section 1341.46)

<u>Section 1341.06</u> Permitted Accessory uses to Business and Institutional Uses

The following are permitted by-right accessory uses only to a lawful principal business or institutional use, provided that all requirements of this Ordinance are met.

A. Amusement machines, coin or token operated as accessory uses.
B. Food, beverage and toy machines, coin operated.
C. Newspaper sales machines, coin operated.
D. The following accessory uses, provided that the use is clearly limited to employees, patients, residents, and families of employees of the use and their occasional invited guests:
    1. Standard or fast-food restaurant without drive-thru service.
    2. Day care center.
    3. Non-commercial recreation facilities.
    4. Meeting facilities.

<u>Section 1341.07</u> Temporary Uses

A. A temporary permit may be issued by the Planning Director for any of the following:
    1. Any temporary use that meets the requirements of this Zoning Ordinance.
    2. Customary, routine and accessory short-term special events, provided that:
        a. Only a well-established non-profit organization or lawful place of worship proposing a temporary use to clearly primarily serve a charitable, public service or religious purpose shall be eligible to receive approval of a commercial use in a district where that use is not permitted; and
        b. The Planning Director shall establish a reasonable limit on the duration of the use.
    3. Temporary construction-related trailers.
    4. The temporary erection of a tent or similar temporary structure that is not totally enclosed for a maximum of 14 days in any four month period for clearly routine customarily accessory uses such as the following: a wedding in the rear yard of a dwelling, a festival of a place of worship or a special sale within the lot of a lawful commercial use. The seasonal sale of plants, produce, and other lawn and garden supplies is permitted within any commercial or industrial zone.
B. Removal. Prior to the issuance of a permit for a temporary use or structure, the Planning Director may require an applicant to present a statement from the owner of record of the land recognizing the application and accepting responsibility to ensure that the use or structure is removed once the permit expires. Any temporary structure or use shall be removed completely upon expiration of the permit without cost to the City. If the structure or use is not removed in a timely fashion after proper notification, the City may remove the use or structure at the cost of the person who owns the land upon which the structure or use is located.

Section 1341.08 **Drive-thru Restaurant**

A. If drive-thru service is provided, a maximum of two outdoor menu boards are permitted, beyond the signs normally permitted, with a maximum sign area of 40 square feet each. The words on such signs shall not be readable from a street or residential lot line.

B. Traffic circulation onto, within and off of the lot shall be clearly marked. Any drive-thru use shall be designed:

1. With adequate capacity for waiting vehicles, and
2. To avoid conflicts with traffic onto, around and off of the site.

Section 1341.09 **Adult Day Care**

A. Shall be fully licensed by the State, if required by the State.

B. Shall include constant supervision during all hours of operation.

Section 1341.10 **Car Wash**

A. Traffic flow and ingress-egress shall not cause traffic hazards on adjacent streets.

B. On-lot traffic circulation channels and parking areas shall be clearly marked.

C. Adequate provisions shall be made for the proper and convenient disposal of refuse. For a truck wash, the applicant shall provide evidence that adequate measures will be in place to prevent pollutants from being washed into the groundwater or waterways.

D. Water from the operation shall not flow onto sidewalks or streets, to prevent hazards from ice.

E. Any chemicals that may be hazardous to aquatic life shall be stored within an area that will completely contain any leaks or spills.

Section 1341.11 **Auto Service Station**

A. All storage areas, pits, lifts and working areas shall be within a building. All lubrication, repair or similar activities shall be performed in an enclosed building, and no dismantled parts shall be placed outside.

B. All gasoline pumps, air pumps and islands upon which pumps are normally located shall be set back from the street line at least 15 feet and at least fifty (50) feet from other property lines. Layout of all pumps shall conform to the requirements of the Building Code.

C. No junked motor vehicle or part thereof or no unregistered motor vehicle shall be permitted outside an enclosed service station, except that not more than six (6) motor vehicles may be located outside a building for a period not to exceed five (5) days for each vehicle, provided that the owners are awaiting the repair of the motor vehicle.

D. The exterior display and parking of equipment or vehicles for rent or sale shall be permitted, provided that the area devoted to this purpose is in addition to the minimum lot size required for a service station, the area devoted to this purpose does not exceed twenty (20%) percent of the total area of the entire site, the maximum sign area for a service station is not exceeded and the location of the equipment or vehicles being rented or sold does not interfere with the required off-street parking requirements for the service station and does not interfere with the on-lot traffic circulation indicated on the approved land development plan.

<u>Section 1341.12</u> **Communications Tower or Antennae, Commercial**

A. The following requirements apply to all wireless telecommunications facilities regardless of the zoning district in which they are to be located. These general standards are to be supplemented with the specific regulations for nonresidential and residential districts as set forth in the Sections which follow.

1. When the proposed wireless telecommunications facility is to include a new tower, a plot plan at a scale of not less than one inch is equal to 100 feet shall be submitted. This plot plan shall indicate all building uses within 300 feet of the proposed facility. Aerial photos and/or renderings may augment the plot plan.
2. The location of the tower and equipment shelter shall comply with all natural resource protection standards established in the Zoning Code, including those for floodplain, wetlands and steep slopes.
3. Security fencing eight feet in height shall surround the tower, equipment shelter and any guy wires, either completely or individually as determined by the Board of Zoning Appeals.
4. Buffer plantings may be located around the perimeter of the security fence as deemed appropriate by the Board of Zoning Appeals.
5. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.
6. Any applicant requesting permission to install a new tower shall provide evidence of written contact with all wireless service providers who supply service within a quarter mile of the proposed facility. The applicant shall inquire about potential co-location opportunities at all technically feasible locations. The contacted providers shall be requested to respond in writing to the inquiry within 30 days. The applicant's letter(s) as well as response(s) shall be presented to the Planning Director as a means of demonstrating the need for a new tower.
7. Any application to locate an antenna on a building or structure that is listed on an historic register, or is in an historic district shall be subject to review by the Huntington Historic Preservation Commission.
8. The tower shall be painted a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA).
9. No advertising is permitted anywhere on the facility, with the exception of identification signage.
10. All providers utilizing towers shall present a report to the Planning Director notifying him or her of any tower facility located in the municipality whose use will be discontinued and the date this use will cease. If at any time the use of the facility is discontinued for 180 days, the Planning Director may declare the facility abandoned. (This excludes any dormancy period between construction and the initial use of the facility.) The facility's owner/operator will receive written notice from the Planning Director and instructed to either reactivate the facility's use within 180 days, or dismantle and remove the facility. If reactivation or dismantling does not occur, the City may remove or contract to have removed the facility and assess the owner/operator the costs.
11. No tower under 150 feet shall be artificially lighted except to assure safety or as required by the FAA. Any tower between 150 and 200 feet in height shall follow

safety marking and obstruction lighting as prescribed by the FAA. Security lighting around the equipment shelter is permitted.

12. "No Trespassing" signs shall be posted around the facility with a telephone number of who to contact in the event of an emergency.
13. Applicants will provide evidence of legal access to the tower site thereby maintaining this access regardless of other developments that may take place on the site.
14. A Special Permit must be approved by the Board of Zoning Appeals with a subsequent Building Permit issued by the City for construction of new towers in non-industrial districts. Co-location of antennas on a single tower, antennas attached to existing structures/buildings, towers located in industrial districts, or replacement towers to be constructed at the site of a current tower are permitted uses and will not be subject to the Special Permit permitting process.
15. Any decision to deny a request to place, construct or modify a wireless telecommunications antenna and/or tower shall be in writing and supported by evidence contained in a written record of the proceedings of the Planning Commission.
16. Underground equipment shelters are encouraged, especially in non-industrial districts, and may be requested by the Board of Zoning Appeals.

B. Nonresidential Districts

Wireless telecommunications facilities proposed for industrial and commercial districts are subject to the following conditions:

1. Sole use on a lot. A wireless telecommunications facility is permitted as a sole use on a lot subject to the following:
   a) Minimum lot size: Requirements of District.
   b) Minimum yard requirements:
      Tower: the minimum distance to any residential use or district lot line shall be 300 feet
      Equipment shelter: See requirements for District for accessory use.
   c) Maximum height:
      Tower: 200 feet (includes antenna)
      Equipment shelter: See requirements for District for accessory use.
   d) Maximum size of equipment shelter:
      300 square feet for a single shelter, or, if there is more than one, 750 total square feet.

2. Combined with another use. A wireless telecommunications facility is permitted on a property with an existing use subject to the following conditions:
   a) The existing use on the property may be any permitted use in the district or any lawful nonconforming use, and need not be affiliated with the wireless telecommunications provider. The wireless telecommunications facility will not be considered an addition to the structure or value of a nonconforming use.
   b) The wireless telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance (except during construction or an emergency).
   c) Minimum lot area. The minimum lot area shall be the area needed to accommodate the tower (and guy wires, if used), the equipment shelter, security fencing and buffer planting.
   d) Minimum yard requirements:

Tower: the minimum distance to any residential use or district lot line shall be 300 feet.

Equipment shelter: shall comply with the minimum setback requirements for the primary lot.

e) Access. The service access to the equipment shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.

f) Maximum height:

Tower: 200 feet (includes antenna)

Equipment shelter: See requirements for District for accessory use.

g) Maximum size of equipment shelter:

300 square feet for a single shelter, or, if there is more than one, 750 square feet.

3. Combined with an existing structure. Where possible an antenna for a wireless telecommunications facility shall be attached to an existing structure or building subject to the following conditions:

a) Maximum height: 20 feet or 20% of the building height above the existing building or structure, whichever is greater.

b) If the applicant proposes to locate the telecommunications equipment in a separate shelter (not located on, or attached to, the building), the shelter shall comply with the following:

1) The minimum setback requirements for the subject zoning district.

2) A buffer yard may be planted in accordance with Section 1341.12.D.

3) Vehicular access to the shelter shall not interfere with the parking or vehicular circulation on the site for the principle use.

4) The maximum size of the equipment shelter shall not exceed 300 square feet, or, if there is more than one, 750 total square feet.

C. Residential Districts

Wireless telecommunications facilities that include towers are not permitted in residential districts with the exception of placement on any property with an institutional use (e.g., church, park, library, municipal/government, hospital, school, utility) located in a residential district. However, antennas attached to existing buildings or structures are permitted. In applying for a permit in any residential district, the applicant must present substantial evidence as to why it is not technically feasible to locate in a more appropriate nonresidential zone. Once those efforts have been exhausted, a wireless telecommunications facility may be located in a residential district subject to the following conditions:

1. General. The wireless telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance. This shall apply to B, C, D and E below.

2. Combined with a nonresidential use. An antenna may be attached to a nonresidential building or a structure that is a permitted use in the district; including, but not limited to, a church, a municipal or governmental building or facility, agricultural building, and a building or structure owned by a utility. The following conditions shall be met:

a) Maximum height, 20 feet above the existing building or structure.

b) If the applicant proposes to locate the telecommunications equipment in a separate shelter, the shelter shall comply with the following:

1) The shelter shall comply with the minimum setback requirements for the subject zoning district.
2) The maximum size of the equipment shelter shall not exceed 300 square feet, or, if there is more than one, 750 total square feet.
3) A buffer yard shall be planted in accordance with Section 1341.12.D.
4) Vehicular access to the shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.

Located on a nonresidential-use property. A tower to support an antenna may be constructed on a property with a nonresidential use that is a permitted use within the district, including but not limited to a church, hospital, school, municipal or government building, facility or structure, and a utility use, subject to the following conditions:

a) The tower shall be set back from any property line abutting a single-family or two-family residential lot by 300 feet.
b) Maximum height:
   Tower: 200 feet (includes antenna)
   Equipment shelter: See requirements for District for an accessory building
c) The maximum size of the equipment shelter shall not exceed 300 square feet, or, if there is more than one, 750 total square feet.
d) Vehicular access to the tower and equipment shelter shall, whenever feasible be provided along the circulation driveways of the existing use.
e) In order to locate a telecommunications facility on a property that is vacant or with an agricultural use the tract shall be at least 2.5 acres.

4. Located on a residential building. An antenna for a wireless telecommunications facility may be attached to an apartment building exceeding four stories subject to the following conditions:

a) Maximum height: 20 feet above the existing building.
b) If the applicant proposes to locate the telecommunications equipment in a separate shelter (not located in, or attached to, the buildings), the shelter shall comply with the following:
   1) The shelter shall comply with the maximum setback requirements for the subject-zoning district.
   2) The maximum size of the equipment shelter shall not exceed 300 square feet, or, if there is more than one, 750 total square feet.
   3) A buffer yard shall be planted in accordance with Section 1341.12.D.
   4) Vehicular access to the shelter shall, if at all possible, use the existing circulation system.

5. Located in open space. A wireless telecommunications facility is permitted on land that has been established as permanent open space, or a park subject to the following conditions:

a) The open space shall be owned by the municipality, county or state government, a homeowners association, charitable organization, or a private, non-profit conservation organization.
b) Maximum height:
   Tower: 200 feet (includes antenna)
   Equipment shelter: maximum height for accessory building

c) The maximum size of the equipment shelter shall not exceed 300 square feet, or, if there is more than one, 750 total square feet.

d) The tower shall be set back from any single-family or two-family property line 300 feet.

D. Criteria for a Special Permit:

Wireless Telecommunications Facility. A wireless telecommunications facility which includes a tower may be permitted as a Special Permit in a commercial district or located on an institutionally-used property in any residential district. In order to be considered for review, the applicant must prove that a newly-constructed tower is necessary in that opportunities for co-location on an existing tower are not feasible. The following steps must also be taken for the application to be considered for review in this category:

1. The applicant shall present a landscaping plan that indicates how the wireless telecommunications facility will be screened from adjoining uses.
2. The applicant shall demonstrate that the telecommunications tower must be located where it is proposed in order to service the applicant's service area. There shall be an explanation of why a tower and this proposed site is technically necessary.
3. Where the telecommunications facility is located on a property with another principal use, the applicant shall present documentation that the owner of the property has granted an easement or entered into a lease for the proposed facility and that the vehicular access is provided to the facility.
4. Any applicant requesting permission to install a new tower shall provide evidence of written contact with all wireless service providers who supply service within a quarter mile of the proposed facility. The applicant shall inquire about potential co-location opportunities at all technically feasible locations. The contacted providers shall be requested to respond in writing to the inquiry within 30 days. The applicant's letter(s) as well as response(s) shall be presented to the Planning Director as a means of demonstrating the need for a new tower.

<u>Section 1341.13</u> Day Care Center as Accessory Use to a Residential Use.

A. A maximum of six children under age 15 may be cared for in any dwelling unit, in addition to children who are residents of the dwelling.

B. The dwelling shall retain a residential appearance with no change to the exterior of the dwelling to accommodate the use, other than cosmetic and any needed safety improvements.

C. Any day care center involving seven or more children shall be considered a principal use and meet the standards of Section 1341.25 for such use, if permitted.

D. The use shall be actively operated by a permanent resident of the dwelling.

E. If over two children are kept, a minimum of 200 square feet of safe exterior play area shall be available, which shall be fenced.

<u>Section 1341.14</u> Religious Use

A. A primary or secondary school and/or a child or adult day care center are permitted on the same lot as a religious use provided that the requirements for such uses are also met.

B. One dwelling unit for a religious leader of the place of worship and their family may be accessory to a religious use on the same lot.

Section 1341.15 **Self-Storage Development**

A. Outdoor storage shall be limited to recreational vehicles, boats and trailers. No "junk vehicles" shall be stored. Outdoor storage areas shall be screened in compliance with Article 1347.
B. Trash, radioactive or highly toxic substances, garbage, refuse, explosives or flammable materials, hazardous substances, animal carcasses or skins, or similar items shall not be stored.
C. The interior traffic aisles, required off-street parking areas, loading areas and access ways shall be paved with a hard surface and shall be kept clear of stored items.
D. Maximum building length - 250 feet.
E. Minimum separation between buildings - 20 feet.

Section 1341.16 **Swimming Pool - Household**

A. The swimming pool shall not involve any commercial use.
B. Enclosure around in-ground pools shall meet the requirements of the Building Code.
C. Enclosure around above ground pool. Any existing or new above ground pool shall include a secure fence, wall, or other enclosure a minimum of four feet high above the surrounding ground level. Such pools shall be equipped with an access ladder that can be raised and locked in a position so that it is a minimum of four feet above the surrounding ground level or otherwise completely inaccessible to children when the pool is unattended.
D. Location. A pool and any deck or shelter that is elevated above the average surrounding ground levels shall meet the applicable setback requirement for an accessory building. Patios around pools that are level with the average surrounding ground level are not required to meet setbacks. A pool is not permitted within a required front yard.
E. Drainage. A proper method shall be provided for drainage of the water from the pool that will not overload or flood any: 1) on-lot septic system or 2) portion of a building or property not owned by the owner of the pool. A pool shall not be located so as to interfere with the operation of a well or on-lot septic system.

Section 1341.17 **Swimming Pool, Non-household**

A. The water surface shall be setback at least 25 feet from any lot line.
B. Minimum lot area - two acres.
C. Any water surface within 100 feet of an existing dwelling shall be separated from the dwelling by evergreen screening in agreement with Article 1347.
D. The water surface shall be surrounded by a secure, well-maintained fence at least six feet in height.
E. Drainage. A proper method shall be provided for drainage of the water from the pool that will not overload or flood any: 1) on-lot septic system or 2) portion of a building or property not owned by the owner of the pool. A pool shall not be located so as to interfere with the operation of a well or on-lot septic system.

<u>Section 1341.18</u> **Composting - as a principal or accessory use**

A. On a lot of less than five acres, composting shall be limited to the composting of biodegradable vegetative material, including grass clippings, trees, shrubs, leaves and vegetable waste, and shall not include animal wastes or fats.

B. Composting shall only be conducted in ways that fire, rodent or disease-carrying insect hazards or noxious odors are not created.

C. Composting of manure shall be setback a minimum of 150 feet from any dwelling on an adjacent lot, and be located and graded to prevent manure from being washed into a creek or lake by storm water.

D. Compost shall be kept free of other garbage.

<u>Section 1341.19</u> **Fences, Walls, and Screens**

A. Fences and walls are permitted by-right in all districts. Any fence or wall shall be durably constructed and well-maintained. Privacy fences shall be constructed so that the finished side of the fence faces toward abutting properties or rights-of-way unless the fence is not visible from the adjoining property. Fences that have deteriorated shall be replaced or removed.

B. Sight Distance, Storm Water and Easements. No fence, wall or hedge shall obstruct the sight distance requirements of Section 1341.03. No fence or wall shall obstruct the flow of storm water, except as part of a City-approved storm water system.

C. Fences.

1. Front Yard. Any fence located in the required front yard of a lot in a residential district shall have a minimum ratio of 1:1 of open to structural areas (such as a picket fence or split rail fence) and shall not exceed four feet in height. For the purposes of this section, on a corner lot each street frontage shall be considered a front yard.
2. A fence shall not be required to comply with minimum setbacks for accessory structures.
3. Height. A fence in a residential district that is not within a required front yard shall have a maximum height of seven feet, except a maximum height of ten feet is permitted to enclose a tennis or racquet sport court or a non-household swimming pool or an electric substation provided that such fence is setback a minimum of ten feet from all lot lines. A fence in a commercial district that is not within a required front yard shall have a maximum height of eight feet. A fence in an industrial district that is not within the required front yard shall have a maximum height of ten feet.
4. Setbacks. A fence may be constructed on a lot line, except: a) a fence shall not be placed within a street right-of-way and b) a fence of a business shall be setback a minimum of five feet from the abutting lot line of an existing dwelling or an undeveloped residentially zoned lot. Homeowners are encouraged but not required to setback fences at least two feet from an abutting lot line in order to allow for maintenance over the long-term, however, no fence shall be located closer than three (3) feet from an adjoining residence.
5. Fence materials. A fence shall not be constructed out of fabric, junk, junk vehicles, appliances, tanks or barrels. Electric fences are prohibited in all zones. Barbed or razor fences are prohibited in all zones except industrial.

D. Walls.

1. Engineered retaining walls necessary to hold back slopes are exempted from setback regulations and the regulations of this section, and are permitted by-right as needed in all districts.

2. In a residential district, a freestanding wall (other than a necessary retaining wall) shall have:
   a. A maximum height no greater than four feet within a required front yard or is within ten feet of a lot line other than a required front yard; and
   b. Seven feet in other locations.

<u>Section 1341.20</u> Recycling Collection Center

A. All materials shall be kept in appropriate containers, with appropriate sanitary measures and frequent enough emptying to prevent the attraction of insects or rodents and to avoid fire hazards.
B. Adequate provision shall be made for movement of trucks if needed and for off-street parking.
C. A 15 feet buffer yard with screening as described in Article 1347 shall be provided between this use and any abutting "residential lot line."
D. This use may be a principal or accessory use, including being an accessory use to a commercial use, an industrial use, a public or private primary or secondary school, a place of worship or a City-owned use, subject to the limitations of this Section. On residential properties, only recyclables produced by the resident family may be collected and stored.
E. Materials to be collected shall be of the same character as the following materials: paper, fabric, cardboard, plastic, metal, aluminum and glass. No garbage shall be stored as part of the use, except for garbage generated on-site or garbage accidentally collected with the recyclables. Only materials clearly being actively collected for recycling may be stored on site.
F. The use shall only include the following operations: collection, sorting, baling, loading, weighing, routine cleaning and closely similar work. Unless located in an industrial zone, no burning or melting or mechanical shredding of metal or land filling shall occur. No mechanical operations shall routinely occur at the site other than operations such as baling of cardboard and shredding of newspaper.
G. The use shall not include the collection or processing of pieces of metal that have a weight greater than 50 pounds, except within an Industrial district.
H. The use shall include the storage of a maximum of 50 tons of materials on the site if the use is within a residential district and within 500 feet of an existing dwelling.

<u>Section 1341.21</u> Garage Sale (See definition in Article 1315)

A. A garage sale shall not include sale of new merchandise (other than custom crafts).
B. Garage sales shall be limited to a maximum of two total days in any one month period.

<u>Section 1341.22</u> Home Occupation

A. A home occupation shall be conducted completely indoors, and may be within a principal or accessory building. The total amount of floor area of all buildings used for a home occupation shall not be greater than 25 percent of the total floor area of the principal dwelling unit.
B. There shall be no outdoor operations or outdoor storage of materials, products or equipment.
C. Signs and Displays. There shall be no use of show windows, business display or advertising visible from outside the premises, except for one non-illuminated sign with a maximum sign area of two square feet on each of two sides and a maximum height of six feet.

D. Truck Traffic - The use shall not require the parking of, storage of or regular servicing by a vehicle with an aggregate gross vehicle weight of more than 12,000 pounds, except for one vehicle used by a resident whose primary occupation is as an over-the-road driver of such vehicle. Such vehicle shall be parked off-street beyond the front of the house. While parked on the residential lot, such vehicle shall not generate noise beyond normal neighborhood levels.

E. Uses permitted as a home occupation include, but are not limited to: art studio, home craft businesses, dressmaking, furniture making, office, custom sewing, clerical work, sales or survey over the telephone, tax preparation, musical instruction, tutoring of students, personal service businesses, trade businesses provided there is no on-site assembling, manufacturing, processing, or retail sales, repair service, day care in accordance with Section 1341.13, or one chair beauty or barber shop with no products sold from the premise.

F. The following uses shall not be permitted as a home occupation: veterinarian office, stable, kennel, funeral home, industrial uses (other than custom crafts and sewing), wholesale or retail sales on the premises (except as accessory to custom crafts and except for sales over the phone or through the mail), restaurant, repairs of motor vehicles or trucking company terminal, manufacturing, or repair of machinery, automobiles, trucks, and motorcycles.

G. Nuisances. No machinery or equipment shall be permitted that produces noise, noxious odor, vibration, glare, electrical interference or radio or electromagnetic interference beyond the boundary of the property. Only general types and sizes of machinery that are typically found in dwellings for hobby, domestic or sewing purposes shall be permitted. No use shall generate noise or glare in excess of what is typical in a residential neighborhood.

H. Parking and Loading. The lot shall include sufficient parking for the maximum number of vehicles on-site at one time, plus parking for the dwelling unit. A defined driveway shall be provided, and shall be shown on the site plan. The applicant shall prove that such driveway provides for safe sight distance.

I. Building Appearance. The exterior of the residential building and the lot shall not be changed in such a way as to decrease its residential appearance, except for permitted parking spaces and the permitted sign.

J. Hours. A home occupation shall not be conducted in a way that is perceptible from beyond the lot line between the hours of 9 p.m. and 7 a.m. This time limit shall also apply to any loading or unloading of vehicles on the property or on a street that causes noise to adjoining residents.

K. Hazardous Substances. The use shall not involve the storage or use of hazardous, flammable or explosive substances, other than types and amounts commonly found in a dwelling.

L. Advertising. The address of the home occupation shall not be advertised in such a way that would encourage customers or salespersons to come to the property without an appointment.

M. Number of Employees. No employees who are not permanent residents of the dwelling may work on the premise, except for businesses that involve field or on-site service, including salesmen, plumbers, cleaners, home repair, and other similar service activities. Such home occupations may employ up to four persons, provided that such worker spend no more than one hour per week at the home office.

N. Instruction. Any instruction or tutoring shall be limited to a maximum of four students on the property at any one time.

O. A permit from the Planning Director shall be required for any home occupation.

<u>Section 1341.23</u> **Factory Built Housing**

It is the intent of this Ordinance to encourage the provision of affordable housing in a general residential zone by permitting the use of new modular and manufactured homes as defined in Article 1315, meeting the definition of Single-Family residences as defined in Article 1315, in all zones in which similar dwellings constructed on the site are permitted, subject to the requirements and procedures set forth herein to assure similarity in exterior appearance between such residentially designed Modular and Manufactured Homes and dwellings which have been constructed under these and other lawful ordinances on adjacent lots in the same district, zoning classification or general area. Modular and Manufactured Homes, as defined in Article 1315, shall be permitted in all zones subject to the requirements and limitations set forth in this Ordinance which are applicable to Modular and Manufactured Homes and the requirements and limitations applying generally to residential use is such zoning classifications or districts, including minimum lots, yard and building spacing, percentage of lot coverage, off-street parking requirements, square footage requirements and approved foundations as describe herein.

A. Modular and Manufactured Homes qualifying as a Single-family residence shall be compared to site built and other housing in the immediate general area within the same zoning or residential district or area. Approval shall be granted upon the finding that the Modular or Manufactured Home is substantially similar in size, siding material, roof material, foundation and general aesthetic appearance to (a) site-built or other forms of housing which may be permitted in the same general area under this Ordinance or (b) existing development or (c) proposed development in the same zoning district or area.

B. The home must measure in width and length at least 22 feet for the main body.

C. The Modular or Manufactured Home shall be placed on a permanent foundation in accordance with Appendix C of the CABO 1 and 2 Family Building Code and shall be installed pursuant to the manufacturers' installation instruction and in compliance with the rules and regulations of the West Virginia Manufactured housing Construction and Safety Board established by West Virginia Code 21-9 and regulations approved thereunder. All Modular and Manufactured Homes are required to have a perimeter fascia enclosure constructed of compatible masonry material that encloses the perimeter of the home.

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

E. The exterior siding materials shall consist of wood, masonry, concrete, stucco, masonite, metal or vinyl lap or other materials of like appearance but use of flat or corrugated sheet metal for the exterior walls or roof coverings is prohibited.

F. The roof shall have a minimum 2 : 12 roof composition, wood shingles, concrete, fiberglass or metal tiles, slate, built up gravel materials or other building materials approved by the building official. A roof overhang and rain gutters are required and must not be less than 6" including the rain gutters which may account for up to 4" of overhang, measured from the vertical side of the dwelling. The roof overhang requirements shall not apply to the area above porches, alcoves or other appendages which together do not exceed 25 percent of the length of the dwelling.

G. The Code Official may approve deviations from one or more of the developmental or architectural standards provided herein on the basis of finding that the materials to be utilized or the architectural style proposed for the dwelling will be compatible and harmonious with existing structures in the vicinity.

H. Mobile homes, as defined in Article 1315 shall be prohibited outside of Mobile Home Parks as set forth in the Zoning Ordinance.

I. Use of Mobile Homes, Manufactured Homes, or Modular Homes for any purpose other than for residential use is hereby expressly prohibited.

J. Applications for approval of placement of Manufactured Homes and Modular Homes shall be made on a form or forms developed for that purpose and shall be submitted to the City of Huntington Department of Development and Planning for review and approval in accordance with this Ordinance.

Such applications shall include all information necessary to make determinations as to conformity with the provisions of this Ordinance as applicable to each such Structure and, as applicable, conformity with the standards herein, including photographs or renderings of the front and side of the Modular and Manufactured Home, the exterior finish, and other information necessary to make determination required by this Ordinance.

Approval or denial of the application shall be within ten (10) working days of receipt of the application and all required supporting materials. The applicant shall be notified in writing of the approval, conditional approval or denial of the application within five (5) working days after such decision is made. Conditional approval shall require that the conditions and reasons therefore be stated in writing and be agreed to by the applicant; such conditions shall be binding upon the applicant. In the case of disapproval, the reasons therefore shall be stated in writing.

K. Any person aggrieved by a decision of a Code Official or other officer; department board or bureau charged with the conditional approval or denial of the placement of modular homes or manufactured homes, may appeal such decision to the City of Huntington Board of Zoning Appeals pursuant to the provisions of the City Charter and the appropriate ordinance governing such appeals.

Section 1341.24 Satellite Dish Antenna

A. No more than one satellite dish shall be allowed on any lot.

B. The construction and installation of satellite dish antennas shall conform to all applicable building codes and other regulations and requirements.

C. Subject to the provisions contained herein, satellite dish antennas in excess of 18 inches shall be located only in the rear yard of any lot. If a useable satellite signal cannot be obtained from such rear yard, the antenna may be located on the side or front of the property if a landscaped evergreen planting screen is provided for any ground mounted satellite dish antenna to screen it from the view of adjacent lots and public view. In the event that a usable satellite signal cannot be obtained by locating the antenna on the rear, side, or front yard of the structure, such antenna may be placed on the roof of the dwelling structure.

D. Satellite dish antennas shall not be mounted on chimneys, towers, spires, or trees.

E. A ground-mounted satellite dish shall not exceed a grade height of twelve (12) feet.

Section 1341.25 Child Care Center

A. The use shall comply with any applicable county, state, and federal regulations including registration certificate or license.

B. Convenient parking spaces within the requirements of Article 1343 shall be provided for persons delivering and waiting for children.

C. The use shall have a lot area of at least 8,000 square feet.

D. The use shall include adequate measures to ensure the safety of children from traffic or other nearby hazards. This shall include a secure fence around outdoor areas routinely used for

outdoor play to separate the areas from abutting streets or other nuisances or hazards on adjoining lots.

E. Outside play areas of a day care center involving the care of 25 or more children at any one time shall be setback a minimum of 25 feet from the lot line of an abutting dwelling.

F. In residential districts, any permitted day care center shall maintain an exterior appearance that resembles and is compatible with any existing dwellings in the neighborhood.

G. A day care center may occur in a building that also includes permitted or non-conforming dwelling units.

Section 1341.26 **Nursing Homes**

A. Must be licensed by appropriate state department.

Section 1341.27 **Nursing Home Conversions**

A. Minimum lot area - 7,500 square feet, but not less than 750 square feet per person cared for.

B. Minimum gross floor area of principal building(s) - over 1,000.

Section 1341.28 **Heliport**

A. Minimum lot area - one acre

B. Fence - six foot wire mesh when located at ground level

C. Screen Planning where abutting a residential use - see Section 1347.05

D. Distance of parking area from residential use - 25 feet

Section 1341.29 **Cemetery**

A. Minimum lot area - 20 acres

B. Minimum Yards -

1) Front - the requirements of the district shall apply
2) Side - 50 feet each
3) Rear - 50 feet

C. Buffering requirements of Section 1347.05 shall apply

D. Covenant by owners to perpetuate maintenance and approve future improvements

Section 1341.30 **Junk Yard (includes automobile salvage yard)**

A. Storage of garbage of biodegradable materials is prohibited, other than what is customarily generated on-site and routinely awaiting pick-up.

B. Outside storage of junk shall be at least: 1) 100 feet from any residential lot line and 2) 50 feet from any other lot line and the existing right-of-way of any public street. Buffering requirements of Article 1347 shall apply.

C. The site shall contain a minimum of two exterior points of access, each of which is not less than 20 feet in width. One of these accesses may be limited to emergency vehicles.

D. Industrial parking standards shall apply. Customer parking shall be one space per 10,000 square feet of storage area.

E. Secure fencing with a minimum height of eight feet shall be provided and well-maintained around all outdoor storage areas. The fencing shall be provided inside of the evergreen screening.

F. Burning or incineration of vehicles or junk is prohibited.

G. All gasoline and oil shall be drained from all vehicles and properly disposed of. All batteries shall be removed from vehicles and properly stored in a suitable area on an impervious, properly drained surface.

H. Minimum Lot Area - 3 acres; maximum lot area - 20 acres

Section 1341.31 **Mineral Extraction, Borrow Pit, Top Soil Removal, and their Storage Areas**

A. Minimum front, side, and rear yards of 150 feet minimum.

B. Maximum number of principal entrances from major thoroughfare - one

C. Buffering requirements, per Article 1347. A six feet wire mesh fence is required when use abuts a residential district.

Section 1341.32 **Manufactured Home Park**

A. Minimum lot area - 2 acres, including 2,500 square feet per mobile home stand

B. Minimum yards - not less than ten foot buffer area in compliance with Article 1347 surrounding development

C. Building setback from center line of interior road - 50 feet

D. Written statement from Huntington Sanitary Board or Cabell-Huntington Health Department certifying the adequacy of sanitary sewer facilities.

E. Parking spaces - one per two employees plus one per mobile home stand, which may be part of the square footage required for each mobile home stand. All parking areas shall be hard surfaced.

Section 1341.33 **Oil and Gas Extraction**

A. No well may be located closer than 200 feet of any residential use.

B. All oil and gas exploration shall be subject to the Oil and Gas Laws, Chapter 22, Article 4, Official Code of West Virginia and the regulations of the West Virginia Department of Mines.

Section 1341.34 **Outdoor Commercial Recreational Enterprise, includes golf and country clubs**

A. Minimum Yards -0 feet, each yard

B. Building setback from center line of interior road - 40 feet

C. Fence - five foot wire mesh where accessible to public, in addition to requirements of Article 1347

D. Distance of loading and unloading berths from residential use - 300 feet

Section 1341.35 **Private Recreational Development**

A. Minimum yards - If abutting residential zone - Front Yard - Requirements of District
Side and Rear - 40
If abutting a commercial or industrial zone - Requirements of District

B. Buffering Requirements of Article 1347 shall apply

C. Parking spaces - one space per 2 customers or members

Section 1341.36 **Public Camp**

A. Minimum lot area - 5 acres
B. Minimum Yards - Requirements of District
C. Buffering Requirements of Article 1347 shall apply
D. Parking spaces - one per campsite and one per cabin
E. Distance of parking area from residential use - 25 feet

Section 1341.37 **Public Sanitary Fill**

A. Must have approval of the Solid Waste Division of the West Virginia Department of Environmental Protection.

Section 1341.38 **Stadium or Coliseum**

A. Minimum Lot Area - 5 acres
B. Minimum Yards Front - Requirements of District Apply
Side and Rear - 50 feet
C. Distance of parking area from residential use - 25 feet
D. Distance of loading and unloading berths from residential use - 50 feet

Section 1341.39 **Penal or Correctional Institution**

A. Minimum lot area - 80 acres
B. Minimum yards - 100 feet, each
C. Distance from residential use - 300 feet
D. Parking spaces - one per 3 employees plus one per 10 inmates at estimated capacity
E. Distance of parking from residential use - 200 feet
F. Distance of loading and unloading berth from residential use - 300 feet

Section 1341.40 **Adult Uses**

A. Legislative Intent. It is the intent and purpose of this section to regulate the time, place, and manner in which adult entertainment is presented in adult businesses to promote the health, safety, and general welfare of the citizens of the City of Huntington, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult businesses within the City and not to prohibit adult entertainment or to curtail constitutionally protected freedom of expression.
B. Findings of Fact
1) There is considerable local and national concern with many of the effects of adult uses, including their detrimental influence on children and increased criminal activity associated with these uses, including prostitution, narcotics, and liquor law violations, violent crimes against persons, and property crimes.
2) Adult businesses are frequently used for unlawful and unhealthful sexual activities, including prostitution and sexual liaisons of a casual nature.
3) The concern over sexually transmitted diseases, including AIDS, is a legitimate health concern of the City which demands reasonable regulation of adult businesses in order to protect the health and well-being of the citizens.

4) Adult businesses have a deleterious effect on both neighboring businesses and surrounding residential areas causing an increase in crime and a decrease in property values.

5) It is recognized that adult businesses have serious objectionable characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the qualify of life in the adjacent area.

C. Location of Adult Business

1) It shall be unlawful to operate or cause to be operated an adult business in any location except as provided in this Zoning Ordinance.

2) It shall be unlawful to operate or cause to be operated an adult business within 1,000 feet of another such business or within 500 feet of any religious institution, child care center, school or public park within the City or within 500 feet of any property designated for residential use.

D. Measurement of Distance. The distance between any 2 adult businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any adult business and any religious institution, child care center, school or public park or any property designated for residential use or used for residential purposes shall be measured in a straight line, without regard to intervening structures, from the closest property line of the adult business to the closest property line of the religious institution, child care center, school or public park or the property designated for residential use or used for residential purposes.

E. An adult business lawfully operating is not rendered a nonconforming use by the subsequent location of a religious institution, day care center, school, public park, or the property designated for residential use; however, if the adult business ceases operation for a period of 180 days or more regardless of any intent to resume operation, it may not recommence operation in that location.

<u>Section 1341.41</u> Tattoo Parlors

A. Proposed location must be at least 500 feet from a residential zone. The distance between any proposed tattoo parlor and any residential district shall be measured in a straight line, without regard to intervening structures, from the closest property line of the residential zone to the closest property line of the tattoo parlor.

B. Proposed location must be at least 1,000 feet from any other such use.

C. No person shall engage in or carry on the business of operating a tattoo establishment without a permit from the Cabell-Huntington Health Department.

<u>Section 1341.42</u> Massage Therapy

A. Establishments offering massage treatments shall be governed by Article 1113 of the Code of the City of Huntington.

B. Applicant must show evidence of educational qualifications, including originals or certified copies of degrees, diplomas, or certificates, if any.

<u>Section 1341.43</u> Shopping Center

A. Storm Water Management Plan shall be required.

B. Traffic Impact Study may be required by the Director of Public Works.

C. Statement from the Huntington Sanitary Board that adequate sanitary sewer facilities are available to handle additional load caused by development.

D. The development shall consist of a harmonious selection of uses, and grouping of buildings, service and parking areas, circulation and open spaces, planned and designed as an integrated unit in such a manner as to constitute a safe, efficient and convenient retail shopping center or related planned business development.

<u>Section 1341.44</u> Hospital

A. Minimum lot area - 5 acres

B. Minimum Yards: Front - 100 feet
Side - 40 feet
Rear - 40 feet

C. Maximum Height - 70 feet

D. Landscaped buffer where abutting residential use - 25 feet

E. Parking (see Section 1343.02)

F. Distance of parking from residential use - 25 feet

G. Loading and unloading berths - (see Section 1343.02)

H. Distance of loading/unloading berths from residential use - 50 feet

<u>Section 1341.45</u> Offices for Charitable Organizations in an R-5 Multi-family Residential Zone

A. Residential Conversion

1. The appearance of a single-family dwelling unit shall be maintained. For the converted structure necessary changes in the number or placement of windows to provide adequate light and air will be allowed, but shall be minimized; any changes which occur shall be of one manner consistent with the architectural character of the dwelling. No stair cases shall be allowed in the front of the building to access upper floors.

2. Except for parking in existing driveways, no parking spaces shall be located in the front yard. All newly constructed driveways and parking spaces shall be set back a minimum of five (5) feet from all property lines. Except for driveway and walkway accesses, buffering shall be placed around off-street parking areas which contain three (3) or more spaces. Plant material or fences shall be used. Material used in screen plantings shall be multi-stemmed evergreen species and shall be at least three (3) feet in height when planted. The plant material shall produce a visual screen of at least four (4) feet in height within two (2) years. Fences shall be four (4) to six (6) feet in height and shall provide a visual screen.

3. Garbage and refuse pickup and other utility areas shall be provided and shall be located so as not to detract from the aesthetic character of the neighborhood and shall be enclosed and shielded from view by fencing, walls, or shrubbery. Planted material or fences shall meet the standards for buffering of parking areas specified above.

B. New Construction

1. New construction in an R-5 Residence District should be visually compatible with neighboring structures in spacing, setback, massing, materials, roof shape, window divisions and siding emphasis. A new building must not be identical with its neighbors in these respects, but attention shall be given to the immediate architectural environment of the new building. Any new building

shall enhance a blocks design unity and sense of character through consideration of silhouette, spacing, setbacks, proportions, volume/mass, entryway, material/surface, shadow/texture, and style/image.

Section 1341.46 **Accessory Private Garage and Carport**

When the required rear yard is inaccessible due to topography or other barriers, the required side yard, except the side yard adjacent to a street of a corner lot, may be occupied by an accessory garage or carport use provided that:

1. Such accessory structure, or use shall be situated not less than five (5) feet from any lot line.
2. Such accessory carport structure (as defined in Section 1315.02), or use shall be situated not less than three (3) feet from any lot line.
3. That such accessory garage or carport structure, or use shall not exceed fifteen (15) feet in height.

Section 1341.47 **Limited Video Lottery and Keno Establishments**

A. Legislative Intent. It is the intent and purpose of this section to regulate the time, place, and manner in which limited video lottery and Keno is presented to promote the health, safety, and general welfare of the citizens of the City of Huntington, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of limited video lottery and Keno within the City of Huntington and not to prohibit the limited video lottery and Keno industry.

B. Findings of Fact
   1) West Virginia law requires limited video lottery establishments to either hold or apply for, and receive, a liquor license before being granting a limited video lottery license to a particular individual or business location.
   2) Current West Virginia law governing limited video lottery/Keno establishments does not limit the number of limited video lottery/Keno establishments that may be licensed.
   3) There is considerable and growing local and statewide concern with many effects of limited video lottery establishments including, but not limited to: influence upon children, and increased criminal activity associated with bars/night clubs, including liquor law violations, violent crimes against persons, and property crimes.
   4) There is dilatory effect on property values and neighborhoods in the vicinity of the land use and it is a legitimate concern of the City to protect the property values of those in residential districts from encroaching commercial activity.

C. Location of Limited Video Lottery and Keno Establishments
   1) It shall be unlawful to operate or cause to be operated a limited video lottery and/or Keno establishment in any location in the City of Huntington except as provided in this Zoning Ordinance.
   2) Petitioners seeking a Special Permit shall identify that it is pursuing licensure for a limited video lottery and/or Keno establishment through the State of West Virginia.

3) It shall be unlawful to operate a limited video lottery and/or Keno establishment within 600 feet of an existing establishment that already provides limited video lottery and/or Keno, within 500 feet of an existing religious institution, school, child care center, or public park, and 150 feet from a residentially zoned district.

4) One parking space shall be required for each video lottery machine on premise, in addition to any other parking requirements in accordance with this Zoning Ordinance.

D. Measurement Distance. The distance between any two (2) limited video lottery and/or Keno establishment shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any limited video lottery and/or Keno establishment and any religious institution, school, child care center, public park, or residentially zoned properties shall be measured in a straight line, without regard to intervening structures, from the closest property line of the limited video lottery and/or Keno establishment to the closest property line of the religious institution, school, child care center, public park, or residentially zoned property.

E. A limited video lottery and/or Keno establishment lawfully operating is not rendered a nonconforming use by the subsequent location of a religious institution, school, child care center, public park, or change in property zoning designation; however, if a licensed limited video lottery and/or Keno establishment ceases operation for a period of 180 days or more regardless of any intent to resume operation, it may not recommence operation in that location.

F. An existing licensed limited video lottery and/or Keno establishment (effective date of the adoption of this amendment) is not exempt from these requirements. If the structure housing an existing limited video lottery and/or Keno establishment becomes damaged or destroyed by any cause, the structure may be replaced or reconstructed as long as action to reestablish the facility is initiated within 90 days.

<u>Section 1341.48</u> Single-family Attached / Townhouse Dwellings

Approval of fee-simple townhouse developments requires the following:

A. Planning Commission subdivision approval for the development – or phase of the development – in accordance with the Huntington Development Ordinance.

B. Each platted lot must have a minimum of 20 feet of frontage on a public or private road.

C. “Party walls” or “zero side-yard setbacks” between units must comply with applicable fire and building codes.

D. Each townhouse unit must meet the off-street parking standards listed in Section 1343.02.A.2 for non single-family dwelling units

E. Any development amenities (i.e. swimming pools, tennis courts) must also meet the off-street parking requirements listed in Section 1343.02.

<u>Section 1341.49</u> Self-Storage, Indoors

A. Outdoor storage at the site is prohibited.

B. In cases where there is a proposed re-use of an existing building, the Board of Zoning Appeals may require architectural features such as window treatments, etc. to protect the character of the building.

ARTICLE 1343
OFF-STREET PARKING, LOADING AND UNLOADING REGULATIONS

ARTICLE 1343

OFF-STREET PARKING, LOADING AND UNLOADING REGULATIONS

Section 1343.01 **General Regulations**

A. Off-street parking, loading and unloading facilities shall be provided to lessen congestion in the streets. In all zones in connection with every industrial, business, institutional, recreational, residential or any other use, there shall be provided, at the time any building or structure is erected or enlarged or increased in capacity, off-street parking for automotive and other vehicles in accordance with the requirements set forth herein. Such facilities shall be completed prior to the issuance of a certificate of occupancy. The facilities required herein shall be available throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term "parking space" includes either covered garage space or uncovered parking lot space located off or beyond the public right-of-way.

B. Every parcel of land hereafter used as a public or private off-street parking or loading area shall be maintained in good condition, free of hazards and deterioration. All pavement areas, sidewalks, curbs, drainage facilities, lighting, bumpers, guardrails, markings, signs, landscaping, and other improvements shall be maintained in workable, safe and good condition.

C. The City Council may authorize repairs for such improvements if, after proper notice, the owner fails to maintain such improvements and such conditions constitute a hazard to health and safety or where such improvements are governed by a development or other similar agreement.

D. In the case of a use not listed in this section, the minimum parking space requirement shall be determined by the Planning Director. In making such determinations, the Planning Director shall be guided by the requirements for similar uses, and studies of minimum parking space requirements for such use in other jurisdictions but in no event shall be less than two spaces.

Section 1343.02 **Schedule of Off-street Parking and Loading Requirements**

Any structure or building hereafter erected, converted, or enlarged for any of the following uses, or any open area hereafter used, shall be provided with not less than the minimum spaces, as set forth below. Said spaces shall be readily accessible to the uses served thereby. When the application of a unit of measurement results in a fractional space, a space shall be required for each such fraction.

A. Residential parking

1. All single-family detached or semi-detached residential units shall be provided with one (1) off-street parking space for each two bedrooms or fraction thereof.
2. All other dwelling units, except for units for the elderly shall be provided with off-street parking spaces as follows:
   a. 1.25 spaces for 1 bedroom unit,
   b. 1.50 spaces for 2 bedroom unit,
   c. 2.00 spaces for 3 bedroom unit or fraction thereof.
3. Residential structures in combination with permitted commercial uses shall provide parking spaces as required if both uses were established separately.
4. Boarding or rooming houses, hotels, motels, and tourist houses. At least one (1) parking space for each guest room in addition to the requirement for the dwelling unit for any family or household permanently residing therein. If a restaurant in

connection with the above is open to the public, the off-street parking facilities for the restaurant may be reduced by one-half.

5. Nursing homes. At least one parking space per four patients, plus one per each staff person and/or doctor.
6. Shelter. At least one (1) space per 5 occupants

B. Commercial parking

1. Theaters, auditoriums, churches, schools, stadiums or any other places of public or private assembly with fixed seating: one (1) space for six (6) fixed seats in main auditorium. Churches may reduce the number of required parking spaces, provided that the number of spaces thus required may be reduced to by not more than 50 percent if the place of worship is located within 500 feet of any public parking lot or any commercial parking lot where sufficient spaces are available by permission of the owner(s) without charge during the time of services to make up the additional spaces required.
2. Places of public assembly without fixed seating such as exhibition halls, fraternal halls, etc.: one (1) parking space for each one hundred (100) square feet of floor area.
3. Retail stores and other places for trade or business other than furniture and appliance stores: one (1) parking space for each two hundred (200) square feet of floor area for public use.
4. Large item retail stores such as furniture and appliance stores: one (1) space for each six hundred (600) square feet of floor area.
5. Integrated shopping centers: five (5) parking spaces for each one thousand (1,000) square feet of floor area.
6. Restaurants, taverns and night clubs: one (1) parking space for each fifty (50) square feet of floor area for public use.
7. Bowling alleys: three (3) parking spaces for each alley.
8. General office, corporate office, research laboratories:
   a. under 49,999 sq. ft. GFA - 4.5 per 1,000 sq. ft. GFA.
   b. 50,000 - 99,999 sq. ft. GFA - 4 per 1,000 sq. ft. GFA.
   c. 100,000+ sq. ft. GFA - 3.5 per 1,000 sq. ft. GFA.
9. Business and professional services: one (1) parking space for each two hundred (250) square feet of building floor area or fraction thereof.
10. Wholesaling and warehousing: one (1) for each 600 square feet of building floor area or one (1) space per employee on the maximum shift, whichever is greater.
11. Automobile and gasoline service stations: at least one (1) parking space for each two hundred (200) square feet of floor area, or fraction thereof, devoted to repair or service facilities, and one (1) parking space for each employee on the largest shift. This shall be in addition to a minimum of two (2) spaces for the normal storage of motor vehicles awaiting repair. Parking area at a pump island may be included in required customer parking area. No parking shall be permitted on the public rights-of-way.
12. Hospitals: at least one (1) parking space for each three (3) beds. Such spaces shall be in addition to those necessary for doctors, administrative personnel and other regular employees. One (1) parking space shall be provided for each employee on the largest shift.
13. Medical Office or Clinic: one (1) space per 250 square feet of gross floor area plus one space per exam room.

14. Dance halls, roller rinks, ice skating rinks, and other similar places: at least one (1) parking space for each two hundred (200) square feet of floor area.
15. Swimming pools, non-household: one (1) parking space for every thirty-five (35) square feet of water surface, including areas for swimming, wading and diving.
16. Open areas used for commercial purposes:
    a. Golf driving range: At least one (1) parking space for each tee provided.
    b. Miniature golf: At least one (1) parking space for each tee.
    c. Golf courses: Five (5) parking spaces/hole.
    d. Tennis, handball or other court game areas: Two (2) parking spaces per court.
    e. Other open areas: At least one (1) parking space for each two thousand five hundred (2,500) square feet of area or fraction thereof.
17. Funeral homes: at least one (1) parking space for each one hundred (100) square feet of floor area for public use. Such space shall be in addition to a service area for mobile equipment, such as hearses and ambulances.

C. Industrial parking

These regulations shall apply to industrial expansion and industrial installations erected after the effective date of this Ordinance. Off-street parking shall be provided on the premises in accordance with the following schedule:

1. Industrial and manufacturing establishments: One (1) parking space for each 600 square feet of building floor area or one (1) space per employee on the maximum shift, whichever is greater.
2. Visitors and salesmen: Space shall be provided in addition to the above parking requirements according to specific needs.

D. Off-street Loading Requirements

In addition to the off-street parking space required above, any building erected, converted or enlarged in any district for commercial, office building, manufacturing, wholesale, hospital, or similar uses, shall provide adequate off-street areas for loading and unloading of vehicles. In no case shall the required space be less than one loading area, and additional space shall be provided as follows:

1. For retail stores, financial institutions, educational facilities, restaurants, wholesale, warehouse, general service, manufacturing or industrial establishments: the number of berths based on building floor area shall be as follows:
    a. Up to 4,000 sq. ft. - 1 loading area
    b. 4,001 to 10,000 sq. ft. - 1 berth
    c. 10,001 to 20,000 sq. ft. - 2 berths
    d. Each additional 20,000 sq. ft. or major fraction thereof up to a maximum of 60,000 sq. ft. - 1 berth
    e. Each 50,000 square feet over 60,000 sq. ft. - 1 additional berth.
2. For motels, hotels, offices, schools, places of public assembly or similar uses: the number of berths based on building floor area shall be as follows:
    a. Up to 10,000 sq. ft. - 1 loading area
    b. 10,001 to 100,000 sq. ft. - 1 berth
    c. Each 100,001 sq. ft. or major fraction thereof over 100,001 sq. ft. - 1 additional berth.

E. Supplementary Space Requirements Applying to Motor Vehicle Parking and Off-Street Loading

1. Collective provision of off-street parking and loading facilities by two (2) or more buildings or uses located on adjacent lots is permitted to allow for the sharing of such facilities for commercial and multiple use centers.

a. For buildings or groups of uses of less than ten thousand (10,000) square feet, the total parking and loading facilities shall not be less than the sum of the requirements for the various individual uses computed separately.

b. Where the total area of non-residential use is greater than ten thousand (10,000) square feet, the total number of parking spaces provided shall equal one (1) space for every two hundred (200) square feet of building floor area. Additional parking shall be provided for residential uses built in conjunction with a center of this size and shall equal at least one and one-half (1.5) spaces for each dwelling unit. Off-street loading facilities may be based on documented, actual use of facilities similar to the combined uses or the total as required if calculated as separate uses.

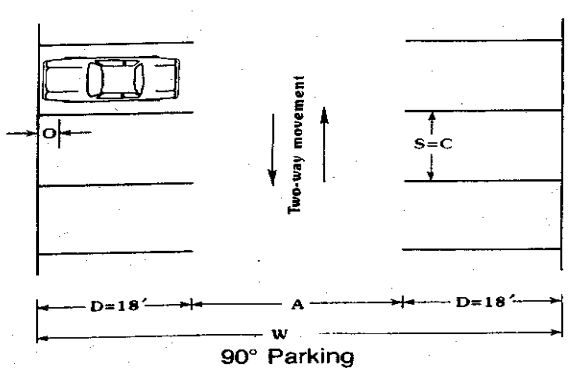
<u>Section 1343.03</u> Automobile Parking Design Principles

A. Areas computed as parking spaces. Areas that may be computed as open or enclosed off-street parking spaces may include any private garage, carport, or other area available for parking, other than a street, access lane, or a driveway. However, a driveway with a required front yard for a one-family residence may count as one (1) parking space.

B. Compact car parking shall comprise no more than 10% of the total parking spaces.

Table A.
Dimensions for 90-Degree Parking of Standard and Mid-Size Automobiles

Application	S Stall Width (feet)	W Module (bay) Width (feet)
General Parking	10.0	59
	9.5	60
	9.0	62
	8.5	63
Employee/Residential/Religious Use	9.5	58
	9.0	60
	8.5	61.5
	8.0	63



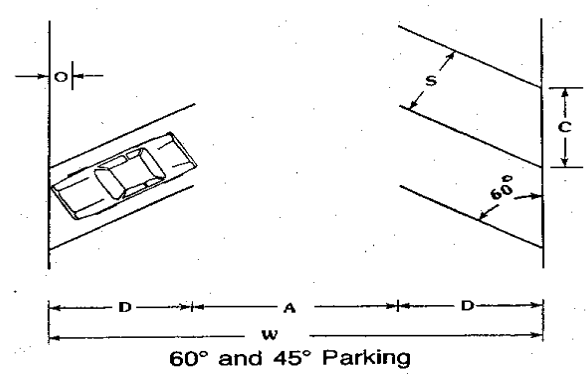


Table B.
Dimensions for 60-Degree Parking of Standard and Mid-Size Automobiles

Application	S Stall Width	C Stall Width	D Stall Depth	O Front Overhang	A Aisle Width	W Module Width
	----------Dimensions in feet ----------					
General Parking	10.0	11.5	15.6	2.6	20.8	52
turnover	9.5	11.0			21.8	53
	9.0	10.4			22.8	54
Employee/Residential/Religious Use	9.5	11.0			20.8	52
	9.0	10.4			21.8	53
	8.5	9.8			22.8	54
	8.0	9.2	15.6	2.6	23.8	55

Note: Dimensions are given to the nearest 0.1 ft.

Table C.
Dimensions for 45-Degree Parking of Standard and Mid-Size Automobiles

Application	S Stall Width	C Stall Width	D Stall Depth	O Front Overhang	A Aisle Width	W Module Width
	----------Dimensions in feet ----------					
General Parking	10.0	14.1	12.7	2.1	21.6	47
	9.5	13.4			22.6	48
	9.0	12.7			23.6	49
Employee/Residential/Religious Use	9.5	13.4			21.6	47
	9.0	12.7			22.6	48
	8.5	12.0			23.6	49
	8.0	11.3	12.7	2.1	24.6	50

Note: Dimensions are given to the nearest 0.1 ft.

Table D.
Parking Dimensions for compact cars

	Application	Stall Width (feet)	Stall Depth (feet)	Module Width (feet)
90-degree, two way	General Parking	8.5	16.5	52
		8.2	16.5	57
	Employee/Residential/Religious Use	8.2	16.5	50
		7.8	16.5	56
		7.2	16.5	55
60-degree, one way	General Parking	8.2	14.3	49
	Employee/Residential/Religious Use	7.8	14.3	48
40-degree, one way	General Parking	8.2	11.7	43
	Employee/Residential/Religious Use	7.8	11.7	43

Section 1343.04 **Off-street Loading Area, Berth Sizes**

A. Loading area. A loading area need not be necessarily a full berth, but shall have a minimum plan dimension of at least ten (10) feet overload clearance. The Planning Director shall determine the sufficiency of the off-street loading area(s) based upon the land and amount of loading and unloading operation required by the proposed use, but in no case shall the use of such space hinder the free movement of vehicles and pedestrians over a street, sidewalk or alley.

B. Loading Berth. Each required loading berth shall be at least twelve (12) feet wide, thirty-three (33) feet long, and fourteen (14) feet high.

Section 1343.05 **Location and Access of Loading Areas, Berths**

A. Unobstructed access, at least ten (10) feet wide, to and from a street shall be provided. Such access may be combined with access to a parking lot. All permitted or required loading areas or berths shall be on the same lot as the use to which they are accessory. No entrance or exit for any loading area or berth shall be located within fifty (50) feet of any street intersection. No off-street loading berth or area shall be located in any front yard.

B. All areas for loading and unloading of vehicles and for the servicing of establishments or shops shall have adequate and unobstructed access from a street, service driveway or alley and shall be so arranged that they may be used without blocking or otherwise interfering with the use of automobile access ways, parking facilities, fire lanes or sidewalks.

Section 1343.06 **General Circulation, Parking and Loading Area Design Standards**

A. Access. Unobstructed access to and from a street shall be provided. Paved access drives or driveways shall be provided in accordance with Section 1343.07 of this Article.

B. Location of parking spaces. Such parking spaces, open or enclosed, shall be on the same lot or tract of land as the building or use to be served unless collective off-street parking facilities for two or more buildings or uses on adjacent or contiguous lots are approved. The total of such collective off-street parking facilities shall not be less than the sum of facilities required for the individual uses computed separately.

All areas for off-street parking, off-street loading and unloading and the storage or movement of motor vehicles shall be physically separated from the street by a raised curb, planting strip, wall or other suitable barrier against unchanneled motor vehicle entrance or exit, except for necessary and approved vehicle entrances and exits to the lot. All commercial and industrial parking areas approved after the adoption of this Ordinance shall be separated from the street by a landscaped strip of land.

C. Location in different zones. No parking area, access drive, driveway or other means of ingress or egress shall be located in any residential zone to provide parking or access to uses other than those permitted in such residential zone, unless otherwise provided for this ordinance.

D. Sidewalks and curbing. Sidewalks between parking areas and principal structures, along aisles and driveways and wherever pedestrian traffic shall occur, shall be provided with a minimum width of four (4) feet of passable area and be raised six (6) inches or more above the parking area except when crossing streets or driveways. At points of intersection between pedestrian and motorized lines of travel, and at other points where necessary to avoid abrupt changes in grade, a sidewalk shall slope gradually so as to provide an uninterrupted line of travel. Guardrails and wheel stops permanently anchored to the ground shall be provided in

appropriate locations. Parked vehicles shall not overhang or extend over sidewalk areas, unless an additional sidewalk width of two and one-half (2-1/2) feet is provided to accommodate such overhang. Handicapped provisions shall be included in all sidewalks and curbing construction.

E. Landscaping and drainage. Parking areas shall be suitably landscaped to minimize noise, glare and other nuisance characteristics as well as to enhance the environment and ecology of the site and surrounding area. General landscaping design shall conform to criteria set forth in Article 1347 of this Ordinance. All parking areas and access ways thereto shall be properly drained and all such areas shall be a paved surface except parking spaces accessory to one-family or two-family dwellings. A drainage plan shall be approved by the Director of Public Works. Parking viewed from the public right-of-way or from any property used for residential purposes shall be suitably shielded.

F. Lighting. All parking areas shall be lighted to provide a minimum of three (3) foot-candles at driveway intersections with main roads and a total average illumination of one-half (0.5) foot-candles throughout the parking area. Such lighting shall be shielded in such manner as not to create a hazard or nuisance to the adjoining properties or the traveling public.

G. Parking space allocations should be oriented to specific buildings. Parking areas may be designed to focus on major walkways which should be marked. Where pedestrians must cross service roads or access roads to reach parking areas, crosswalks should be clearly designated by pavement markings and or signs. In non-residential districts, provision for pedestrian access between adjoining commercial lots should be encouraged.

<u>Section 1343.07</u> Location of Driveways

A. All entrance and exit driveways shall be located to afford maximum safety to traffic, provide for safe and convenient ingress and egress to and from the site, and to minimize conflict with the flow of traffic.

B. Where a site occupies a corner of two (2) intersecting roads, no driveway entrance or exit shall be located within fifty (50) feet of the point of tangency of the existing or proposed curb radius of that site. (See Article 1343.07(H) below.)

C. No entrance or exit driveway shall be located on a rotary ramp of an interchange, or within twenty (20) feet of the beginning of any ramp or other portion of an interchange.

D. Where two or more driveways connect a single site to any one road, a minimum clear distance of 200 feet measured along the right-of-way line shall separate the closest edges of any two such driveways. Where such development fronts on an arterial street, access to parking and service areas, where practicable, shall be provided by a single access to the arterial street. (See Article 1343.07(H) below.)

E. Driveways used for two-way operation shall intersect the road at an angle to as near 90 degrees as site conditions will permit and in no case will be less than 60 degrees.

F. Driveways used by vehicles in one direction of travel (right turn only) shall not form an angle smaller than 45 degrees with a road, unless acceleration and deceleration lanes are provided.

G. Driveway dimensions. The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily onto the land development. The required maximum and minimum dimensions for driveways are indicated below. Driveways serving large volumes of daily traffic or traffic of over 15 percent truck traffic shall be required to utilize high to maximum dimensions. (See Article 1343.07(H) below.)

H. Whenever a driveway is constructed, or reconstructed, on a State Highway Right- of-Way, said driveway(s) location and dimension shall comply with the West Virginia Department of Transportation Division of Highways "Manual on Rules and Regulations for Constructing Driveways on State Highway Rights-Of-Way".

	One-Way Operation Driveway* Width (in feet)	Two-Way Operation Driveway* Width (in feet)
3-10 Family Residence	10-15	15-25
10 Family or Over	15-25	20-35
Commercial & Industrial	15-30	25-35

*All driveways shall be five feet wider at the curb line and this additional width shall be maintained for a distance of 20 feet into the site.

<u>Section 1343.08</u> Waiver of Parking and Off-street Loading and Unloading Requirements.

A. Excess spaces. To minimize impervious surfaces, while ensuring adequate parking, where it can be demonstrated, at the time of review of an application for a Site Plan approval, that the parking and/or loading and unloading requirements of this Article will result in more parking spaces than actual needs require, the review board or Planning Director may permit a portion of the proposed parking and/or loading areas to remain unpaved, but landscaped.

B. If a reduction is permitted under this Section, the Planning Director may require as a condition of the approval that the lot include the reservation, permanently or for a specified number of years, of areas for use if needed in the future for additional parking. Such reservation shall be provided in a legal form acceptable to the City Attorney. In such case, the applicant shall be required to submit site plans to the Planning Director showing where and how the additional parking could be accomplished. The additional parking shall be required to be provided within one year by the owner of the lot at that time after the Planning Director may determine in writing to the owner that the parking has become needed to meet actual use. The determination shall be based upon the Planning Director's on-site review on at least three different days.

C. Exceeding minimum off-street parking and loading requirements. Minimum off-street parking and loading requirements are required by this Article may only be exceeded, where it can be demonstrated, at the time of review, that such additional parking is necessary for the actual operation of a proposed use. In such instances, the Planning Director may grant an increase in minimum space on a lot, provided that all other bulk and area requirements are met for the use in the district in which it is located.

<u>Section 1343.09</u> Educational Facilities Parking Modifications

A. Where a building is for an educational institution which prohibits the ownership or operation of automobiles by students or that restricts the parking of student automobiles to designated institutional parking areas, such students need not be included in the calculation of automobile parking requirements.

B. Institutional parking spaces of education institutions that are provided for normal daytime activity for other purposes shall be considered to be available for such public uses as are

normally conducted in the evening or on weekends in places of public assembly of such institutions.

<u>Section 1343.10</u> **Handicapped Parking**

A. Number of Spaces. Any lot including four or more off-street parking spaces shall include a minimum of one handicapped space. The following number of handicapped spaces shall be provided, unless a revised regulation is officially established under the Federal Americans with Disabilities Act:

Total Number of Required Parking Spaces on the Lot	Required Minimum Number or Percent of Handicapped Parking Spaces
4-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2% of required number of spaces
1,001 or more	20 plus 1% of required number of spaces over 1,000

B. Location. Handicapped parking spaces shall be located where they will result in the shortest reasonable accessible distance to a handicapped accessible building entrance. Curb cuts shall be provided as needed to provide access from the handicapped spaces.

C. Minimum size. Each required handicapped parking space shall be 8 by 20 feet. In addition, each space shall be adjacent to a five feet wide access aisle. The access aisle may be shared by two handicapped spaces by being placed between them. However, one out of every eight required handicapped parking spaces shall have an adjacent access aisle of eight feet instead of five feet.

D. Slope. Handicapped parking spaces shall be located in areas of less than six percent slope in any direction.

E. Marking. All required handicapped spaces shall be well-marked by clearly visible signs or pavement markings. Blue paint is recommended.

ARTICLE 1345
SIGN REGULATIONS AND SITE LIGHTING

ARTICLE 1345

SIGN REGULATIONS AND SITE LIGHTING

<u>Section 1345.01</u> Purpose

A. To preserve and protect the public safety, comfort and welfare of users of streets and sidewalks in the City of Huntington by regulating signs of all types.

B. To enhance community appearance, reduce visual clutter and blight, promote recreational value of public travel and the economic development of the City of Huntington.

C. To limit the size, number and location of signs which may obstruct the vision of motorists, create distractions and increase traffic accidents.

D. To acknowledge the appropriate display of signs as necessary to public service and to the conduct of competitive commerce.

<u>Section 1345.02</u> General Sign Regulations

A. Sign permit requirement and application.

1. Except as provided in Section 1345.02.B, below, and Article 1751 of the Codified Ordinances of the City of Huntington, as revised, it is unlawful for any person to erect, construct, enlarge, alter, move, or convert any sign in the City of Huntington or cause the same to be done, without first obtaining a sign permit for each sign from the Director of Public Works.
2. Applications for a sign permit shall be made in writing to the Director of Public Works, and shall be accompanied by such information as may be required to assure compliance with these regulations and all other appropriate ordinances and regulations of the City of Huntington.
3. Sign permits shall be issued for the life of the sign, or any shorter period as stated on the approved permit application by the Director of Public Works. However, any permit may be revoked at any time by the Director of Public Works upon finding that the sign violates any provision of this Article, Article 1751 of the Codified Ordinance of the City of Huntington, or that the permittee made false representations in securing the permit.

4. No person shall erect, construct, or maintain any sign upon any property, structure or building without the prior written consent of the owner or person entitled to possession of the property, structure or building, or his authorized representative. The written consent must accompany the sign permit application.

5. Every sign permit issued shall become null and void if installation is not commenced within 180 days from the date of such permit.
6. No person shall erect maintain or construct any ground sign or any other sign upon any lot or premise contrary to any building or other restrictive covenants to which such lot or premises is subject. (1964 Code Sec. 30-27)

B. Exemptions. The following signs shall be exempt from the permit requirements of this Article, except as they may interfere with traffic safety or in any other way become a public safety hazard.

1. Signs or decorations displayed for recognized holidays.
2. Memorial plaques or historic markers or other similar signs which are engraved or a permanent component of a building, monument, tombstone or other similar structure.

3. Public signs.
4. Street number signs indicating the address of a building or structure, and not exceeding one (1) square foot in area.
5. Temporary signs, including real estate and political signs, subject to the limitations in Table 1345 and provided that:
   (a) No temporary sign encroaches into any public right-of-way or obstructs the view of motorists in any required clear sight triangle; and
   (b) No temporary sign is erected more than 30 days before or remains in place more than seven days after the advertised event.
6. "No trespassing" signs, warning signs (such as "Beware of Dog"), notifications signs for emergency personnel, provided that the sign does not exceed two square feet in sign surface area and there are no more than two such signs on the lot.

C. Sign Height. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to the construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of land at the principal entrance to the principal structure on the lot, whichever is lower.

D. Computation of Area of Individual Signs. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

E. Computation of Maximum Total Permitted Sign Area for a Lot. The permitted sum of the area of all individual signs shall be computed by applying the formula used in Section 1345.03 to the lot frontage, building frontage, or wall area, as appropriate, for the zoning district in which the lot is located. Lots fronting on two or more streets are allowed the permitted sign area for each street frontage. However, the total sign area that is oriented toward a particular street may not exceed the portion of the lot's total sign area allocation that is derived from the lot, building, or wall area frontage on that street.

F. Sign Placement. Signs shall be subject to the placement requirements in Table 1345, but in no event shall any sign be placed in a position that will obstruct the view of motorists or cause any other danger to motorists or pedestrians within a public right-of-way or on adjoining lots. Nor shall any sign be placed within the clear sight triangle required to be maintained at all street intersections, driveway and access way entrances onto public streets. All signs shall be set back within the buildable area of the site, except as noted in Table 1345.

G. Design, Construction, and Maintenance. All signs shall be designed, constructed, and maintained in accordance with the appropriate Building Code and Electrical Code as adopted by the City of Huntington. Except for banners, flags, temporary signs, and window signs, conforming in all respects with the requirements of the ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the

ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this code, at all times.

H. Prohibited Signs. Unless specifically excepted in this Section, the following signs shall be prohibited in all zoning districts:

1. Portable signs or attention-getting devices, flags, pennants, and banners except on a temporary basis in connection with the opening of a business or special event subject to the temporary sign regulations in Section 1345.02.B.5 and Table 1345 of this Article;
2. Any sign on vacant lots, other than temporary political or "For Sale"
3. Signs affixed to trees, utility poles, fences, or equipment;
4. Roof signs;
5. Signs with moving, rotating, or oscillating parts, excluding tri-vision signs per section 1345.11.
6. Signs which by reason of their size, location, movement, content, coloring or manner of illumination may be confused with or construed to be a traffic-control sign;
7. Electronic changeable copy signs in R-1, R-2, R-4, and R-5 zones.
8. No sign of any description shall be installed, erected, or maintained so as to obstruct any fire escape or any door or window leading to any fire escape, nor shall any sign of any kind be attached or affixed in any form or manner to a fire escape. (1964 Code Sec. 30-23)
9. Any sign that the Director of Public Works determines to be unsafe or insecure or that is erected in violation of the provisions of this ordinance.

<u>Section 1345.03</u> Signs Permitted in Individual Zoning Districts.

The signs listed in Table 1345 shall be permitted in individual zoning districts, subject to any requirements listed in the Table and in each Subsection.

TABLE 1345: TYPE OF ZONING DISTRICT			
Type of Sign	**Residential**	**Commercial**	**Industrial**
Changeable Copy Sign		**(See Section 1345.10)**	
Permitted	Special Permit	YES	YES
Free-Standing Sign		**(See Section 1345.04)**	
Permitted	Special Permit	YES	YES
Maximum Number	1 per lot or parcel		
Maximum Surface Area	32 sq. ft.	72 sq. ft.	72 sq. ft.
Maximum Height	5 ft.	20 ft.	20 ft.
Maximum Length	8 ft.	10 ft.	10 ft.
Minimum Set back from Property Line	5 ft.	5 ft.	5 ft.
Illuminated Sign		**(See Section 1345.05)**	
External Permitted	Special Permit	YES	YES
Internal Permitted	Special Permit	YES	YES
Off-Premise (Billboard)		**(See Section 1345.11)**	
Suspended/Projecting Sign		**(See Section 1345.06)**	
Permitted	NO	YES	YES
Maximum Surface Area		6 sq. ft.	40 sq. ft.
Minimum Clearance above Ground or Sidewalk		9 ft.	9 ft.
Maximum Height of Sign Surface		3 ft.	5 ft.
Maximum Number		1 per each street frontage	1 per street frontage
Minimum Spacing Between Signs		20 ft.	20 ft.
Setback		Building set back minus 4 ft.	Building setback minus 5 ft.
Temporary Sign		**(See Section 1345.02.B.5)**	
Permitted	YES	YES	YES
Maximum Number	2 per lot	1 per establishment	2 per lot
Maximum Surface Area	6 sq. ft.	16 sq. ft.	16 sq. ft.
Maximum Height	4 ft.	6 ft.	6 ft.
Illuminated	NO	NO	NO
Wall Sign		**(See Section 1345.07)**	
Permitted	YES	YES	YES
Maximum Number	1 per establishment per street frontage		
Maximum Surface Area	See 1345.07.D	See 1345.07.C	See 1345.07.C
Maximum Height	See 1345.07. F	See 1345.07. E	See 1345.07.E
Window Sign		**(See Section 1345.08)**	
Permitted	NO	YES	YES
Maximum Surface Area		**(See Section 1345.08)**	

Section 1345.04 Additional Standards for Free-standing Signs

In addition to the regulations in Table 1345, all free-standing signs, except for temporary signs, shall comply with the following limitations and requirements:

A. A free-standing sign shall have no more than two sign faces;

B. The area immediately surrounding the base and support structure of the sign shall be landscaped with evergreen vegetation; and

C. Freestanding ground signs shall be required in residential districts and shall be used instead of pole signs to the maximum extent practical or feasible in other districts.

D. Connector/Freeway-Oriented Signs are signs oriented towards Interstate 64:

1. Area of Sign - shall not exceed (200) square feet in area and shall have no more than two sign faces.
2. Height - Signs shall not exceed (35) feet in height.
3. Lighting - Signs may be internally or externally lighted. No exposed incandescent lamp shall be utilized.
4. Connector for this purpose shall be defined as State Route 10, State Route 152 (5th Street Road), US Route 52 (Rahall Bridge approach), and the sign shall be limited to C-1, C-2, and I-1 zoned properties.

Section 1345.05 Additional Standards for Illuminated Signs

In addition to the regulations in Table 1345, all internally or externally illuminated signs shall meet the following requirements:

A. Limits on Degree of Internal Illumination. Any sign located adjacent to a dwelling unit or lot zoned for residential use shall be located, shielded and screened to prevent direct light or glare onto a dwelling unit or residential lot.

B. External Illumination. Whenever external illumination is used for a sign, the source of light shall be located, shielded, screened and directed in such a manner that the light source is not visible.

C. Back lit "bubble" awnings are prohibited in any National Historic Register District.

D. Signs which contain, include, or are illumined by any flashing, intermittent, or moving light or lights are prohibited if such signs interfere with traffic safety. Reflective surfaces or devices on sign faces and tri-vision signs with illumination are permitted provided such signs do not interfere with traffic safety and comply with subsections E and F of this section.

E. Signs must be effectively shielded to prevent beams or rays from being directed toward any portion of the traveled ways, and must not be of such intensity or brilliance to cause glare or impair the vision of the drive of any motor vehicle or otherwise interfere with any driver's options of a motor vehicle.

F. No sign shall be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device, or signal.

Section 1345.06 Additional Standards for Suspended or Projecting Signs

In addition to the regulations in Table 1345, all suspended and projecting signs shall comply with the following limitations and requirements:

A. Suspended or projecting signs shall be permitted only at shopping centers or theaters;

B. The sign shall be located in front of the establishment it serves and shall be of similar size, color and design as other suspended signs; and

C. There shall be no more than one (1) such sign per establishment fronting on the marquee, overhang, or other building feature from which the sign is suspended.

<u>Section 1345.07</u> Additional Standards for Wall Signs

In addition to the regulations in Table 1345, all wall signs shall comply with the following limitations and requirements:

A. The sign shall extend no further than twelve (12) inches from the wall to which it is attached;

B. The sign shall be attached to the wall so that the face of the sign is substantially parallel to the wall;

C. In C-1 and C-3 Commercial zones, the maximum sign area shall not exceed 10% of the area of the first two stories of building elevation on which it is placed. In C-2 and I-1 zones, maximum sign area shall not exceed 20% of the first two stories of building elevation. In the case of multi-occupant buildings, each tenant or owner may have a sign area not to exceed its proportionate share of the total allowable sign area for the building.

D. In residential districts, multi-family apartment buildings and authorized non-residential buildings may have wall signs that shall not exceed two (2) feet in height or twelve (12) square feet in total area.

E. In commercial and industrial districts, wall signs shall be placed no higher than the height of the building and, if the sign projects further than three (3) inches from the wall, no lower than ten (10) feet above the ground level.

F. In residential districts, wall signs shall be placed no higher than four (4) feet above the adjacent ground level, shall project no more than three (3) inches from the wall, and shall not obscure or cover any window, door or architectural feature.

G. No wall sign or wall bulletin shall be erected or maintained in such a manner as to permit the accumulation of paper, leaves, or trash behind the same.

H. No wall sign or wall bulletin shall be erected and maintained so as to cover the doors or windows of any building, except by special permit authorized by the Chiefs of the Police and Fire Departments, or so as to prevent free ingress or egress from any window, door, fire escape of the building upon which it is erected (1964 Code Sec 30-15).

<u>Section 1345.08</u> Additional Standards for Window Signs

In addition to the regulations in Table 1345, all window signs shall comply with the following limitations and requirements.

A. The total area of all window signs on display at any one time, including temporary window promotional signs, shall not exceed thirty-three (33) percent of the total area of the window in which they are located. A series of windows which are separated by frames less than six (6) inches in width shall be considered as a single window for the purposes of this computation.

<u>Section 1345.09</u> Special Standards for Shopping Centers and Other Multi-occupant Land Uses

A. No sign permit shall be issued for a shopping center or other multi-occupant land use, or for any individual establishment or occupant therein, unless a uniform sign plan has been submitted and approved for the entire development.

B. The Planning Director shall approve the uniform sign plan only upon finding that:

1. The sizes of signs and the materials used in the signs shall be consistent throughout the development, or shall establish a hierarchy of different types of signs, with the size and materials of the signs in each category being consistent for all signs in that category;
2. The design of and materials used for the structural elements of the signs shall be consistent with the design of and material used for the buildings or buildings which the signs serve; and
3. The signs shall conform to all other requirements of this Article.

<u>Section 1345.10</u> Special Standards for Changeable Copy Signs

Changeable copy signs shall be allowed as Special Exceptions Permits in all residential districts, except for institutional uses (see Section 1345.10.F).

A. In residential districts, changeable copy may be used on authorized free standing or wall signs for permitted nonresidential uses only. Signs utilizing changeable copy shall comply with sign size and illumination regulations for residential districts.
B. In commercial and manufacturing districts, changeable copy may be used on authorized free standing or wall signs. Signs containing changeable copy shall comply with sign size and illumination regulations for commercial and manufacturing districts.
C. An electronic display sign may be used to show date, time, temperature information, and public service announcements only in the C-1 zone.
D. In addition to time, date, temperature, and public service announcements, messages on an electronic display sign shall be limited to on-premise products and services in the C-2, C-3, and I-1 zones, otherwise said electronic display must conform to the regulations regarding Off-premise Signs (Billboards) as outlined in Section 1345.11, below.
E. In addition to other signs permitted under this Article, gasoline service stations may erect changeable copy signs advertising the prices of gasoline or other fuels, provided that the total of area of permitted signage is not exceeded.
F. Changeable copy signs are permitted for institutional uses permitted under the Zoning Ordinance in all districts. Such uses include, but are not necessarily limited to, churches, schools, funeral homes, and cemeteries.

<u>Section 1345.11</u> Off-premise Signs (Billboards)

A. Off premise signs shall be permitted in the following zones:
   C-1 - Special Permit
   C-2 - Permitted
   C-3 - Special Permit
   I-1 - Permitted
B. Legal Nonconforming Off-premise signs. Any off-premise sign lawfully erected and in existence on the effective date of this ordinance which does not meet the requirements of this ordinance may be maintained as a matter of right as a legal nonconforming sign and may be rebuilt 100% or relocated on the same property, provided that the sign's degree of nonconformity is not increased. This includes loss of signs due to Acts of God.
C. Size of Signs.
   1. The maximum size area for any one face of an off-premise sign located on interstate roads shall not exceed 672 square feet excluded the base of apron, trim supports, and other structural elements. Temporary embellishments shall not exceed 20% of the maximum sign area allowed.

2. The maximum sign area of any one face of an off-premise sign located on non-interstate roads shall not exceed 400 square feet excluding the base, or apron, trim supports, and other structural elements. Temporary embellishments shall not exceed 20% of the maximum sign area allowed.
3. Sign may be back-to-back, V-type, and tri-vision with not more than one face to each facing and such structure shall be considered as one off-premise sign.

D. Height of an Off-Premise Sign
1. An off-premise sign shall maintain a minimum clearance of ten feet measured from the ground level at the base of the sign to the bottom of the sign face.
2. An off-premise sign shall have a maximum height not to exceed 50 feet above grade level of interstate roadways to the bottom of the sign face and 35 feet above grade level of non-interstate roadways to the bottom of the sign face, as measured from the centerline of the roadway to which the sign is oriented. In no case, shall the height of a sign exceed the maximum height limitation of the zoning district in which it is located.

E. Spacing for Off-Premise Signs
1. No off-premise sign may be established within 750 feet of any other off-premise sign, measured along the same side of the street or highway to which the sign is oriented.
2. The spacing between signs does not apply to structures separated by buildings or other obstructions in such a manner that only one sign located within the spacing distances is visible from the street at any one time.
3. Spacing from Directional and Official signs. On-premise signs, or any other signs which does not constitute an off-premise sign shall not be counted nor shall measurements be made from such signs for the purpose of determining compliance with these spacing requirements.
4. No off-premise sign shall be constructed within 500 feet, measured linearly, along the same side of the street from a church, school, playground, park, recreation center, or community center.
5. No billboard shall be constructed within 200 feet, measured linearly, along the same side of the street from a residential district.
6. The minimum distance between off-premise signs shall be measured along the nearest edge of the pavement between points directly opposite the center of the signs along each side of the highway and shall apply to structures located on the same side of the same street or highway.

F. Setback Requirements
1. Front - 10 feet
2. Side - 5 feet
3. Rear - 5 feet
4. In no case shall any portion of an off-premise sign overhang into or be placed in the public right-of-way unless allowed by the Director of Public Works.
5. In no case shall any portion of an off-premise sign extend into the required buffer area as designed in Section 1347.05.

G. Lighting (see Section 1345.05)

H. Construction Standards. All off-premise signs shall be constructed in accordance with the building code of the City. The structural elements of all off-premise signs shall be of steel unipole construction.

Section 1345.12 Nonconforming Sign

Any nonconforming sign may be continued only as provided in this Section.

A. Normal maintenance of a nonconforming sign may occur, including any necessary repairs and alterations which do not enlarge, extend, or intensify the nonconformity.

B. No structural alteration, enlargement, or extension shall be made of a nonconforming sign, except when the alteration is required by law or will eliminate the nonconforming condition.

C. No conforming sign shall be erected on the same premises as an existing nonconforming sign until the nonconforming sign has been removed or changed to a conforming sign. However, for multi-occupant land uses, the fact that one particular establishment therein has a nonconforming sign will not prohibit a different establishment therein from erecting a conforming sign on the same premises.

D. A nonconforming sign shall be made to conform with the requirements of this Article whenever there is a change in the use or occupancy of the building which the sign serves, or whenever the building or structure which the sign serves is externally expanded or remodeled.

E. Whenever the use of a nonconforming sign, or the use which the sign serves, has been discontinued for a period of six (6) consecutive months, or whenever it is evident that there is a clear intent on the part of the owner to abandon the use of a nonconforming sign, or the use which the sign serves, then the sign thereafter shall be made to conform with the provisions of this Article.

F. If a nonconforming sign is damaged or destroyed by any means to the extent of fifty percent (50%) or more of its replacement value at the time of the damage or destruction (based on prevailing costs), then the sign thereafter shall be restored to conform to the provisions of this Article. However, if the damage or destruction is less than fifty percent (50%) of the replacement value, then the sign may thereafter be restored to its original condition, so long as restoration or repair of the sign is completed within six (6) months after the date of damage or destruction. The repaired or reconstructed sign shall be made to conform to the City of Huntington Building Code and Electrical Code in force at the time of the repair or reconstruction. Nonconforming off-premise signs shall be governed by Section 1345.11.

G. Any sign that was not previously approved by the City of Huntington and that does not conform to these regulations (illegal signs) shall be immediately removed at the expense of the owner.

Section 1345.13 Lighting

In connection with every site plan, the applicant shall submit plans for all proposed exterior lighting. These plans shall include the location, type of light, radius of light, manufacturer's specification sheet and intensity in foot-candles. The following designs standards shall be followed.

A. The style of the light and light standard shall be consistent with the architectural style of the principal building.

B. The maximum height of free-standing lights shall be the same as the principal building, but not exceeding twenty-five (25) feet.

C. All lights shall be shielded to restrict the maximum open angle of the cone of illumination to one hundred fifty (150) degrees.

D. Where lights along property lines would be visible to adjacent residents, the lights shall be

appropriately shielded.

E. Spotlight-type fixtures attached to buildings and visible to the public shall be avoided.

F. Free-standing lights shall be so located and protected to avoid being easily damaged by vehicles.

G. Lighting shall be located along streets, parking areas, at intersections, and where various types of circulation systems merge, intersect, or split.

H. Pathways, sidewalks and trails shall be lighted with low or mushroom type standards.

I. Stairways, and sloping or rising paths, building entrances and exits require illumination.

J. Lighting shall be provided where buildings are setback or off-set if access is provided at such points.

K. The following intensity in foot-candles shall be provided.

1. Parking lots - average of 0.5 foot-candles throughout.
2. Intersections - 3 foot-candles.
3. Maximum at property lines - 1.0 foot-candle.
4. In residential areas - average of 0.6 foot-candles.

ARTICLE 1347
LANDSCAPING

ARTICLE 1347

LANDSCAPING

Section 1347.01 **Purpose**

A. Unless specified elsewhere in this Ordinance, landscaping shall be provided as part of all non-residential land developments, residential subdivisions, and open space cluster developments for which a site plan is required by Article 1351 and in accordance with the following standards. It shall be conceived in a total pattern throughout the site, integrating the various elements of the site design, preserving and enhancing the particular identity of the site and creating a pleasing site character.

B. Landscaping may include plant materials such as trees, shrubs, ground cover, perennials, and annuals and other materials such as rocks, water, sculpture, art, walls, fences, and building and paving material.

Section 1347.02 **Landscape Plan**

A landscape plan shall be submitted with each non-residential land development, planned unit development, manufactured home park, residential subdivision, and open space cluster developments site application. The plan shall identify existing and proposed trees, shrubs, ground cover, natural features such as rock outcroppings, and other landscaping elements. The plan should show where there are or will be located and planting and/or construction details. When existing natural growth is proposed to remain, the applicant shall include in the plans proposed methods to protect existing trees and growth during and after construction.

Section 1347.03 **Site Protection and General Planting Requirements**

A. Topsoil preservation. Topsoil moved during the course of construction shall be redistributed on all regraded surfaces so as to provide at least four (4) inches of even cover to all disturbed areas of the development and shall be stabilized by seeding or planting.

B. Removal of debris. All stumps and other tree parts, litter, brush, weeds, excess or scrap building materials, or other debris shall be removed from the site and disposed of in accordance with the law. No tree stumps, portions of tree trunks or limbs shall be buried anywhere in the development. All dead or dying trees, standing or fallen, shall be removed from the site. If trees and limbs are reduced to chips, they may, subject to approval of the City Engineer, be used as mulch in landscaped areas.

C. Protection of existing plantings. Maximum effort should be made to save fine specimens (because of size or relative rarity). No material or temporary soil deposits shall be placed within four (4) feet of shrubs or ten (10) feet of trees designated to be retained on development site. Protective barriers or tree wells shall be installed around each plant and/or group of plants that are to remain on the site. Barriers shall not be supported by the plants they are protecting, but shall be self-supporting. They shall be a minimum of four feet high and constructed of a durable material that will last until construction is completed. Snow fences and silt fences are examples of acceptable barriers.

D. Slope plantings. Landscaping of the area of all cuts and fills and/or terraces shall be sufficient to prevent erosion, and all roadway slopes steeper than one (1) foot vertically to three (3) feet horizontally shall be planted with ground covers appropriate for the purpose and soil conditions, water availability, and environment.

E. Additional landscaping. In residential developments, besides the screening and street trees required, additional plantings or landscaping elements shall be required throughout the subdivision where necessary for climate control, privacy, or for aesthetic reasons in accordance with a planting plan approved by the Planning Director and taking into consideration cost constraints. In nonresidential developments, all areas of the site not occupied by buildings and required improvements shall be landscaped by the planting of grass or other ground cover, shrubs, and trees as part of a site plan approved by the Planning Director or Reviewing Body.

F. Planting specifications. Deciduous trees shall have at least a two-inch caliper measured twelve (12) inches above the ground at planting. Size of evergreens and shrubs shall be allowed to vary depending on setting and type of shrub. Only nursery-grown plant materials shall be acceptable; and all trees, shrubs, and ground covers shall be planted according to accepted horticultural standards. Dead or dying plants shall be replaced by the developer during the following planting season.

Section 1347.04 **Street Trees**

A. Location. Street trees shall be installed on both sides of all streets in accordance with the approved landscape plan. Trees shall either be massed at critical points or spaced evenly along the street, or both. A permit for installation of trees within the city right-of-way or easements will be required.

When trees are planted at predetermined intervals along streets, spacing shall depend on tree size, as follows:

	Tree Size (in feet)	Planting Interval (in feet)
Large trees	(40+)	50-70
Medium-sized trees	(30-40)	40-50
Small trees	(to 30)	30-40

When the spacing interval exceeds 40 feet, small ornamental trees can be spaced between the larger trees. If a street canopy effect is desired, trees may be planted closer together, following the recommendations of a certified landscape architect. The trees shall be planted so as not to interfere with utilities, roadways, sidewalks, sight easements, or street lights. Tree location, landscaping design, and spacing plan shall be approved by the Director of Public Works as part of the landscape plan.

B. Tree type. Tree type may vary depending on overall effect desired, but as a general rule, all trees shall be the same kind on a street except to achieve special effects. Selection of tree type shall be approved by the Planning Director or Reviewing Body.

Section 1347.05 **Buffering**

A. Function and materials. Buffering shall provide a year round visual screen in order to minimize adverse impacts from a site on an adjacent property or from adjacent areas. It may consist of fencing, evergreens, berms, rocks, boulders, mounds, or combinations to achieve the stated objectives.

B. When required. Buffering shall be required when topographical or other barriers do not provide reasonable screening or when the Planning Commission determines that there is a need to shield the site from adjacent properties and to minimize adverse impacts such as incompatible land uses, noise, glaring light, and traffic. In small-lot developments, when

building design and sitting do not provide privacy, the Planning Commission may require landscaping, fences, or walls to ensure privacy and screen dwelling units.

Buffers shall be measured from side and rear property lines, excluding access driveways.

1. Where nonresidential, multi-family, or a manufactured home park use (including related parking areas) are adjacent to any R-1, R-2, or R-4 residential district or any lot with a single-family residence, a buffer yard twenty-five (25) feet, but not to exceed 10% of the lot area width, shall be required.
2. Parking areas, garbage collection and utility areas, and loading and unloading areas should be screened around their perimeter by a buffer strip a minimum of five (5) feet wide.
3. Where residential subdivisions abut higher-order streets (collectors or arterioles), adjacent lots should front on lower-order streets, and a landscaped buffer area provided along the property line abutting the road. The buffer strip shall be a minimum of twenty-five (25) to thirty-five (35) feet, but not to exceed 10 percent of the lot area wide or wider where necessary for the health and safety of the residents, and include both trees and shrubs.

C. Design. Arrangement of plantings in buffers shall provide maximum protection to adjacent properties and avoid damage to existing plant material. Possible arrangements include planting in parallel, serpentine, or broken rows. If planted berms are used, the minimum top width shall be four (4) feet, and the maximum side slope shall be 2:1.

D. Planting specifications. Plant materials shall be sufficiently large and planted in such a fashion that a screen at least eight (8) feet in height shall be produced within three (3) growing seasons. All plantings shall be installed according to accepted horticultural standards.

E. Maintenance. Plantings shall be watered regularly and in a manner appropriate for the specific plant species through the first growing season, and dead or dying plants shall be replaced by the applicant during the next planting season. No buildings, structures, storage of materials, or parking shall be permitted within the buffer area; buffer areas shall be maintained and kept free of all debris, rubbish, weeds, and tall grass.

<u>Section 1347.06</u> Parking Lot Landscaping

A. Amount required. In parking lots, at least five percent (5%) of the interior parking area shall be landscaped with plantings. Parking lot street frontage screening and perimeter screening shall be a minimum of five (5) feet wide. If buffering is required, per Section 1347.05 (B)(1), the more restrictive screening distance shall apply. Planting required within the parking lot is exclusive of other planting requirements, such as for street trees.

B. Location. The landscaping should be located in protected areas, such as along walkways, in center islands, at the end of bays, or in diamonds between parking stalls. All landscaping in parking areas and the street frontage shall be placed so that it will not obstruct sight distance.

C. Plant type. A mixture of hardy flowering and/or decorative evergreen and deciduous trees may be planted; the area between trees shall be planted with shrubs or ground cover or covered with mulch.

ARTICLE 1349
REGULATION OF FLOOD PLAIN AREA AND PONDING BASIN

ARTICLE 1349

REGULATION OF THE FLOODPLAIN AREA AND PONDING BASINS

AN ORDINANCE ESTABLISHING A FLOODPLAIN AREA AND REQUIRING ALL CONTRACTORS, PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A PERMIT FOR DEVELOPMENT AND THE CONSTRUCTION, SUBSTANTIAL IMPROVEMENT , OR RELOCATION OF ANY BUILDING OR STRUCTURE; PROVIDING FOR CERTAIN MINIMUM STANDARDS FOR CONSTRUCTION WITHIN THE FLOODPLAIN AREA AND SETTING FORTH SPECIAL PROCEDURES FOR SUBMISSION AND APPROVAL OF PLANS; AND ESTABLISHING PENALTIES FOR ANY PERSON WHO FAILS TO COMPLY WITH THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

BE IT ENACTED AND ORDAINED BY THE CITY OF HUNTINGTON COUNCIL AS FOLLOWS:

Section 1349A GENERAL PROVISIONS

1349A.01 Authority

A. The provisions of this ordinance have been prepared with the intention of meeting the requirements of THE NATIONAL FLOOD INSURANCE ACT OF 1968 (42 U.S.C. 4001 et seq.) AMENDED BY THE CONGRESS OF THE UNITED STATES THROUGH THE 15TH.OF FEBRUARY, 1975 (PUBLIC LAW 91-152),

B. Authority to adopt, administer and enforce this Ordinance is vested in CITY OF HUNTINGTON pursuant to WEST VIRGINIA STATE CODES 8-12-14, 7-1-3n, 7-1-3v and 7-1-3kk and/or WEST VIRGINIA STATE CODE 8A-4-2, 8A-5-7, 8A-7-2

1349A.02 Intent

The intent of this ordinance is to:

A. Promote the general health, welfare, and safety of the Community.

B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future and protect natural drainage.

C. Minimize danger to public health and safety by protecting water supply and sanitary sewage disposal in cooperation with the County Sanitarian.

D. Assure the County Assessor obtains information concerning improvement of real property as required by WV State Code 11-3-3A.

E. Assure County E-911 addresses are obtained to maintain the currency of established emergency response dispatch systems.

F. Reduce financial burdens imposed on CITY OF HUNTINGTON, its governmental units, and its residents, by preventing the unwise design and construction of development in areas subject to flooding.

1349A.03 Abrogation and Greater Restrictions

This ordinance supersedes any ordinance currently in effect in flood prone areas. Any ordinance, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

1349A.04 Applicability

It shall be unlawful for any contractor, person, partnership, business, or corporation to undertake or cause to be undertaken, any development, new construction, substantial improvement, repair of substantial damage, or the placement or relocation of any structure (including manufactured homes) within CITY OF HUNTINGTON, unless a permit application has been completed and a permit or certificate of occupancy has been obtained from the Floodplain Administrator. In addition, where land partially or fully in the special flood hazard area is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed as defined in this ordinance, a site plan with elevation data shall be submitted to, and approved by, the Floodplain Administrator prior to any development.

Provision of all other codes, ordinances, and regulations shall be applicable insofar as they are consistent with the provisions of this ordinance and the community's need to minimize the hazards and damage resulting from flooding.

1349A.05 Matters not provided for specifically

Where conditions are encountered that are not specifically provided for herein, the Floodplain Administrator shall determine the applicability of the provisions of this ordinance in accordance with its intent, and shall require the applicant to take appropriate measures pursuant to such determination.

Section 1349B INTERPRETATIONS AND DEFINITIONS

1349B.01 Interpretations

A. For the purpose of this ordinance, the following interpretations shall apply:

1. Words used in the present tense include the future tense

2. The singular includes the plural.

3. The plural includes the singular.

4. The word “person” includes a corporation, unincorporated association or partnership as well as an individual.

5. The Term “shall” or “will” is always mandatory.

6. The word “building” or “structure” shall be construed as if followed by the phrase “or part thereof”.

7. The word “ordinance” shall refer to the Floodplain Ordinance.

1349B.02 Definitions
Unless specifically defined below, words and phrases used in this ordinance shall be interpreted so as to give this ordinance it’s most reasonable application.

Accessory Structure

A structure on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. This does not include a gas or liquid storage tank.

Base Flood

Means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE)

The water surface elevation of the base flood in relation to the datum specified on CITY OF HUNTINGTON’s Flood Insurance Rate Map. For the purposes of this ordinance, the one hundred (100) year flood or 1% annual chance flood.

Basement

Any area of the building having its floor sub grade (below ground level) on all sides.

Certificate of Occupancy

A certification that all development is in occupancy with the provisions of this ordinance.

Compensatory storage

An artificially excavated, hydraulically equivalent volume of storage within the special flood hazard area used to balance the loss of natural flood storage capacity when artificial fill or structures are placed within the special flood hazard area.

Contractor - WV State Code 21-11-3(c)

A person who in any capacity for compensation, other than as an employee of another, undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, structure or excavation associated with a project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, where the cost of the undertaking is one thousand dollars or more. Contractor includes a construction manager who performs management and counseling services on a construction project for a professional fee.

Contractor does not include:

(1) One who merely furnishes materials or supplies without fabricating or consuming them in the construction project.

(2) A person who personally performs construction work on the site of real property which the person owns or leases whether for commercial or residential purposes;

(3) A person who is licensed or registered as a professional and who functions under the control of any other licensing or regulatory board, whose primary business is real estate sales, appraisal, development, management and maintenance, who acting in his or her respective professional capacity and any employee of such professional, acting in the course of his or her employment, performs any work which may be considered to be performing contracting work

(4) A pest control operator licensed under the provisions of section seven, article sixteen-a, chapter nineteen of this code to engage in the application of pesticides for hire, unless the operator also performs structural repairs exceeding one thousand dollars on property treated for insect pests; or

(5) A corporation, partnership or sole proprietorship whose primary purpose is to prepare construction plans and specifications used by the contractors defined in this section and who employs full time a registered architect licensed to practice in this state or a Registered Professional Engineer licensed to practice in this state. Contractor also does not include employees of such corporation, partnership or sole proprietorship.

Critical Facility

Any facility in which, even a slight chance of flooding is too great a threat. Typical critical facilities include hospitals, fire stations, police stations, storage of critical records, and similar facilities. These should be given special consideration when formulating regulatory alternatives and floodplain management plans. A critical facility should not be located in a special flood hazard area if at all possible. If a critical facility must be located in a special flood hazard area it should be provided a higher level of protection so that it can continue to function and provide services during a flood.

Development

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Flood

A general and temporary inundation of normally dry land areas.

Flood Insurance Rate Map (FIRM)

The official map on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to CITY OF HUNTINGTON. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study

The official report in which the Federal Emergency Management Agency has provided flood profiles, floodway information, and water surface elevations.

Floodplain

(1) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation;

(2) An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

Floodway

The channel of a river or other watercourse and the adjacent land area that must be reserved to discharge the base flood without increasing the water surface elevation of that flood more than one foot at any point.

Flood proofing

Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Freeboard

A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for unknown factors that may contribute uncertainty to flood heights of any given flood and floodway condition, such as wave

action, blockage at stream crossings, and increased runoff from urbanization of the watershed. Freeboard also tends to lower the cost of flood insurance.

Highest Adjacent Grade (HAG)

The highest natural elevation of the ground surface immediately adjacent to the development or structure foundation. This is primarily used during insurance rating in approximated floodplains.

Historic Structure

Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior; or,

(ii) Directly by the Secretary of Interior in states without approved programs.

Licensed Manufactured Home Retailer

A business licensed to sell Manufactured Homes in the state of WV as set forth in the WV state code.

Licensed Manufactured Home Installer

A contractor licensed to install Manufactured Homes in WV as set forth in the WV State Code.

Licensed Professional Surveyor

Any person licensed by the WV state board of examiners of land surveyors to engage in the practice of land surveying as defined in WV state code.

Lowest Adjacent Grade (LAG)

The lowest natural elevation of the ground surface immediately adjacent to the proposed development or structure foundation. The primary use of the LAG is to determine whether the structure is located within a special flood hazard area by comparing it to the base flood elevation.

Lowest Floor

The lowest floor of the lowest enclosed area (including basement). An unfinished enclosure constructed with flood resistant materials as defined in FEMA Technical Bulletin 2 and usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure has proper flood openings and is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured Home

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

New Construction

Structures for which the Start of Construction as herein defined commenced on or after 01/17/1990 and including any subsequent improvements to such structures. Any construction started after effective date of CITY OF HUNTINGTON's first floodplain ordinance adopted by CITY OF HUNTINGTON and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the ordinance was issued, provided the start of construction was within 180 days of permit issuance.

One-Hundred (100) Year Flood

A flood that has one chance in one-hundred or a one percent chance of being equaled or exceeded in any given year.

Person

Any individual or group of individuals, corporation, partnership, association or other entity, including State and local governments and agencies.

Post firm non-compliant structures. Violations,

The failure of any structure or development to be fully compliant with all requirements of this Ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this Ordinance is presumed to

be in violation until such time as the documentation is provided. No future improvements or developments can be made to structures found to be in violation unless the development is to bring the structure into compliance with the current ordinance.

Practice of Engineering

Any service or creative work, as described in WV state code Article 13, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems; planning the use of land and water; teaching of advanced engineering subjects, engineering surveys and studies; and the review of construction for the purpose of assuring compliance with drawings and specifications any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services. Engineering surveys include all survey activities required to support the sound conception, planning, design, construction, maintenance and operation of engineered projects.

Any person who practices any branch of the profession of engineering or who, by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself or herself to be a Registered Professional Engineer, or by using another title implies that he or she is a Registered Professional Engineer or that he or she is registered under WV state code, article 13 or who holds himself or herself out as able to perform, or who performs any engineering service or work or any other service designated by the practitioner which is recognized as engineering, is considered to practice or offer to practice engineering within the meaning and intent of WV state code article 13.

Principally Above Ground

Where at least 51 percent of the actual cash value of a structure, less land value, is above ground.

Recreational Vehicle

A vehicle which is:

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

Registered Professional Engineer

A person who has been duly registered or licensed as a Registered Professional Engineer by the West

Virginia state board of registration for professional engineers as required under WV state code article 13 et seq.

Remedy a Violation

To bring a structure or other development into compliance with the requirements of this ordinance, or, if full compliance is not possible, to reduce the adverse impacts of the non-compliance to the greatest extent feasible.

Reasonably Safe from Flooding

Means that during the base flood, water should not damage structures and any subsurface waters related to the base flood should not damage existing or proposed structures.

Special Flood Hazard Area

The land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency in Flood Insurance Studies and on Flood Insurance Rate Maps as Zones A, AE, AO, A1-30, and A99. This term shall also include areas shown on other flood hazard maps that are specifically listed or otherwise described in this ordinance.

Start of Construction

The date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Although a permit must be obtained prior to beginning, permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State Coordinating Office

The West Virginia Division of Homeland Security and Emergency Management

Stream

As defined in WV State Code 7-1-3U, any watercourse, whether natural or man-made, distinguishable by banks and a bed, regardless of their size, through which water flows continually or intermittently, regardless of its volume.

Structure

A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means cumulative flood-related damages sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. See "Substantial Improvement."

Substantial Improvement

Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the Start of Construction of the improvement.

This term includes structures, which have incurred "substantial damage", as defined herein regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violation of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

For the purpose of this definition improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structure.

Top of Bank

The lines depicted on the FIRM maps delineating each side of a stream indicate the top of bank. In the field a professional familiar with fluvial geomorphology should document the top of bank. When a professional is not employed the top of the bank may be considered to be the top of the first significant slope landward of the waters edge when it is followed by at least 50 feet of relatively flat land.

Violation

The failure of any structure or development to be fully compliant with all the requirements of this ordinance. Any structure or other development lacking the certifications, finished construction elevation certificate or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

Section 1349C - ESTABLISHMENT OF THE SPECIAL FLOOD HAZARD AREA

1349C.01 Identification

A. The identified special flood hazard area shall be those areas of theCITY OF HUNTINGTON which are subject to the one hundred (100) year flood, as shown on the Flood Insurance Rate Map (FIRM) and described in the Flood Insurance Study (FIS) prepared for CITY OF HUNTINGTON by the Federal Emergency Management Agency (FEMA) dated February 19, 2014 or the most recent revision thereof including all digital data developed as part of the FIS.

B. The identified special flood hazard area shall also be those special flood hazard areas identified by CITY OF HUNTINGTON by use of historic or other technical data and shown on an officially recognized **"**Local Flood Hazards Map". These areas shall be designated as appropriate with the level of technical data described below and shall be managed accordingly.

1349C.02 Descriptions of Special Flood Hazard Areas

A. The identified special flood hazard area shall consist of the following four specific areas:

1. The Floodway shall be those areas of AE zone identified as Floodways in the FIS and as shown on the FIRM. The term shall also include any floodway areas delineated by developers in the approximated floodplain and designated as such by the community.

2. The Floodway Fringe shall be those areas of AE zone for which specific one hundred (100) year flood elevations have been provided in the FIS but which lie beyond the floodway area.

3. The AE Area without Floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which 100-year flood elevations have been provided but no Floodway has been delineated.

4. The Approximated floodplain shall be those areas identified as an A zone on the FIRM included in the FIS prepared by FEMA and for which no one hundred (100) year flood elevations have been provided.

1349C.03 Changes in Designation of Area

A. The delineation of the identified special flood hazard area may be revised by CITY OF HUNTINGTON where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, a River Basin Commission or other qualified agency or individual document the necessity for such changes. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency (FEMA).

B. CITY OF HUNTINGTON's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable but, not later than six months after the date such information becomes available, CITY OF HUNTINGTON shall notify the NFIP Administrator of the changes by submitting technical or scientific data.

C. CITY OF HUNTINGTON may identify and regulate new local flood hazard or ponding areas. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

1349C.04 Boundary Disputes

Should a dispute concerning the location of proposed development relative to a special flood hazard area arise, an initial determination shall be made by the Floodplain Administrator and any party aggrieved by this decision may appeal to CITY OF HUNTINGTON**.** The burden of proof shall be on the appellant/applicant.

1349C.05 Elevations Prevail

Elevation data certified by a Licensed Professional Surveyor or Registered Professional Engineer shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

A. If the structure location appears to be inside the SFHA on the FEMA FIRM's and If the lowest natural grade adjacent to proposed development within an identified flood hazard area is at or above the Base Flood Elevation specified in the Flood Insurance Study (FIS), the structure shall not be required to conform to the flood prevention design and construction standards or flood-related development codes in Article VI. Topographic data certified by a registered professional engineer or licensed professional surveyor shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator. The applicant shall apply for a Letter of Map Amendment (LOMA) from FEMA and the determination given to the floodplain administrator within 90 days of issuance of the permit having the Special Flood Hazard Area designation removed from the parcel or structure prior to certificate of occupancy/ compliance.

B. The proposed development shall be considered to be within the special flood hazard area if the natural LAG to the proposed development is below either; 1. The closest applicable BFE specified in the flood insurance study, or 2. The reasonably safe

from flooding elevation determined by CITY OF HUNTINGTON in approximate floodplains. The proposed development shall then be required to conform to all appropriate flood damage reduction provisions of this ordinance.

Section 1349D UTILIZATION OF THE SPECIAL FLOOD HAZARD AREA

1349D.01 Floodway

Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the CITY OF HUNTINGTON during the occurrence of the base flood discharge. The resultant engineering study shall include a cover letter, signed and sealed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain Administrator.

A. Because floodways present increased risk to human life and property due to their relatively faster and deeper flowing waters the Floodway shall be preserved to the greatest extent possible.

    1. New development shall not be permitted in the floodway where reasonable alternatives exist elsewhere. In addition to the requirements below the applicant shall demonstrate that there are no reasonable alternatives other than the floodway encroachment before a permit is issued.

    2. When the floodway is the only reasonable alternative the applicant shall demonstrate that the floodway encroachment is the minimum necessary to accomplish the project.

    3. All permitted uses, activities, and development shall be undertaken in strict compliance with the flood proofing and related provisions contained herein, and in all other applicable codes, ordinances and regulations.

    4. In special flood hazard areas for which no regulatory floodway has been designated, the regulatory floodway for small, single lot development not incorporating significant amounts of fill can, at the discretion of CITY OF HUNTINGTON, be determined to be the channel of the stream and the adjacent land areas to a distance of one-half the width of the special flood hazard area as measured from the top of the bank nearest the site to the upland limit of the 1% annual chance special flood hazard area boundary.

1349D.02 Floodway Fringe

Within any Floodway Fringe area any development and/or use of land shall be permitted provided that all such uses, activities and/or development shall be undertaken in strict

compliance with the flood-proofing and related provisions contained herein and in all other applicable codes, ordinances and regulations.

1349D.03 AE without Floodway

Within any AE without Floodway area, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the 100-year flood more than one (1) foot at any point. This requirement can be satisfied by utilization of the floodway where determined.

1349D.04 Approximated Floodplain (Zone A)

A. Within any Approximated Floodplain

1. The Floodplain Administrator shall use elevation and floodway information from Federal, State, or other acceptable sources when available to determine the elevation above which development will be reasonably safe from flooding.

2. When data from an acceptable source is not available, the Floodplain Administrator shall review, or shall cause to be reviewed; all proposed development to determine; 1. The amount being invested and, 2. The specific flood risk at the site. The Floodplain Administrator shall then require the applicant to determine the elevation above which the development will be reasonably safe from flooding using elevation data, hydrologic and hydraulic analyses or other techniques. When hydrologic and hydraulic analyses are required, they shall only be undertaken by a Registered Professional Engineer who shall certify that the methods used correctly reflect currently accepted technical concepts. The resultant study shall include a cover letter, signed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain Administrator.

3. Any development and/or use of land shall be permitted provided that all such uses, activities and/or development shall be undertaken in strict compliance with the flood-proofing and related provisions contained herein and in all other applicable codes, ordinances and regulations.

See appendix 4.4 for Sample “Approximated floodplain (Zone A) techniques”

1349D.05 Alteration or relocation of a stream

A. Whenever a developer intends to alter or relocate a stream within the special flood hazard area the developer shall notify in writing, by certified mail, to CITY OF HUNTINGTON**,** The Floodplain Administrator, the State Coordinating Office, any adjacent communities and any adjacent property owners of all such intended activities prior to the alteration or relocation of the stream. Copies of all required notifications

must be submitted to the Federal Emergency Management Agency (FEMA). In addition prior to issuing the local permit the Floodplain Administrator shall require copies of all necessary permits from those governmental agencies from which Federal or State Law requires approval.

See appendix 4.5 for Sample "Stream Alteration process and contact sheet"

B. The developer shall also assure CITY OF HUNTINGTON in writing that the flood carrying capacity within the altered or relocated portion of the stream will be maintained. The Floodplain Administrator may require the applicant to demonstrate that the altered or relocated portion of stream will provide equal or greater conveyance than the original stream segment. If hydrologic and hydraulic analyses are required, they shall only be undertaken by a Registered Professional Engineer, who shall certify that the methods used correctly reflect currently accepted technical concepts. The resultant study shall include a cover letter, signed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain Administrator.

C. Alteration of a stream includes placement of culverts, bridges or other stream crossings. The Floodplain Administrator may require the use of certain "best practice" techniques in the construction of bridges, culverts or stream crossings to prevent damage, loss of stream crossings and localized flooding caused by blockage. These techniques may include, but are not limited to, wing walls, trash grates or requiring openings to be of sufficient size to pass debris and/or anticipated future increases in flood heights.

D. All new and replacement bridges, culverts and other stream crossings shall adhere to the relevant anchoring requirements contained in this ordinance.

E. The developer is required to provide CITY OF HUNTINGTON a legal agreement detailing all scheduled inspections and maintenance to be performed on altered or relocated watercourses including culverts, bridges and other stream crossings. It shall be the responsibility of the applicant to transfer this agreement to the new owner when the land associated with the watercourse alteration is transferred. A copy of all new agreements shall be provided to the Floodplain Administrator. Failure to transfer the agreement and provide a signed copy to the Floodplain Administrator shall subject the violator to the penalties set forth in 1349H.03 of this ordinance.

F. The applicant shall submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the Flood Insurance Study and/or Flood Insurance Rate Maps, when notified by the Floodplain Administrator, and shall pay any fees or other costs assessed by FEMA for this purpose.

Section 1349E CRITERIA FOR BUILDING AND SITE PLAN APPROVAL

1349E.01 General

Permits are required in order to determine whether all new construction or substantial improvements are:

A. Located in an identified Floodplain, Floodway or other special flood hazard area.

B. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. Constructed with material and utility equipment resistant to flood damage as outlined in FEMA Technical Bulletin 2 or the most recent revision thereof.

D. Constructed by methods and practices that minimize flood damage.

E. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

F. To comply with WV State Code §11-3-3a. concerning County Assessor "Building or real property improvement notice"

G. Approved by County Health Department for Water and Sewer to assure facilities are designed or located in compliance with the flood damage reduction requirements of this ordinance.

1349E.02 Basic Format

The basic format of the permit shall include the following:

A. Name and address of applicant.

B. Name and address of owner of land on which proposed development is to occur.

C. Names, addresses, and valid WV license numbers of all contractors working at the building site, or affidavits stating that work is being performed by individuals exempt from contractor licensing as set forth in Title 28, Series 2, section 3.9 (b) of the West Virginia Code of state regulations or the most recent revision thereof.

D. A description of Site location sufficient to locate the project including tax map and parcel number and most recent deed book and page number.

E. A standard site plan showing size and location of the proposed development as well as any existing buildings or structures. The site plan shall also show all adjacent roads and watercourses with direction of flow, the lowest adjacent grade to the proposed foundation and/or toe of fill, the Base Flood Elevation and the location of the floodway boundary when applicable.

F. An acknowledgement that the applicant agrees to pay any and all fees associated with the permitting process as set forth in 1349G.09 hereof.

H. An acknowledgement that the applicant agrees to allow authorized representatives of floodplain management programs access to the development to inspect for compliance.

I. The contract required by WV Code of State Regulations, Title 28, Series 4, and all addendums to the contract(s) shall be presented to the Floodplain Administrator for review within five (5) business days of contract signing. CITY OF HUNTINGTON does not require and will not keep copies of the contracts or addendums. Failure to present contract or addendums for review shall void the permit. If a licensed contractor is not involved, or the work is of an aggregate value of less than ten thousand dollars including materials and labor, a brief written description of proposed work and the estimated value will suffice.

1349E.03 Elevation and Flood Proofing Information

All applicants are encouraged to exceed the minimum elevation requirements contained herein. Flood insurance rates can be lowered significantly by increasing the elevation of the lowest floor above the freeboard height required by this ordinance.

Depending on the type of structure involved, the following information shall also be included in the application for work within the Special flood hazard area:

A. For structures to be elevated two feet above the Base Flood Elevation:

1. A plan showing the size of the proposed structure and its relation to the lot where it is to be constructed.

2. A determination of elevations of the Base Flood, existing ground, proposed finished ground and lowest floor, certified by a Registered Professional Engineer or Licensed Professional Surveyor.

3. Plans showing the method of elevating the proposed structure including details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, etc. When required by the Floodplain Administrator, a Registered Professional Engineer or Architect shall prepare these plans.

4. Plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, etc.) from flooding to two feet above the Base Flood Elevation at the building site.

5. During the course of construction, as soon as the basic elements of the lowest floor are in place and before further vertical construction, it is highly recommended that the applicant check for error by obtaining elevation data completed by a Registered Professional Engineer or Licensed Professional Surveyor certifying the

height of the lowest floor. If a mistake in elevation has been made this is the best time to correct the error.

6. A finished construction elevation certificate shall be prepared by a Licensed Professional Surveyor or others of demonstrated qualifications. The elevation certificate shall confirm that the structure in question, together with attendant utilities is elevated in compliance with permit conditions.

7. A non-conversion agreement shall be signed by the applicant whenever CITY OF HUNTINGTON determines that the area below the first floor could be converted to a non-conforming use (generally applies to enclosed areas below base flood elevation that are 5 ft. high or more). This agreement shall state:

   (i) The area below Base Flood Elevation shall not be converted for use other than for parking, building access or for allowable storage as detailed in this ordinance.

   (ii) The applicant agrees to notify prospective buyers of the existence of the non-conversion agreement. It shall be the responsibility of the applicant to transfer the agreement at closing to the new owner via notarized signature, a copy of all new agreements shall be provided to the Floodplain Administrator. Failure to transfer the agreement and provide a signed copy to the Floodplain Administrator shall subject the violator to the penalties set forth in 1349H.03 of this ordinance.

B. For structures to be flood proofed to two feet above the Base Flood Elevation (nonresidential structures only):

All applicants are encouraged to exceed the minimum flood proofing requirements contained herein. Flood insurance rates can be lowered significantly by increasing the level of flood proofing above the height required by this ordinance. In order to obtain an “elevation credited” flood insurance rate on dry flood proofed buildings, flood proofing must extend at least one foot above the Base Flood Elevation.

1. Plans showing details of all flood proofing measures, prepared by a Registered Professional Engineer, showing the size of the proposed structure and its relation to the lot where it is to be constructed.

2. A determination of elevations of the Base Flood, existing ground, proposed finished ground, lowest floor, and flood proofing limits; certified by a Registered Professional Engineer or Licensed Professional Surveyor.

3. A Flood proofing Certificate, FEMA 81-65, as revised by FEMA, shall be prepared by the Registered Professional Engineer who prepared the plans in (1) above, stating that the finished structure, together with attendant utility and sanitary facilities is designed so that:

(i) The structure is water tight with walls substantially impermeable to the passage of water from the lowest structural element to two feet above the Base Flood Elevation.

(ii) The structure will withstand the hydrostatic, hydrodynamic, buoyant, impact, and other forces resulting from the flood depths, velocities, pressures, and other factors associated with the Base Flood.

C. For Accessory structures constructed of flood resistant materials used solely for parking of vehicles or limited storage, (Accessory Structures only)

1. A site plan prepared by a Licensed Professional Surveyor or others of demonstrated qualifications showing elevation of existing ground, proposed finished ground and lowest floor. The plan shall also show details of proposed flood resistant materials usage and the size of the proposed structure and its relation to the lot where it is to be constructed. The location of the floodway boundary shall be represented on the plan when a floodway is present on the site.

2. An elevation certificate, based on finished construction, must be prepared by a Licensed Professional Surveyor or others of demonstrated qualifications. The elevation certificate confirm that the structure in question, together with attendant utilities is designed so that:

(i) Flood resistant materials as detailed in FEMA Technical Bulletin 2 are used in the construction of the structure from the lowest structural element to two feet above the Base Flood Elevation and that all utilities are located at least two feet above the Base Flood Elevation.

(ii) Hydrostatic flood forces on exterior walls are equalized by allowing for automatic entry and exit of floodwaters. Designs for meeting this requirement shall either be certified by a Registered Professional Engineer or Architect or meet or exceed the following minimum criteria:

a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b) The bottom of all openings shall be no higher than one foot above grade.

c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

3. In addition, the applicant shall sign a non-conversion agreement and notify prospective buyers of the existence of the agreement. It shall be the responsibility of the applicant to transfer the non-conversion agreement to any new owner at

closing via notarized signature. A signed copy of the transferred non-conversion agreement shall be provided to the Floodplain Administrator. Failure to transfer the agreement and provide a signed copy to the Floodplain Administrator shall subject the violator to the penalties set forth in 1349H.03 of this ordinance.

1349E.04 Site Plan Criteria

Site plans are required for all development, new construction and substantial improvements determined to be located in a special flood hazard area and all proposed Subdivisions and Manufactured Home Parks. These proposals shall be reviewed by the Floodplain Administrator to assure that they are consistent with the need to minimize flood damage.

The owner or developer shall submit a preliminary site plan to the Floodplain Administrator that includes the following information:

A. A map showing the location of the proposed subdivision and/or development with respect to special flood hazard areas, proposed lot sites, and fills.

B. Name of Registered Professional Engineer, Licensed Professional Surveyor or other qualified person responsible for providing the information required in this section.

C. Where the subdivision or manufactured home park lie partially or completely in the special flood hazard areas, the plan map shall include detailed information giving the location and elevation of proposed roads, public utilities and building sites. All such maps shall also show contours at intervals of two (2) or five (5) feet depending upon the slope of the land and identify accurately the boundaries of the special flood hazard areas. A Registered Professional Engineer or Licensed Professional Surveyor shall certify the site plan.

D. All subdivision proposals and other proposed new developments which are proposed to take place either fully or partially within the approximated floodplain and which are greater than ten (10) lots or two (2) acres, whichever is the lesser, shall include base flood elevation data and shall delineate a floodway when directed to do so by the Floodplain Administrator.

    1. When a Flood Insurance Study (FIS) is available from FEMA, the data contained in that study shall be used to substantiate the base flood.

    2. If a FEMA Flood Insurance Study is not available the required data may be available from an authoritative source, such as the U.S. Army Corps of Engineers, U.S. Geological Survey, Natural Resource Conservation Service or state and local water resource department.

    3. If the required data is not available from other sources the applicant shall develop the technical data using detailed methodologies comparable to those contained in a Flood Insurance Study. This data shall be prepared and certified by a Registered Professional Engineer, who shall certify that the methods used correctly reflect currently accepted technical concepts.

E. Where the subdivision or other development site lies partially in the special flood hazard area and all proposed development including fill will take place on natural grade a significant vertical distance above the approximated floodplain area (Zone "A") boundary depicted on the map, development of detailed Base Flood Elevation data may not be necessary. In these cases the site plan for the proposed development must show contours at intervals of two (2) or five (5) feet, depending on the slope, and clearly delineate the area to be developed and the location of the special flood hazard boundary area as scaled from the FEMA map. A Registered Professional Engineer or Licensed Professional Surveyor shall certify the site plan.

1349E.05 – Restrictions to Subdivision of land in special flood hazard areas.

Subdivision of land in the special flood hazard area shall result in lots that include a buildable portion outside of the special flood hazard area and be served by streets within the proposed subdivision having surfaces not lower than 1 foot below the elevation of the line defining the special flood hazard area limits. All new structures shall be sited on the portion of the subdivided lot that is located outside of the special flood hazard area.

Section 1349F - SPECIFIC REQUIREMENTS

1349F.01 Design and Construction Standards

In order to prevent excessive damage to buildings, structures, and related utilities and facilities, the following restrictions apply to all development, subdivision proposals, manufactured home parks, new construction and to construction of substantial improvements, and the repair of substantial damage, to existing structures occurring in the Special flood hazard area.

A. Basements and Lowest Floors

1. Residential Structures - All new construction, relocation, substantial improvements, including repair of substantial damage, of residential structures shall have the lowest floor, including basement, ductwork and utilities, elevated to two feet above the Base Flood Elevation.

2. Non-residential Structures - All new construction, relocation, substantial improvements, including repair of substantial damage, of nonresidential structures shall have the lowest floor, including basement, ductwork and utilities, elevated to two feet above the Base Flood Elevation; or, together with attendant utility and sanitary facilities, be designed so that the structure is water tight with walls substantially impermeable to the passage of water from the lowest structural element to two feet above the Base Flood Elevation.

3. Openings - For all new construction, relocation, substantial improvements, and repair of substantial damage, those fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Designs for meeting this requirement shall either be certified by a Registered Professional Engineer or meet or exceed the following minimum criteria:

    a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
    b) The bottom of all openings shall be no higher than one foot above grade.
    c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. A non-conversion agreement shall be signed by the applicant on all flood-proofed structures and any elevated structures when the CITY OF HUNTINGTON determines that the area below the first floor could be converted to a non-conforming use (generally applies to enclosed areas below base flood elevation that are 5 ft. high or more). This agreement shall state:

    i. The area below Base Flood Elevation shall not be converted for use other than for parking, building access or for allowable storage as detailed in this ordinance.

    ii. The applicant agrees to notify prospective buyers of the existence of the non-conversion agreement. It shall be the responsibility of the applicant to transfer the agreement at closing to the new owner via notarized signature, a copy of all new agreements shall be provided to the Floodplain Administrator. Failure to transfer the agreement and provide a signed copy to the Floodplain Administrator shall subject the violator to the penalties set forth in 1349H.03 of this ordinance.

B. Manufactured Home Placement

Certain unique characteristics of manufactured homes installed in special flood hazard areas pose an elevated risk to safety and substantial damage to property. Therefore;

1. All manufactured homes to be sited within the special flood hazard areas of CITY OF HUNTINGTON shall be installed by a contractor possessing a valid WV Manufactured Home Installer's license. The Licensed Manufactured Home Installer shall use an installation design engineered to withstand flood hazards specific to the particular home site. Manufactured homes to be placed or substantially improved within the special flood hazard areas shall be installed in accordance with the following standards:

    a. The lowest floor, ductwork and utilities including HVAC/heat pump shall be elevated two feet above the Base Flood Elevation

b. Elevation shall be on reinforced piers on a permanent foundation, or shall use foundation elements of at least equivalent strength engineered for use in a flood hazard area. Installation designs incorporating dry stacked block piers shall not be used in special flood hazard areas.

c. All manufactured homes shall be securely anchored to an adequately anchored foundation system in compliance with the requirements of 42 West Virginia Code of State Regulations, Series 19, 1349s 10.1, 10.2, and 10b as authorized by West Virginia Code § 21-9-4 or the most recent revisions thereof. The anchoring shall be adequate to resist flotation, collapse, or lateral movement. Methods of anchoring may include but are not limited to the over-the-top and frame ties, attached to permanent foundation elements. Ground anchors may not be adequate to satisfy flood specific anchoring requirements. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

d. Permanently attached rigid skirts and/or perimeter wall skirts of brick or block shall have openings to prevent collapse and damage to supporting piers. The openings shall be designed to automatically equalize hydrostatic flood forces by allowing for entry and exit of floodwaters. Designs for meeting this requirement shall either be certified by a Registered Professional Engineer or meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
(ii) The bottom of all openings shall be no higher than one foot above grade.
(iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

e. Any additions to a manufactured home shall be similarly anchored and vented.

2. The licensed WV Manufactured Home Installer placing the unit shall perform a site inspection and certify in writing that the manufactured home has been installed to the standards set forth in this ordinance.

C. Accessory Structures

1. Except as provided in subsection 2 below, accessory structures shall be located out of the special flood hazard area or elevated to two feet above the Base Flood Elevation.

2. Where accessory structures not connected to the principal structure are to be located on sites below the Base Flood Elevation, the following flood damage reduction provisions apply:

a. Use of the structure shall be restricted to parking or limited storage.

b. Structures shall be no more than 200 square feet in size and valued at less than $5,000.00.

c. Floors shall be at or above grade on at least one side.

d. Structures shall be located, oriented and constructed to minimize flood damage.

e. Structures shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

f. Flood resistant materials as detailed in FEMA Technical Bulletin 2 shall be used in the portions of the structure below BFE.

g. Machinery, electric devices or appliances, and all utilities shall be located at least two feet above the Base Flood Elevation.

h. The venting requirements contained in 134 F.01 (A) are applicable and shall be strictly adhered to.

3. A non-conversion agreement shall be signed by the applicant stating that the use of the accessory structure or detached or attached garage shall not be changed from the use permitted, acknowledging that the structure may be subject to greater flood risk and that higher flood insurance premiums may be possible, and that a change in use may require full compliance with this ordinance. The applicant agrees to notify prospective buyers of the existence of this agreement. It shall be the responsibility of the applicant to transfer the agreement at closing to the new owner via notarized signature, a copy of all new agreements shall be provided to the Floodplain Administrator. Failure to transfer the agreement and provide a signed copy to the Floodplain Administrator shall subject the violator to the penalties set forth in 1349H.03 of this ordinance.

D. Recreational Vehicle Placement

1. Recreational vehicles to be placed within any special flood hazard area shall either:
   a. Be on site for fewer than 180 consecutive days. Or,
   b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect utilities and security devices, and has no permanently attached additions. Or,
   c. Be installed in accordance with the Manufactured Home Placement requirements and all other flood reduction requirements contained in this ordinance.

E. Fill

CITY OF HUNTINGTON officially recognizes the beneficial functions the floodplain serves in storage and transportation of water during floods. Therefore;

1. Placement of fill in the special flood hazard area is discouraged and should be minimized.

2. No fill shall be permitted in the floodway.

3. Placement of fill in other areas of the special flood hazard area shall be restricted to functional purposes such as elevating a structure. Fill shall only be permitted in the same permit with the related structure or other functional purpose. Placement of fill to dispose of spoil from excavation or to elevate yards, parking lots, or fields will not generally be considered a functional purpose. The Floodplain Administrator may require the developer to provide compensatory storage before permitting fill.

4. No fill shall be permitted unless it meets the requirements of 1349D.01 of this ordinance. All fill placed in the special flood hazard area shall meet or exceed the following standards:

a. Fill shall be used only to the extent to which it does not adversely affect adjacent properties. CITY OF HUNTINGTON may require the applicant to demonstrate through engineering reports that proposed fill would not adversely affect adjacent properties. When required, hydrologic and hydraulic analyses shall be undertaken only by Registered Professional Engineers who shall certify that the technical methods used correctly reflect currently accepted technical concepts. The resultant study shall include a cover letter, signed and sealed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by CITY OF HUNTINGTON During permit review CITY OF HUNTINGTON shall consider the following issues that have the potential to cause adverse impact to adjacent properties:

    i. Unacceptable increases in flood heights.
    ii. Blocking drainage from adjacent property.
    iii. Deflection of floodwaters onto adjacent existing structures.
    iv. Increases to stream velocity initiating or exacerbating erosion problems.
    v. Other unique site conditions may be considered when determining whether fill will cause adverse impact to adjacent property including, but not limited to, subsidence areas, Karst topography, stream blockages, and steep topography adjacent to the channel.

b. Fill shall be used only to the extent to which it does not adversely affect the capacity of channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility or system.

c. Filled site shall be contoured to drain properly (avoid ponding)

d. Fill shall extend beyond a structure for a sufficient distance to provide acceptable access. For residential structures, fill shall extend laterally fifteen (15) feet beyond the building line from all points before the start of sloping required in following subsection. For nonresidential structures, fill shall be placed to provide access acceptable for intended use. At grade access, with fill extending laterally fifteen (15) feet beyond the building line shall be provided to a minimum of twenty-five (25) percent of the perimeter of a nonresidential structure.

e. Fill shall consist of soil or rock material only. Sanitary landfills shall not be permitted; no trash or woody debris shall be buried on site.

f. Fill material shall be compacted to provide the necessary stability and resistance to erosion, scouring or settling. Fill compaction standards shall be appropriate to proposed post fill use, particular attention is necessary when fill is being used to elevate a structure.

g. Fill slopes shall be no steeper than one (1) vertical on two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Floodplain Administrator.

h. Fill site and fill shall be protected from erosion.

    i. Fill slopes exposed to flood waters with expected velocities during the occurrence of the base flood of five feet per second or less will be protected from erosion by covering them with grass, vines, weeds, or similar vegetative undergrowth.

    ii. Fill slopes exposed to flood waters with expected velocities during the occurrence of the base flood of greater than five feet per second will be protected from erosion by armoring them with stone or rock slope protection.

i. All applicants placing fill in a special flood hazard area shall obtain a Conditional Letter of Map Revision (CLOMR) from FEMA when directed to do so by the Floodplain Administrator before a permit can be issued. After fill is finished the applicant shall convert the CLOMR to a Letter of Map Revision based on Fill (LOMR-F) before a certificate of occupancy can be issued.

j. The applicant shall submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the Flood Insurance Study and/or Flood Insurance Rate Maps, when notified by the Floodplain Administrator, and shall pay any fees or other costs assessed by FEMA for this purpose.

F. Placement of Structures and other development

1. All structures and other development shall be constructed or placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of floodwater.

    i. Whenever possible, structures and other development shall be constructed with the longitudinal axis parallel to the direction of flood flow and,

    ii. So far as practicable, structures and other development shall be placed approximately on the same flood-flow lines as those of adjoining structures or development.

G. Anchoring

1. All structures and other development including stream crossings shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, and lateral movement, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourse.

2. All air ducts, large pipes, swimming pools and storage tanks located at or below the Base Flood Elevation shall be firmly anchored to resist flotation.

H. Flood Protection Setback

A Flood Protection Setback equal to twice the width of the watercourse channel measuring from the top of one bank to the top of the opposite bank or 50 feet, whichever is less, shall be maintained from the top of the banks of all watercourses. To reduce erosion, natural vegetation shall be maintained in this area. Where natural vegetation does not exist along the watercourse and conditions for replanting are suitable, high priority shall be given to planting vegetation in the setback area to stabilize banks, enhance flood protection and benefit aquatic resources.

2. Necessary public works and temporary construction may be exempted from this subsection.

3. The Floodplain Administrator may consider an appeal to the Flood Protection Setback requirement if the applicant demonstrates that it is impossible to allow any development without encroachment into the Flood Protection Setback area. The appeal conditions shall be the minimum necessary and shall be made only after due consideration is given to varying other siting standards, such as side, front and back lot line setbacks.

I. Storage

1. No materials that are buoyant, flammable, explosive, or in times of flooding could be injurious to human, animal or plant life, shall be stored below Base Flood Elevation.
2. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or readily removable from the area within the time available after flood warning.

3. Due to the potential of masking the natural elevation and making it more difficult to enforce this ordinance, material that resembles "fill" material shall not be considered "storage" material for purposes of this subsection.

J. Utility and Facility Requirements

1. All new or replacement water systems whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

2. All new or replacement sanitary disposal systems, whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

3. All other new or replacement public and/or private utilities and facilities shall be located and constructed to minimize or eliminate flood damage.

4. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

K. Drainage

1. Adequate drainage shall be provided to reduce exposure to flood hazard.
2. Adequate drainage paths are required around structures on slopes within zones AH and AO to guide floodwaters around and away from proposed structures.

L. Backflow Preventers

Back flow prevention valves should be used for all enclosed structures with sewage or drainage facilities located in the special flood hazard area.

Section 1349G ADMINISTRATION

1349G.01 Designation of Floodplain Administrator:

The FLOODPLAIN COORDINATOR is hereby appointed as Floodplain Administrator and is vested with the responsibility, authority and means to implement the commitments made in our agreement with the Federal Government to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions. The Floodplain Administrator shall also be responsible for submitting all required reports to FEMA concerning CITY OF HUNTINGTON's participation in the National Flood Insurance Program.

1349G.02 Development Permits and Site Plan Approvals Required

It shall be unlawful for any contractor, person, partnership, business, or corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, repair of substantial damage, the placement or relocation of any structure (including manufactured homes) within CITY OF HUNTINGTON, unless a permit application and standard site plan has been completed, and a permit has been obtained from the Floodplain Administrator. In addition, where land that is either partially or fully in the special flood hazard area is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a detailed site plan shall be submitted to, and approved by, the Floodplain Administrator prior to any development.

1349G.03 Approval of Permits and Plans

A. The Floodplain Administrator shall review, or shall cause to be reviewed; all permit applications and plans in order to determine whether proposed building sites are reasonably safe from flooding.

B. All permits and plans shall be approved only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of the state and all other applicable codes and ordinances.

C. The Floodplain Administrator shall not issue a permit to any person who does not possess a valid contractor's license when a contractor's license is required by West Virginia State Code §21-11-10.

D. The Floodplain Administrator, before issuance of the permit, shall require the applicant to furnish satisfactory proof that such person is duly licensed as a contractor under the provisions of West Virginia State Code. If the applicant is not licensed a written affidavit that such person is not subject to licensure as a contractor or subcontractor as defined in §21-11-3 shall be provided to the Floodplain Administrator and placed in the permit file.

E. The Floodplain Administrator shall require copies of all necessary permits from those governmental agencies from which Federal or State Law requires approval.

F. The Floodplain Administrator shall provide a copy of all permits to the County Assessor as required by West Virginia State Code 11-3-3A.

G. The Floodplain Administrator shall provide a copy of all permits for new structures to the County E-911 addressing coordinator.

H. The County E-911 addressing coordinator shall provide a copy of all requests for addresses for new structures to the County Floodplain Administrator.

I. CITY OF HUNTINGTON shall provide sufficient space to allow the Floodplain Administrator to keep on file in perpetuity, in a location safe from natural hazards, all information collected during the course of the administration of this ordinance.

1349G.04 Application Procedures

Application for a permit and/or site plan approvals shall be made, in writing, on the forms supplied by CITY OF HUNTINGTON, and shall include all information stipulated under Section 1349E of this ordinance.

1349G.05 Changes

After the issuance of a permit or site plan approval by the Floodplain Administrator, no changes of any kind shall be made to the application, permit, or any of the plans, specification or other documents submitted with the application without the written consent or approval of the Floodplain Administrator.

1349G.06 Permit Placards

The Floodplain Administrator shall issue a permit placard, which shall be prominently displayed on the premises during the time construction is in progress. This placard shall show the number of the permit, the date of its issuance and be signed by the Floodplain Administrator.

1349G.07 Start of Construction

Work on the proposed development shall begin within 180 days after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. All work on the proposed development shall be completed within 18 months of permit issuance, at which time the permit shall expire, unless a time extension is granted in writing by the Floodplain Administrator. The request for a time extension shall be in writing and shall state the reasons for the extension. When considering an extension, the Floodplain Administrator shall consider the following criteria:

A. Has the developer diligently pursued the completion of the proposed development during the 18 months?
B. Will the granting of the extension be detrimental to public safety, health, or welfare or injurious to other property?

1349G.08 Inspections, Stop-Work Orders, Violation Notice and Revocations

A. Inspections

1. Upon learning of a potential violation of this ordinance, the Floodplain Administrator or staff shall investigate to determine whether a violation has occurred.

2. During the construction period, the Floodplain Administrator or other authorized official may inspect the premises to determine that the work is progressing in

compliance with the information provided on the permit application and with all applicable laws and ordinances.

3. The Floodplain Administrator or other authorized official may inspect any development covered by this or previous ordinance to determine whether any portion of the development has been altered to be in non-compliance with the requirements of this ordinance.

B. Stop-Work Orders

1. The Floodplain Administrator shall immediately issue, or cause to be issued, a "Stop-Work Order" for any development found ongoing without having obtained a floodplain determination or a permit. Disregard of a stop work order shall subject the violator to the penalties described in 1349H.03 of this local law.

C. Violation Notice and Revocations

1. When it appears after investigation that a permitted development is non-compliant with the provisions of this law and/or the conditions of the permit, the Floodplain Administrator shall notify the violator by means of written violation notice. The violation notice shall specify the nature of the violation and request that the violation be corrected within fifteen (15) days from the date appearing on the notice. Failure to correct the violation within this time period shall be cause for revocation of the permit and the governing body, or authorized employee or agent to:

   a. Seek an injunction in the Circuit Court of Cabell or Wayne County to restrain the violator from continuing the violation, including but not limited to requests for the removal of structures or land uses from the property involved; and

   b. Seek a misdemeanor conviction in magistrate court or circuit court.

1349G.09 <u>Certificate of Occupancy</u>

A. In areas of flood hazard it shall be unlawful to occupy, or to permit the use or occupancy, of any building or premises, or both, or part thereof hereafter created, erected, installed, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy has been issued by the Floodplain Administrator stating that the building or land conforms to the requirements of this local law. Occupying or using a building or premises in violation of this section shall subject the violator to the penalties described in 1349H.03 of this local law.

B. In areas of flood hazard it shall be unlawful to inspect and approve a permanent utility connection to any building or premises, or both, or part thereof hereafter created, erected, installed or rebuilt until the inspector is in possession of a copy of the certificate of occupancy issued by the Local Floodplain Administrator stating that the particular development being inspected conforms to the requirements of

this local law. Inspection and approval of utilities in violation of this section shall subject the violator to the penalties described in 1349H.03 of this local law.

C. In areas of flood hazard it shall be unlawful to install a permanent utility connection to any building or premises, or both, or part thereof hereafter created, erected, installed or rebuilt until a certificate of occupancy has been issued by the Local Floodplain Administrator stating that the development conforms to the requirements of this local law. Installation of utilities in violation of this section shall subject the violator to the penalties described in 1349H.03 of this local law.

D. A certificate of occupancy shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.

E. Issuance of the certificate shall be based upon the inspections conducted as prescribed in this ordinance or local administrative procedures, and any finished construction elevation certificate, hydraulic data, flood proofing certificate, or encroachment analyses which may have been required as a condition of permit approval.

1349G.10 Fees

Application for building permit shall be accompanied by a fee, payable to the City of Huntington, based upon the estimated cost of the proposed construction as determined by the fee schedule as established by the City of Huntington Division of Inspection and Compliance.

Section 1349H APPEALS, VARIANCES, AND PENALTIES

1349H.01 Appeals

1. Whenever any person is aggrieved by a decision of the Floodplain Administrator with respect to the provision of this ordinance, it is the right of that person to appeal to the Board of Zoning Appeals of CITY OF HUNTINGTON which shall be known as the Appeals Board. Such appeal shall be filed with the Appeals Board of CITY OF HUNTINGTON, in writing, within thirty (30) days after notification of the decision. Upon receipt of such appeal, the Appeals Board shall set a time and place not less than (ten (10) nor more than (sixty (60) days for the purpose of hearing the appeal. Notice of the time and place of the hearing shall be given to all parties at which time they may appear and be heard. The determination by the Appeals Board shall be final in all cases.

1349H.02 Appeal Review Criteria

A. All appeals contesting only the permit fee, the cumulative substantial damage requirement, the flood protection setback requirement, or the freeboard requirements, may be handled at the discretion of the Appeals Board.

B. All decisions on appeals to all other provisions of this ordinance shall adhere to the following criteria:

1. Affirmative decisions shall only be issued by the Appeals Board upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the appeal would result in exceptional hardship to the applicant, and (iii) a determination that the granting of an appeal will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing locals laws or ordinance.

2. An affirmative decision shall be issued only upon determination that it is the minimum necessary, considering the flood hazard, to afford relief. Financial hardship, as a sole criterion, shall not be considered sufficient justification to grant an appeal.

3. An affirmative decision shall be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

4. The Appeals Board shall notify the applicant in writing over the signature of a CITY OF HUNTINGTON official that (i) the issuance of a decision to allow construction of a structure below the Base Flood Elevation will result in increased premium rates for flood insurance, (ii) such construction below the Base Flood Elevation increases risk to life and property. Such notifications shall be maintained with a record of all decisions as required in paragraph (4) of this section; and

5. The Appeals Board shall (i) maintain a record of all decisions including justification for their issuance, and (ii) report such decisions issued in its biannual report to the Federal Emergency Management Agency (FEMA)..

6. An affirmative decision shall not be granted for any construction, development, use or activity within any floodway area that would cause any increase in the Base Flood Elevation.

1349H.03 Variances

A. If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the City of Huntington may, upon request, grant relief from the strict application of the requirements.

B. Considerations for the issuance of Variances to this Ordinance shall adhere to the following criteria:

1. A decision granting or denying the variance request shall only be issued by the Board of Zoning Appeals upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the permit would result in exceptional hardship to the applicant, and (iii) a determination that granting the permit will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing laws, regulations or ordinances.

2. An affirmative decision granting a variance shall be issued only upon determination that it is the minimum necessary, considering the Special Flood Hazard Area, to afford relief. Financial hardship, used as sole criteria, shall not be considered sufficient justification to grant a variance.

3. An affirmative decision granting a Floodplain variance shall be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

4. The Board of Zoning Appeals shall notify the applicant in writing and signed by a majority of the Board of Zoning Appeals that (i) the issuance of a decision to allow construction of a structure below the Base Flood Elevation will result in increased premium rates for flood insurance, and (ii) such construction below the Base Flood Elevation increases risk to life and property. Such notification shall be maintained with a record of all decisions as required in this Ordinance; and

5. The Board of Zoning Appeals shall (i) maintain a record of all decisions including justification for the decisions, and (ii) report such decisions issued in its biannual report to the Federal Emergency Management Agency.

6. An affirmative decision shall not be granted for issuance of a Floodplain variance for any construction, development use or activity within any Floodway Area that would cause any increase in the Base Flood Elevation.

1349H.04 Penalties

Any person who fails to comply with any or all of the requirements or provisions of this ordinance or direction of the Floodplain Administrator, or any other authorized employee of CITY OF HUNTINGTON, shall be unlawful and shall be referred to the prosecuting attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, pay a fine to CITY OF HUNTINGTON of not less than fifty dollars or more than five hundred dollars plus cost of prosecution. In default of such payment such person shall be imprisoned for a period not to exceed 10 days. Each day during which any violation of this ordinance continues shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this ordinance. The imposition of a fine or penalty for any violation of, or non-occupancy with, this ordinance shall not excuse the violation or non-compliance with the ordinance or permit it to continue; and all such persons shall be required to correct or remedy such violations or non-compliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in non-compliance with this ordinance may be declared by the City Council of the CITY OF HUNTINGTON to be a public nuisance and abatable as such.

Section 1349I GOVERNMENT ACTIONS

1349I.01 – Jurisdictional Boundary changes

A. The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the

municipality adopts and enforces an ordinance which meets or exceeds the requirements for participation in the National Flood Insurance Program.

B. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards.

C. All plats or maps of annexation shall show the special flood hazard area boundaries, Base Flood Elevation and location of floodway where determined.

D. In accordance with the Code of Federal Regulations, Title 44 Subpart (B) 1349 59.22 (a) (9) (v) all NFIP participating communities will notify the Federal Emergency Management Agency (FEMA) and the State Coordinating Office in writing whenever the boundaries of CITY OF HUNTINGTON have been modified by annexation CITY OF HUNTINGTON has otherwise assumed or no longer has authority to adopt and enforce flood plain management regulations for a particular area. In order that all Flood Insurance Rate Maps accurately represent CITY OF HUNTINGTON's boundaries, a copy of a map of CITY OF HUNTINGTON suitable for reproduction, clearly delineating the new corporate limits or new area for which CITY OF HUNTINGTON has assumed or relinquished flood plain management regulatory authority shall be included with the notification.

1349I.02 – Permits for Government Entities.

Unless specifically exempted by law, all public utilities and Municipal, County, State and Federal entities are required to comply with this ordinance and obtain all necessary permits. Any entity claiming to be exempt from the requirements of this ordinance shall provide a written statement setting forth the rationale for exemption. In addition the entity claiming exemption shall provide copies of all relevant legal documentation demonstrating the exemption.

Section 1349J SEVERABILITY AND MUNICIPAL LIABILITY

1349J.01 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance which shall remain in full force and effect and for this purpose the provisions of this ordinance are hereby declared to be severable.

1349J.02 Liability

The granting of a permit or approval of a subdivision or development plan in an identified flood-prone area, shall not constitute a representation, guarantee, or warranty of any kind by CITY OF HUNTINGTON, or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon CITY OF HUNTINGTON.

(ADOPTED: 2/10/2014, revised 04/13/2015)

ARTICLE 1351
SITE PLAN REVIEW

ARTICLE 1351

SITE PLAN REVIEW

<u>Section 1351.01</u> General

Before a building permit is issued for any new use, a change of use or new occupancy of a non-conforming use, other than single-family or a two-family detached structure, or before approval is given for parking areas, or for off-street loading and unloading facilities, or for essential services, a site plan shall be submitted to the Planning Commission Staff for review and approval.

<u>Section 1351.02</u> Information Required

A. Site Plans shall include the following information, where appropriate, at a convenient scale.

1. Title and location of the property.
2. Name and address of landowner and applicant. If a corporation is landowner or applicant, the principal office and name of president and secretary shall be included.
3. Name, address and professional license number and seal of the professional preparing documents and drawings.
4. Place for signature of the Director of Planning, Code Official, or Director of Public Work.
5. Date of plan and any modifications thereto.
6. North arrow, scale, graphic scale, date and notes and dated revisions.
7. The zoning district in which the parcel is located together with the district boundaries including within the boundaries of the parcel or within two hundred (200) feet therefrom. All setback lines, landscape strips, landscape buffers, building heights, and other bulk requirements shall be shown and dimensioned. Any deviation from requirements of the Zoning Ordinance shall be specifically shown.
8. Reference to any existing or proposed deed restrictions or exceptions concerning all or any portion of the parcel. A copy of such covenants, deed restrictions or exceptions shall be submitted with the application.
9. The location of all existing water courses, ponding basins, slopes in excess of 15 percent, wooded areas, easements, rights-of-way, streets, roads, highways, freeways, railroads, canals, rivers, buildings, structures or any other feature directly on the property or beyond the property if such feature has an effect upon use of said property.
10. The location, use and ground area of each existing or proposed building, structure or any other land use.
11. The location and widths of proposed streets servicing the site.
12. The location of existing and proposed grades.
13. The location and capacity of existing and proposed off-street parking areas and loading and unloading facilities.
14. Existing and proposed storm and sanitary drainage facilities.
15. The location and treatment of existing and proposed entrances and exits to public rights-of-way, including the possible utilization of traffic signals, channelization, acceleration and deceleration lanes, additional width, and other device necessary to control traffic safety and convenience.
16. The location of and identification of existing and proposed open spaces, parks or other recreation areas affected by the site plan.

17. Proposals for soil erosion and sedimentation control, if appropriate.
18. The location and design of landscaping, buffer areas and screening devices including a planting plan and schedule of plant materials.
19. The location of sidewalks, walkways and other areas proposed to be devoted to pedestrian use.
20. General nature and location of public and private utilities, including maintenance and solid waste disposal facilities.
21. Specific location and design of signs including the size, nature of construction, height, and orientation, including all identification signs, traffic and directional signs, and arrow, freestanding and facade signs and time controls for sign lighting and lighting fixtures.
22. The quantitative aspects of the proposal such as improvement coverage, number of units, square feet of construction, value of construction, density, coverage, number of employees, number of residents and area of land, etc. Specifically identified on the site plan, in tabular form, shall be pertinent zoning data indicating the bulk/area requirements of the zone in which the proposed development is located and how the proposed development responds to the zoning requirements.
23. The location and size of all proposed easements, rights-of-way, public areas to be dedicated to the public or to be restricted or defined by deed or any other arrangement.
24. A drainage study shall be prepared which will evaluate the affect of the proposed development of existing drainage system downstream of the development.

B. Preliminary plans for the proposed buildings or structures, indicating typical floor plans, proposed use, elevations, height and general design or architectural styling.

C. Any other information required by the Planning Commission Staff which is reasonably necessary to ascertain compliance with the provisions of this Ordinance.

<u>Section 1351.03</u> Planning Commission Staff Review

In reviewing the Site Plan the Planning Commission Staff shall consider its conformity to the Comprehensive Plan and the other codes and ordinances applicable to it. Traffic flow, circulation and parking shall be reviewed to ensure the safety of the public and of the other users of the facility and to ensure that there is no unreasonable interference with traffic on surrounding streets. The impact on drainage shall be considered to ensure against flooding. Conservation features, aesthetics, landscaping and impact on surrounding development as well as on the entire City shall be part of the Planning Commission Staff review.

<u>Section 1351.04</u> Site Plan Binding

The Site Plan as approved by the City shall be binding upon the applicant. Any changes from the approved plan shall require resubmission and re-approval by the City. The site plan shall remain effective for a period of two (2) years from the date of approval. In the event a particular facility is to be constructed in stages, a site plan for each particular stage shall be required for the issuance of each building permit.

Section 1351.05 **Performance Guarantee**

The Planning Commission Staff may require that improvements and landscaping be secured by a performance guarantee in the same manner prescribed for such improvements in the Subdivision Ordinance.

Section 1351.06 **Code Official/Planning Staff Coordination**

A. Planning Commission Staff Recommendations. The Code Official shall not issue a building permit under this Article until receipt of the written recommendations or the Planning Commission Staff or until fifteen (15) days or agreed upon extensions thereof has elapsed.
B. Demolition Permit. No demolition permit will be issued by the Building Inspector until written approval of same is made by the Planning Commission Staff if it affects Site Plan approval.
C. Waiver. The Building Inspector may waive the requirement for Site Plan Review if the nature or extent of construction or alteration is considered part of normal repair, maintenance, or replacement.
D. Temporary Certificate of Occupancy. The Building Inspector may grant a temporary certificate of occupancy for a specified period of time not exceeding six (6) months.

In its review, the Planning Commission Staff may secure recommendations from the Citizens Advisory Committee, Director of Public Works or any other local, county, state or Federal agency which may have an interest in the particular development for which Site Plan approval is being sought, which recommendations shall be received by the Planning Commission within ten (10) days after the request therefor.

In the event, a determination cannot be made with respect to required data or information at the time of submittal of a Site Plan, the Planning Commission Staff may make compliance with the particular requirement a condition of approval for a Certificate of Occupancy and not require it prior to the issuance of a building permit.

The written recommendations of the Planning Commission Staff regarding the Site Plan shall be forwarded to the Building Inspector and the applicant not more than fifteen (15) days from the time the Site Plan is submitted for Planning Commission Staff review unless extended by mutual agreement between the Planning Commission Staff and the applicant. If the Planning Commission Staff takes no action within fifteen (15) days, the Site Plan shall be deemed to have been approved as submitted. The fifteen (15) days shall be deemed to have begun when all required data and exhibits are submitted.

The Planning Commission Staff may impose reasonable conditions binding on the applicant in approving any site plan.

Section 1351.07 **Planning Commission Review**

Where a Site Plan is of an unusual nature that requires a reevaluation of policies implied in this Article, the Planning Commission Staff may request a review and judgment by the Planning Commission. In the event that the applicant disagrees with a decision made by the Staff, the applicant may appeal such decision to the Planning Commission.

ARTICLE 1353
HUNTINGTON HISTORIC PRESERVATION COMMISSION

ARTICLE 1353

HUNTINGTON HISTORIC PRESERVATION COMMISSION

Section 1353.01 Establishment

For the purpose of carrying out the provisions of this Article, there is hereby established the Historic Preservation Commission of the City of Huntington.

Section 1353.02 Definitions

For the purposes of this Article:

A. The term "Commission" shall refer to the Historic Preservation Commission of the City of Huntington.

B. The term "site" shall refer to any land, with or without any structure thereon, where some event or events of historic significance occurred or which is otherwise of historical value.

C. The term "structure" shall refer to any man-made appurtenance, public or private, including but not limited to buildings, whether residential, commercial, governmental or otherwise; landmarks; monuments; memorials; fences; boundary walls; signs; light fixtures; steps and stairways; sidewalks and other paving; and any other fixtures of any kind.

Section 1353.03 Commission Membership

A. The Commission shall be composed of five (5) members appointed by the Mayor. Of the initial appointees, two (2) shall serve until the first day of July in the second calendar year subsequent to the year in which this ordinance is adopted, and three (3) shall serve until the first day of July in the fourth calendar year subsequent to the year in which this ordinance is adopted. Each appointee thereafter shall serve a term of four (4) years. The Commission shall notify the Mayor of any vacancy in its membership and such vacancy shall be filled in the same manner as the original appointment for the balance of the unexpired term. In the event any appointed member absents himself from fifty percent (50%) of the commission's meetings in any twelve (12) month period, such member shall be disqualified and the Commission shall declare a vacancy which shall be filled as provided hereinabove. At its first meeting and at the first meeting after July 1 of each year thereafter, the Commission shall select one of its members to serve as Chairman and one to serve as Secretary.

B. The members should have a demonstrated interest, background, or experience in historic preservation or historically related disciplines; e.g. history, architecture, renovation or rehabilitation projects, real estate, etc.

C. All members shall be residents of the City.

D. The members of the Commission shall not receive any salary for their service, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties having the prior approval of the Mayor.

E. The vote of each member of the Commission shall be counted equally in all matters that come before it, provided, however, that no member shall vote upon any matter involving any property in which he or a member his immediate family has an ownership interest.

Section 1353.04 **Meetings**

The Commission shall meet at least quarterly and may meet more often at the call of the Chairman or the majority of the Commission as the business of the Commission may require with due notice to each member given by the Secretary. All meetings shall be public. A majority of the members shall constitute a quorum. The Secretary shall file for public record with the City Clerk minutes of all its meetings within sixty (60) days of the date such meeting held.

Section 1353.05 **Powers and Authority**

In addition, to any other powers and authority conferred by these codified ordinances or general law, the Commission shall have plenary power and authority within the jurisdictional limits of the City of Huntington and within the limits of available funds to perform the following functions:

A. Make a survey of the structures and sites within the City of Huntington which constitute the principal historical and architectural locations of local, regional, statewide or national significance. No structure or site shall be deemed to be an historic one unless it has been prominently identified with, or best represents, some major aspect of, or ideals related to, the history of the City of Huntington, Cabell and Wayne Counties, the State of West Virginia, or the United States of America. Structures so designated may embody the principal or unique features of an architectural type or demonstrate the style of a period of history or method of construction, or serve as an illustration of the work of a master builder, designer, or architect whose genius influenced the period in which he worked or has significance in current times.

B. Prepare a register of structures and sites which meet the requirements of subsection (A) of this section setting forth appropriate information concerning such structures and sites, and to certify them as historical landmarks.

C. Inspect such registered or certified properties and sites from time to time and to designate or mark them with appropriately designed signs or markers, provided prior consent of the owner or owners has been obtained.

D. Establish standards for the care and management of certified landmarks and withdraw such certification for failure to maintain the standards so prescribed.

E. Acquire by purchase, gift, or lease and administer registered landmarks and easements or interests therein, both real and personal.

F. Lease or sell property so acquired under terms and conditions designed to ensure the proper preservation of the landmark involved.

G. Aid and encourage Council and the City administration in the adoption of ordinances and rules and regulations for the preservation of properties of historical or architectural value.

H. Prepare and place historical markers on or along the highway or street near the historical landmark, area, or district, which is intended to be identified by such markers.

I. Seek the advice and assistance of individuals, groups and department or agencies of government which are conducting historical preservation programs and coordinate with the same insofar as possible.

J. Seek and accept gifts, bequests, endowments and funds from any and all sources for the accomplishment of the purposes and duties of the Commission.

K. Adopt rules and regulations concerning the operation of the Commission and such other matters as may be necessary to carry out the purpose of this ordinance, provided, however, that such rules or regulations shall not be inconsistent with any City ordinances.

Section 1353.06 **Creation of Historic Preservation Districts**

A. The Commission may from time to time recommend that an area of the City containing at least one-half (1/2) of a city block or the equivalent thereof (being approximately 86,000 square feet in the City of Huntington) and containing at least one (1) structure or site meeting the requirements of subsection (a) of 2105 of this Article be designated as an Historic Preservation District. It shall not be necessary that all properties or structures within such area be historically significant.

B. The recommendation of the Commission shall be made first to the Planning Commission in the form of an application for an appropriate amendment to the Zoning Ordinance designating such area "H-1 Historic Preservation District," which application shall be in writing, shall clearly define the boundaries of the proposed district, and shall provide detailed information as to the historical significance of the structures and sites therein. The Planning Commission shall then hold such public hearings upon such proposed amendment as may be required by law and shall submit a report to the Mayor together with the original application of the Commission. The Mayor shall review said report and application and, if found to be in order, shall submit the same together with an ordinance giving effect to the recommendation of the Commission to Council for action thereon. Council may, if it deems necessary, remand the application to the Commission for further information or study.

C. The properties, structures, and uses within the boundaries of any Historic Preservation District designated according to this section shall be subject to the review requirements of this Article as well as the requirements imposed by the Zoning Ordinance.

D. Upon the approval of Council of an ordinance designating an area of the City as an Historic Preservation District, the commission shall inform the assessor of the county in which such area lies, and said assessor shall, pursuant to Chapter 8, Article 26A, Section 5 of the West Virginia Code, consider such designation in assessing the properties contained therein.

Section 1353.07 **Review of Proposed Alterations**

A. Prior to the alteration, movement, demolition, repair, or other change in the exterior of any structure located within an area which has been designated an Historic Preservation District or the construction of any new structure on property located within such a district, the owner thereof shall submit an application to the Commission for a Certificate of Appropriateness on forms to be adopted by the Commission and shall include at a minimum the following information.

1. Detailed plans, depicting the exact work to be performed, including detailed renderings of the exterior of any proposed new structure or any exterior alterations to the existing structures. A delineation of the relationship of the renderings of the proposal in relation to adjacent structures on surrounding lands may be required.
2. A statement of the relationship of the proposed work to the standards for approval of Certificates of Appropriateness as set forth below.
3. Such other information as may be required from time to time by the appropriate municipal reviewing agency or official.

No structure exposed to public view within an Historic Preservation District shall be constructed, altered, moved, demolished, repaired, or otherwise changed without a Certificate of Appropriateness having been issued by the Commission.

B. The Historic Preservation Commission shall review and designate the application as a minor or major application based upon the following criteria.

1. Major Application shall be any application for a "Certificate of Appropriateness" which involves demolition or removal of a structure or any part thereof; the addition to any structure located within the Historic Preservation District, or on any historic property (including structure and archeological resource); or the new construction of buildings within the Historic District.
2. Minor Application shall mean an application for "Certificate of Appropriateness" which is considered maintenance and upkeep, such as painting, replacing, repair to a structure located within the Historic Preservation District, or on any historic property (including structure and archeological resource) and does not involve any activity set forth in paragraph (1) above.
3. Waiver. A letter of waiver from Minor Application procedure for a "Certificate of Appropriateness" is available for the applicant who complies with accepted standards, colors or techniques to be used with respect to the maintenance and upkeep, painting, replacing, or repairing of an applicable structure. Said standards, colors and techniques shall be on file with the Secretary of the Commission. A letter defining the requested waiver which indicates the property in question and the particular maintenance, upkeep painting, replacing or repairing sought to be done, shall be available without charge from the office of the Chairman or Secretary of the Commission. Such letter shall have an indefinite duration, thus eliminating the need for successive exemption letters for the same type of maintenance, upkeep, painting, replacing or repairing.

C. All construction, alterations, movements, demolition, repairs, or other changes carried out on structures located within an Historic Preservation District shall be compatible, harmonious, and consistent with the style, scale, and character of the original structure. New structures need not be in any particular historical style, provided that the scale and design of the new structure and the materials used are harmonious with the overall character of the district. Standards for design are provided in Article 1339 of this Zoning Ordinance.

D. The Commission shall review such application, plans, and designs, giving consideration to the following:
1. With respect to applications for demolition, the Commission shall first consider whether preservation of the resource in place is feasible or, failing that option, whether preservation of the resource at another location is feasible.
2. With respect to applications for relocation, the Commission shall first consider whether the preservation of the resource in place is possible.
3. With respect to applications for Certificates of Appropriateness relating to changes in exterior appearance, new constructions, or signage or exterior lighting the Commission shall consider the visual compatibility of the proposed changes to the subject structure and the other structures and surroundings to which it would be visually related; the extent to which the proposed changes would affect adversely the public's view of a historic structure from a public street; and the impact of the proposed changes upon the ambience of the historic district.
4. In assessing visual compatibility, the Commission should consider such factors as height, proportion of the building's front facade, proportion of window and door openings, relationship of entrance and porch projections to the street, roof shapes, scale of buildings, directional expressions of the front elevation, and the relationship of materials, texture and color of facade and roof of the subject building to that of others to which it is visually related.

5. The in passing appropriateness of exterior architectural features, in any case, shall keep in mind the purposes set forth in this Article and shall consider, among other things, the general design arrangements and material of the building or structure in question and the relationship of such factors to similar features of historic structures in the immediate surroundings and the position of such structures in relationship to the street or public way and each other.
6. The Commission shall not make any requirements except for the purpose of preventing developments obviously incongruous to the historic aspects of the surroundings.
7. The Commission shall be tolerant in its judgment of plans for new construction or for alterations, repair or demolition which would seriously impair the historic value and character of surrounding structures or the surrounding area.
8. The Commission shall provide encouragement that any alterations or repairs to structures in a Historic District be made in the spirit of their architectural style and that any additions will be made in such manner as not to detract from a building's original appearance.
9. It is the intent of this section that the Commission be strict in its judgment of plans for alterations, repairs or demolition of existing structures deemed valuable according to studies approved by the City. Small additions and construction to existing properties in Huntington's Historic District, such as decks, porches, garages and the like, which are not visible from the street and have minimal or no impact on the historic character of the area, may be reviewed and approved by the Planning Commission staff upon notice to the Commission and to the full Planning Commission of such action.

   The Commission shall pass only on exterior features of a structure and shall not consider the interior arrangement. If after reviewing the application and plans the Commission is satisfied that the proposed construction, alteration, repair, or other change will not materially impair the historical or architectural value or significance of the structure or site in question or of the surrounding area, it shall issue a Certificate of Appropriateness to the applicant and shall notify the Building Inspector and the Zoning Officer of its action.

E. If the Commission disapproves of the application, it shall notify the applicant in writing of its reasons, and the Commission may work with the applicant for the purpose of amending his proposed plans and designs to comply with the standards set forth in this Article.

F. The Building Inspector shall not issue a building permit and the Zoning Officer shall not issue any zoning permit for any construction, alterations, repairs, or other changes to any structure or site located within an Historic Preservation District without a Certificate of Appropriateness from the Commission. Such building permit and zoning permit shall restrict any construction, alterations, demolition, repairs, or other changes to that which is covered by the Certificate of Appropriateness. The Building Inspector shall from time to time inspect the work approved by the Certificate of Appropriateness and shall take such action as may be necessary to ensure compliance therewith.

G. Failure of the Commission to act within forty-five (45) days from the date an application is submitted shall constitute approval, and the Building Inspector and Zoning officer shall proceed as if a Certificate of Appropriateness has been issued.

Section 1353.08 **Variances**

Where by reason of' unusual circumstances applicable solely to the particular applicant, strict enforcement of this Article would result in serious undue hardship, the Commission shall have the power to vary or modify the application of this Article with respect to such applicant, provided always that such variances are harmonious with the general purposes of this Article and will not seriously affect neighboring properties or the Historic Preservation District as a whole.

Section 1353.09 **Exceptions**

Nothing in this Article shall be construed to prevent ordinary maintenance or repairs which do not involve a change of design, materials, or the outward appearance of a building or structure in an Historic Preservation District, nor to prevent the construction, alteration, or demolition of any feature required by the public safety. The requirements of this Article do not apply to work begun or for which a permit was issued prior to the establishment of the Historic Preservation District in which the concerned building or structure is located.

Section 1353.10 **Appeals**

Any property owner aggrieved by an action or decision of the Commission concerning his application for a Certificate of Appropriateness may appeal the same to the Board of Zoning Appeals.

Section 1353.11 **Restrictions on use of Certified Historical Landmarks Outside Historical Preservation Districts**

Whenever the Commission certifies property not contained in an Historic Preservation District as being a registered landmark, it may seek and obtain from the concerned property owner or owners an agreement as to such restrictions upon the use of the property as the Commission may find reasonable and necessary to perpetuate and preserve the features which led it to certify such property as an historical landmark. The restrictions contained in such agreements shall run with the land and shall be binding upon the successors, heirs, and assigns of the property owner. All such agreements between the Commission and the property owner shall be in writing, and when duly signed and acknowledged, shall be recorded in the office of the City Clerk of City of Huntington and in the deed books in the Office of the Clerk of the County Commission of Cabell County or the Office of the Clerk of the County Commission of Wayne County, depending upon the location of the property in question, and shall be served upon the assessor of the county in which the concerned property is located. Pursuant to Chapter 8, Article 26A, Section 5 of the West Virginia Code, the assessor shall take such restrictions into consideration when assessing such properties.

Section 1353.12 **Interagency and Intergovernmental Cooperation**

The Commission shall cooperate and coordinate its activities with the West Virginia Historical Society and the West Virginia Department of Culture and History with the view of developing a unified program for the identification, study, preservation, and protection of all historic buildings, structures and sites in the City of Huntington. The Commission shall coordinate its activities with the Planning Commission of the City of Huntington in all matters affecting the *City of Huntington Comprehensive Plan.*

ARTICLE 1355
NONCONFORMING USE SPECIFICATIONS

ARTICLE 1355

NONCONFORMING USE SPECIFICATIONS

The lawful use of a building or premises, existing at the time of passage of this ordinance, may be continued although such use does not conform to all the provisions of this Ordinance, subject to the following conditions.

A. A nonconforming use may be extended throughout a building provided the size of the structure is not increased.

B. A nonconforming use may be changed to another nonconforming use of the same or greater restrictions provided:
   1) The size of the structure is not increased.
   2) Where the Nonconforming Use is also a Special Permit, the ownership of both the property and the business constituting the Special Permit remain unchanged.
   3) Where the ownership of the business constituting the Special Permit, or both, are changed from the owner(s) granted the Special Permit, the Special Permit shall become null and void, and a new Special Permit must be sought in accordance with the provisions of Article 1359 of this Zoning Ordinance.

C. Whenever a nonconforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a nonconforming use of a less restricted district. For the purpose of this Article, The R-1 district shall be considered to have the greatest restrictions, and such restrictions are considered to decrease in the following order of districts R-2, R-4, R-5, C-1, C-2, C-3, and I-1.

D. No building shall be erected upon any premises devoted to a nonconforming use, except in conformance with the provisions of this ordinance.

E. The Board may authorize, by written permit, in an R-1, R-2, R-4, or R-5 district for a period of not more than one year from the date of such permit, a temporary building for business or industrial use incidental to the residential construction and development of such district.

F. Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit or improvement location permit has been heretofore issued, and the construction of which has been diligently prosecuted within ninety (90) days of the date of such permit, and which entire building shall be completed according to such plans as filed within three (3) years from the date of passage of this ordinance.

G. In the event that a nonconforming use of any building or premises is discontinued for a period of one (1) year, abandonment will be presumed unless the owner of the property can show that the property has not been abandoned, the use of the same shall thereafter conform to the uses permitted in the district in which it is located, provided that abandonment of any agricultural use or manufacturing process shall not be construed as abandonment of agricultural or industrial use.

H. The continuance of the use of any land, building, or structure for the purpose for which land, building, or structure is used at the time this ordinance takes effect is hereby permitted, but any addition to any existing building for the purpose of carrying on any use prohibited under the zoning regulations applicable to the district is hereby prohibited; provided, however, that such prohibition shall not apply to alterations, additions to, replacement of structures, or to the acquisition or use of land presently owned by any firm or industry but not used for agricultural or industrial purposes or to the use or acquisition of additional land which may be required for the protection, continuing development or expansion of any agricultural,

industrial or manufacturing operation or any present or future satellite agricultural, industrial or manufacturing use.

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

I. These provisions apply in the same manner to a use which may become a nonconforming use as a result of an amendment to this ordinance.

ARTICLE 1357
FILING FEES

ARTICLE 1357

FILING FEES

Application and petitions filed pursuant to the provisions of this ordinance shall be accompanied by the filing fees hereafter specified.

A. For each application for a Certificate of Occupancy, a fee of Fifteen Dollars ($15.00) shall be paid.

B. For each petition for an appeal from the decision of the Administrative Official to the Board, a fee of One Hundred Sixty Dollars ($160.00) shall be paid, the receipt of which shall accompany the petition.

C. For each application for approval by the Planning Commission or Board of Zoning Appeals of a Special Permit or Variance, a fee of One Hundred Fifty Dollars ($150.00) shall be paid, the receipt of which shall accompany the petition.

D. For each petition for an amendment to this ordinance, the fees shall be as follows:

Rezoning to:	Single and 2 Family	-	$ 175.00
	Multi-family Residential	-	$ 250.00
	Commercial	-	$ 350.00
	Industrial	-	$ 350.00

E. Except for the fee for a certificate of occupancy, no part of any filing fee paid pursuant to this Article shall be returnable to the applicant or petitioner.

ARTICLE 1359
SPECIAL PERMIT, REQUIREMENTS AND PROCEDURE

ARTICLE 1359

SPECIAL PERMIT, REQUIREMENTS AND PROCEDURE

<u>Section 1359.01</u> **Procedures**

A. Special Permits as defined by Article 1315 and their accessory buildings may be permitted by the Board of Zoning Appeals in the districts where indicated, in accordance with the procedure and requirements set forth in this Article and any other requirements described by this ordinance.

B. Upon receipt of an application for a Special Permit the Planning Director shall give public notice in accordance with Section 8A-8-11 of the West Virginia State Code. The Planning Director shall prepare a written notice which shall be mailed to all property owners within a 400 foot radius of the subject property 15 days prior to the hearing. Further, written notice shall be provided to all residents, if they be different than the owner, within the 400 foot radius by first class mailing through the United States Postal Service. If the Petitioner's property is located on a street where the entrance and exit is the same (cul-de-sac, dead end or circle) all such properties within that location shall be notified regardless of the 400 feet guideline. Notice shall also be posted on the subject property by the applicant. The findings of the Board and its order to the Planning Director shall be in writing.

C. In making its decision, the Board of Zoning Appeals shall consider the following:
   1. Effect upon the Comprehensive Plan.
   2. Public health, safety, morals, and general welfare.
   3. Potential injury to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.
   4. Effect upon the normal and orderly development and improvement of surrounding property for uses already permitted in the District.
   5. Adequate provisions for utilities, access roads, drainage, and other necessary facilities.
   6. Adequate ingress and egress so designed to minimize traffic congestion in the public street.

The Board shall direct the Planning Director to issue the Improvement Location Permit for such Special Permit, otherwise the Board shall direct the Planning Director to reject the application. The findings of the Board of Zoning Appeals and its order to the Planning Director shall be in writing.

D. Any person aggrieved by the decision of the Board of Zoning Appeals regarding its action pertaining to the Special Permit request may file an appeal with the Circuit Court in accordance with Article 1361.

E. The Board of Zoning Appeals may impose additional conditions to assure that Special Permits will conform to the intent of this Ordinance.

F. An existing use which is listed herein as a Special Permit, and which is located in a district in which such Special Permit may be permitted, is a conforming use provided that:
   Any expansion of such Special Permit involving the enlargement of the Buildings, Structure, and Land area devoted to such use shall be subject to the requirements and procedure described in this Article.

G. Any person to whom is issued an Improvement Location Permit for a Special Permit who fails to commence construction within twelve (12) months after such permit is issued or who fails to carry to completion thirty percent (30%) of the total Development Plan thereof within

three (3) years after such permit is issued or within one year after such construction is begun, whichever is later, or who fails to conform to the provisions of the Development Plan and supporting data finally approved by the Board of Zoning Appeals and upon the basis of which such Improvement Location Permit was issued, may be required by the Board of Zoning Appeals upon written petition of any person deeming himself aggrieved, to show cause why such approval should not be withdrawn and such Improvement Location Permit revoked.

H. The holder of an Improvement Location Permit for a Special Permit may apply to the Board of Zoning Appeals at any time for alteration, change, amendment to extension of the application or Development Plan upon which such permit was based.

1. Upon receipt of such application, the Board of Zoning Appeals shall proceed as in the case of original applications for an Improvement Location Permit for a Special Permit.
2. In the event the Board of Zoning Appeals shall approve and order such application or Development Plan changed, altered, amended or extended, it shall so notify the Planning Director who shall issue an amended Improvement Location Permit accordingly.

I. Expiration – If a Special Permit/Special Exception use lawfully operating ceases operation for a period of twelve (12) months or more regardless of any intent to resume operation, it may not recommence operation in that location without first applying for Special Permit/Special Exception via the public hearing process and approval of the Board of Zoning Appeals in the districts where indicated, in accordance with the procedure and requirements set forth in this Article and any other requirements described by this ordinance.

ARTICLE 1361
BOARD OF ZONING APPEALS

ARTICLE 1361

BOARD OF ZONING APPEALS

A Board of Zoning Appeals is hereby established with membership and appointment provided in accordance with the authority conferred by Article 5, Land Use Planning, Chapter Eight A, Article 8 of the Code of West Virginia, effective date June 13, 2004.

A. The first meeting of each year, the Board shall elect a chairman and a vice-chairman from its members. The vice-chairman shall have authority to act as chairman during the absence or disability of the chairman.

B. A majority of members of a Board shall constitute a quorum. No action of the Board is official, however, unless authorized by a majority of the Board.

C. Council may appoint up to three (3) alternate members to serve upon the Board of Zoning Appeals in accordance with West Virginia Code Section 8A-8-3.

D. The Board may appoint and fix the compensation of a secretary and such employees as are necessary for the discharge of its duties all in conformity to and compliance with salaries and compensation therefore fixed by the City.

E. The Board shall adopt such rules concerning the filing of appeals and applications for variances special permits, and special exceptions, giving of notice and conduct of hearings as shall be necessary to carry out their duties under the provisions of this Ordinance.

F. The Board shall keep minutes of its proceedings, keep records of its examination and other official actions and shall record the vote on all actions taken. All minutes and records shall be filed in the office of the Planning Director and shall be a public record.

G. The Board shall have the following powers and it shall be its duty to:

   1. Hear and determine appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of this Ordinance.
   2. Permit and authorize exceptions to the district regulations only in classes of cases or in particular situations as specified in this Ordinance.
   3. Authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of this Ordinance shall be observed and substantial justice done.

H. Any aggrieved owner or tenant of real property who shows that his property will be substantially affected by an order, requirement, decision or determination made by an administrative official charged with the enforcement of this Ordinance may appeal such to the Board of Zoning Appeals.

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

J. An appeal taken from the requirement, decision or the determination made by an administrative official charged with the enforcement of this Ordinance shall be filed with the Board. The appeal shall specify the grounds thereof and shall be filed within 30 days of the decision of the administrative official and in such form as may be prescribed by the Board by general rule.

The administrative official from whom the appeal is taken shall, upon request of the Board, transmit to it all documents, plans and papers constituting the record of the action from which an appeal was taken.

K. The Board shall fix a reasonable time for the hearing of an appeal. Public Notice shall be given of the hearing and due notice shall be given additionally to the interested parties. The Board may require the person taking the appeal to assume the cost of public notice and due notice to interested parties. Upon the hearing, any party may appear in person, by agent or by attorney.

L. When an appeal from the decision of any official has been taken and filed with the Board, all proceedings and work on the premises concerning which the decision was made shall be stayed unless the official from whom the appeals was taken shall certify to the Board that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except by a restraining order which may be granted by the Circuit Court of Wayne County or Cabell County, depending upon which Court has jurisdiction, on application, on notice to the officer from whom the appeal is taken and the owner of the premises affected and on due cause shown.

M. Every decision of the Board shall be subject to review by certiorari.

N. No variance in the application of the provisions of this Ordinance shall be made by the Board relating to building, land or premises now existing, or to be constructed, unless after a hearing, the Board shall find that such variance will not:

1. Alter the land use characteristics of the district.
2. Impair the adequate supply of light and air to adjacent property.
3. Increase the hazard from fire, flood and other dangers of said property.
4. Diminish the marketable value of adjacent lands and buildings.
5. Increase the congestion in the Streets.
6. Otherwise impair the public health, safety, convenience, comfort or general welfare.

ARTICLE 1363
AMENDMENTS

ARTICLE 1363

AMENDMENTS

1363.01 **MODIFICATIONS OF COMPREHENSIVE PLAN; PROCEDURE**

Any proposed ordinance for the amendment, supplement, change or repeal of this ordinance not originating from petition of the Commission shall be referred to the Commission for consideration and report before any final action is taken by the City Council. Prior to the submission to the City Council of a Commission petition or a report on a proposed Ordinance referred to it for an amendment, supplement, change or repeal of this Ordinance, the Commission shall give notice and hold a public hearing in the manner prescribed for adoption of a Comprehensive Plan in Section Eleven (11) of Article Three (3) Chapter Eight A (8A), of the Code of West Virginia, passed March 13, 2004, and in accordance with the Charter of the City.

1363.02 GENERAL PROVISIONS.

(A) Proposed amendments to this ordinance may be presented by the Planning Commission to the Council requesting an amendment, supplement, repeal or change of the regulations of the Zoning Ordinance. Prior to submission to Council of a Planning Commission petition or report on a proposed ordinance, the Planning Commission shall make its report on the proposed ordinance to Council. Thereafter, Council shall proceed to take such action on the proposed ordinance as it deems proper.

(B) The City Council may, from time to time, amend, supplement, or change the rules and regulations and districts fixed by the Zoning Ordinance.

(C) Before amending the Zoning Ordinance or Zoning Map, City Council with the advice of the Planning Commission, must find that the amendment is consistent with the Comprehensive Plan. If the amendment is inconsistent, then City Council with the advice of the Planning Commission, must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the Comprehensive Plan was adopted and those changes have substantially altered the basic characteristics of the area.

(D) Zoning Map amendments (i.e., rezonings) often become issues of significant contention between the applicants and residents living adjacent to and in the vicinity of the property to be rezoned. Too often this results in difficult and argumentative public hearings before the municipal Planning Commission and City Council. In most cases, opposition to a rezoning request is based on legitimate concerns over the well-being and preservation of a neighborhood, but sometimes opposition results from a simple lack of communication and understanding between the applicant and the neighborhood residents. The City, therefore, strongly advises any person that is considering applying for a zoning map amendment (i.e., rezoning) to discuss the proposal with residents living within 400-feet of the property to be rezoned and with the leadership of any organized neighborhood association that represents the area before making application to the

Planning Department.

1363.03 AUTHORITY AND PROCEDURES.

Whenever public necessity or the public health, safety, and general welfare require, City Council may, by Ordinance and the receipt of recommendation thereon from the Planning Commission and subject to the procedures below, amend, supplement, change, or repeal the regulations, restrictions, and boundaries or classifications of property.

1363.04 APPLICATION PROCEDURES.

A. Amendment to the Zoning Map

1) A request for rezoning of property shall be filed on prescribed forms with the Planning Department.
1) The Planning Department will conduct a formal review of the completed form, and, so much as is possible, the names and addresses or property owners and residents within a 400-foot radius of the petitioned property.
2) The Planning Department will publish a legal advertisement describing the request for rezoning in a local newspaper of general circulation at least 15-days prior to the scheduled public hearing before the Planning Commission. Notification will be sent to property owners and residents, to the extent that they can be identified, within 400-feet of the affected property no later than 15-days prior to the meeting.
3) The Planning Director shall require the petitioner to cause official notification to be posted in a prominent location on the property(s) not later than 14-days prior to the meeting.
4) The Planning Commission will hold a duly scheduled public hearing on the rezoning request, prepare a report, and make a recommendation to the City Council.
5) City Council will hear the case according to its rules and procedures.
6) If the request is approved by Council, the applicant shall receive approval and will be formally notified by mail by the Planning Department. The Planning Department shall amend the zoning map to reflect the approved rezoning.
7) If the request for rezoning is denied by Council, the applicant will be formally notified in writing by the Planning Department of the denial and the right to appeal the decision to the Circuit Court of Cabell County, or Wayne County, whichever therein the property resides.
8) Any person who feels aggrieved by an approval or denial of a rezoning request may appeal the decision to the Circuit Court of Cabell County, or Wayne County, whichever therein the property resides.

B. Abandonment, Annexation and/or Variance to Subdivision Regulations

1) A request for abandonment, annexation and/or variance to subdivision regulations of property shall be filed on prescribed forms with the Planning Department.

2) The procedure for advertisement and notification of affected properties shall be the same as those established in Section 1363.03 *et seq.* of this Ordinance.

ARTICLE 1365
VALIDITY

ARTICLE 1365

VALIDITY

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Ordinance as a whole or any part thereof, and the parts of or sections remaining shall remain in effect as though the part or section declared invalid or unconstitutional has never been a part thereof.

ARTICLE 1367
REMEDIES AND PENALTIES

ARTICLE 1367

REMEDIES AND PENALTIES

Section 1367.01 **Purpose**

To provide for remedies for the City and owners or tenants of property with respect to proposed or occurring violations of this Ordinance, and to prescribe penalties for violation of this Ordinance.

Section 1367.02 **Remedies**

A. The Commission, the Board or any other designated enforcement official may institute a suit for injunction in the Circuit Court of Wayne County or Cabell County, depending upon which Court has jurisdiction, in the name of the City to restrain a person from violating the provisions of this Ordinance. The Commission or the Board may also institute a suit for a mandatory injunction in the Circuit Court of Wayne County or Cabell County, depending upon which Court has jurisdiction, in the name of the City, directing a person to remove a Structure erected in violation of the provisions of this Ordinance. If the Commission or the Board is successful in its suit, the respondent shall bear the cost of the action.

Section 1367.03 **Penalties**

A. Upon receiving any citation, a person who is found guilty by the Municipal Court Judge to have violated any provision of this Ordinance shall be guilty of a misdemeanor and, shall be fined not less than ten dollars ($10.00) and not more than three hundred dollars ($300.00).

Appeals of such actions shall be taken to the Circuit Court as provided in West Virginia Code ' 8-34-1.