

Jefferson County
Zoning and Land Development
Ordinance

Jefferson County, West Virginia

Prepared By The
Jefferson County Planning Commission

Adopted
July 7, 1988

AS AMENDED

Office Consolidation

This document contains additions and amendments approved by the Jefferson County Commission on the following dates. For accuracy, specific reference should be made to these documents.

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**ARTICLE 1: PURPOSE, JURISDICTION, APPLICATION,
INTERPRETATION AND SEVERABILITY**

Section 1.0 Effective Date

This Ordinance shall become effective ninety (90) days after the date on which the County Commission acts to adopt it.

Section 1.1 Purpose

The purpose of this Ordinance is to:

- (a) Protect and encourage the health, safety, and general welfare of the present and future population of Jefferson County.
- (b) Help guide the future growth and development of Jefferson County in accordance with the adopted Comprehensive Plan.
- (c) Encourage growth and development in areas where sewer, water, schools, and other public facilities are or will soon be available in order to provide services in the most cost effective manner.
- (d) Insure that growth and development are both economically and environmentally sound.
- (e) Encourage the maintenance of an agricultural base in the County at a level sufficient to insure the continued viability of farming.
- (f) Encourage and support commercial, industrial, and agricultural activities while maintaining land use, order and compatibility.
- (g) Encourage an improved appearance of Jefferson County with relationship to the use and development of land and structures.
- (h) Encourage the conservation of natural resources.
- (i) Provide a guide for public action in the orderly and efficient provision of public facilities and services.
- (j) Provide a guide for private enterprise in developing and building a strong economic community.
- (k) Encourage Historic Preservation.

Section 1.2 Jurisdiction

These regulations shall apply to all properties within Jefferson County, West Virginia; but not include the incorporated areas.

Section 1.3 Application and Interpretation

- (a) The terms of this Ordinance shall be applied to promote the intent in Section 1.1 and the Comprehensive Plan.
- (b) Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law, or by other rules, regulations or ordinance, or by private restrictions, covenants or declarations, the provisions of this Ordinance shall control, except where stated specifically herein.
- (c) Where a provision of this Ordinance is in conflict with another provision of this Ordinance the stricter regulation shall apply.
- (d) If a proposed use is not one in the list of those permitted in each zoning district, it shall be prohibited as though it was included in the list of prohibitions. However, the use may be approved if the Development Review System demonstrates that the use is compatible and appropriate with the neighborhood and the use can be approved by the Planning and Zoning Commission as a conditional use.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE AUGUST 31, 1989]
- (e) Amendments to this Ordinance shall not adversely affect specific decisions made by the Zoning Board of Appeals or conditions on a Conditional Use Permit dated prior to the adoption of such amendment. Determination of adverse affect shall be made by the Zoning Administrator.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 18, 1996]

Section 1.4 Severability

Should any article, section, subsection 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 or constitutionality of the Zoning Ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

Section 1.5 Use of Technical Information

Should any technical study, authorized by the Jefferson County Commission, become available after the adoption of this Ordinance, the County Commission shall authorize the Planning and Zoning Commission to scrutinize such study to determine the extent that this Ordinance may need to be amended. Such studies may include, but, are not limited to, information on recreation, groundwater, hazardous wastes, and historic structures.

Changes that arise from this provision may include additions and/or deletions of sections in this Ordinance which would further encourage the proper management and preservation of our Natural and Cultural Resources. All such recommended changes are subject to Section 12.1.

Section 1.6 Wireless Telecommunication Moratorium

No application for commercial wireless telecommunication towers, antennas, auxiliary equipment shelter or structures, or any other commercial wireless telecommunications facility shall be accepted into the Planning Commission Office for review prior to July 1, 1998. Likewise, no commercial wireless telecommunication towers, antennas, auxiliary equipment shelter or structures, or any other commercial wireless telecommunications facility shall be constructed or placed in the unincorporated areas of Jefferson County prior to July 1, 1998.

This provision shall expire on July 1, 1998 or on the date new rules regarding such facilities and antennas are adopted by the County Commission of Jefferson County whichever comes first. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]

ARTICLE 2: DEFINITIONS

Section 2.1 Definitions

For the purpose of these regulations, the following terms, phrases, words and their derivations shall have the meaning given herein. Words used in the present tense include the future, the singular number includes the plural and the plural is the singular. The word "shall" is mandatory and the word "may" is permissive. The words "used for" shall include "arranged for", "designed for", "intended for", "maintained for", "constructed for", or "occupied for". The word "person" shall mean natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust or the manager, laesa, agent, servant, officer or employee of any of them. The word "land" shall include water surface and land under water.

Section 2.2 Terms Defined

Abandonment or Abandoned	The relinquishment of property or cessation of the use of the property by the owner or lessee without any intention of transferring rights to the property to another owner or resuming the nonconforming use of the property for a period of one year. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
Accessory Use	A structure or use which is customarily incidental and subordinate to the principal building or use which is located on the same lot as the principal building. Accessory structures include garages, tool sheds, storage buildings, swimming pools or other similar structures. An accessory structure having any part of a wall in common with a dwelling is considered part of the main building and must meet those setbacks.
Addition, Major	A major addition shall include those additions which will directly affect the function of the site or those areas surrounding the site. Any substantial change of use classification, alteration of on-site parking requirements, potential adverse impacts of off-site storm water drainage, increased demand for public water and sewerage or additions which will cause the rerouting of traffic circulation shall be considered "major additions".
Adjacent/ Confronting Affected Property Owner	The owner of property adjacent to or confronting a proposed development (including the properties across any road, right of way or easement) which will be impacted either positively or negatively by that proposed development. Names and addresses of affected property owners will be taken from current tax records in the Jefferson County Court House. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]

Adult Uses Uses that are commonly associated with adults only, including but not limited to: bars, lounges, dance clubs, stripping establishments, adult book stores, clubs, adult arcades, adult cabarets, adult motion picture theaters, massage parlors, sexual encounter establishments or other similar businesses. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]

Adult Arcade An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]

Adult Bookstore An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices, or paraphernalia that are designed for use in connection with specifies sexual activities. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]

Adult Cabaret A nightclub, bar, restaurant, facility, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides or other photographic reproductions of material that is characterized by any emphasis upon the depiction of specified sexual activities or specifies anatomical areas. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]

**Adult Mini Motion
Picture Theater**

An enclosed building with a capacity for fewer than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase "used for" in this definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]

Adult Sauna

A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, using steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]

Adult Theater

A theater, concert hall, auditorium, or similar establishment characterized by activities featuring the exposure of specified anatomical areas or by specified sexual activities.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]

Affordable Housing

Housing units where the occupant is paying no more than 30 percent of Jefferson County median gross income for housing costs, including taxes and utilities.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]

**Aggrieved or
Aggrieved Person**

A person who is denied by the planning commission or the board of zoning appeals, in whole or in part, the relief sought in any application or appeals, or has demonstrated that he or she will suffer a peculiar injury, prejudice or inconvenience beyond that which other residents of the county or municipality may suffer.
[AMENDED BY THE ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]

Agricultural Use

The use of land for a bona-fide farming operation. This includes:

1. Commercial Agricultural Enterprise;
 2. Agriculture, Ranching;
 3. Aquaculture;
 4. Apiculture;
 5. Horticulture;
 6. Viticulture;
 7. Fish, meat, poultry and game birds processing, provided that fifty percent (50%) of the meats is processed must be raised on the site farm of the processing facility for minimum periods of three (3) months for beef and pork and two (2) for lamb and poultry;
 8. Animal Husbandry; including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals;
 9. Poultry husbandry and the production of poultry, game birds and poultry products;
 10. Dairy production and processing of dairy products;
 11. Horse Breeding, boarding, riding and training facility;
 12. The production of field crops including but not limited to tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, mushrooms, timber, pasturage, Christmas trees, maple sap, woody biomass, compost;
 13. Pick your own farm products;
 14. Agricultural tourism;
 15. Farm vacation and farm related experience, provided that there are not more than 5 lodging units;
 16. Farm brewery and winery provided that all structures associated with the operation do not exceed 10,000 square feet;
 17. Rental of garden plots;
 18. Community supported agriculture;
 19. The warehousing; processing, value added, drying, storage, distribution and marketing of agricultural products when those activities are conducted in conjunction with husbandry or production;
 20. Rental of existing farm building, for commercial storage (structure must have existed for 5 years);
- [AMENDED BY THE COUNTY COMMISSION, EFFECTIVE
APRIL 8, 2005 AT 5:00 P.M.]

Amenities

Utilities, roadways, and public services which make a particular site more attractive for development. Section 6.4 governs the assessment of amenities as it relates to the Development Review System.

Applicant

Any person commencing to develop land under the Development Review System Ordinance or any person requesting an appeal to this Ordinance.

Area, Land	Land area refers to new land area, exclusive of streets and other public space.
Billboard	A structure on which is portrayed information which directs attention to a business commodity, service or entertainment not necessarily related to the other uses permitted on the premises upon which the structure is located. (See Sign, Outdoor Advertising)
Blue Ridge Line	The common surveyed boundary between Jefferson County, West Virginia and Loudoun County, Virginia. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE AUGUST 13, 1998]
Board	The Jefferson County Board of Appeals.
Buffer	An area on a property defined by a distance from the property line or other specifically designed line such as flood plain, wetland limit or stream bank. Said area is intended to absorb, lessen or neutralize the impacts of one land use from another. The nature of the buffer will depend on the impact(s) being neutralized. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]
Building	Any structure which is permanently affixed to the land and has one or more floors and a roof. The term building shall include manufactured homes.
Building, Height of	The vertical distance measured from the level of approved street grade opposite the middle of the front of the building to the highest point of the coping of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof.
Building Line	The line established by law beyond which a building shall not extend as determined by front, side and rear yards, herein.
Change of Use	Any use which is different than the previous use of a building or land or any change in the Standard Industrial Code in utilizing the Development Review System.

- Clustering** Grouping structures in closely related groups at higher densities than normally permitted in certain areas in order to preserve other areas as parks, recreational areas or sensitive natural areas. Overall density of the total parcel remains within acceptable limits. See Chart (5.5.b) for minimum area per dwelling unit and minimum lot area.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]
- Collocation** The use of a wireless telecommunications facility by more than one wireless telecommunications provider.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 1, 1998]
- Commercial** Any wholesale, retail or service business activity established to carry on trade whether or not for profit.
[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 4, 1989]
- Commercial Agricultural Enterprise** Farm operations which will: (A) contribute to the area's existing agricultural economy; and (B) help maintain agricultural processors and established farm markets. When determining whether a farm is part of a commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered.
[AMENDED BY THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
- Commission** The Jefferson County Planning and Zoning Commission.
- Comprehensive Plan** A composite of mapped and written text, the purpose of which is to guide the systematic physical development of the County and is adopted by the County Commission.
- Conditional Use** A use which because of special requirements or characteristics may be permitted in a particular zoning district only after review by the board of zoning appeals and upon issuance of a conditional use permit, and subject to the limitations and conditions specified in the zoning ordinance.
[AMENDED BY THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]

Conditional Use Permit	A permit issued upon completion of the Development Review System which allow for the proper integration of compatible uses into the community. [AMENDED BY THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
Condominium	A common interest community in which portions of the real estate are designated for separate fee simple ownership of cubic air interior spaces and the remainder of the real estate is designated for common ownership solely by the owners of those portions. Said common interest community may be residential, commercial or industrial depending on other provisions of this Ordinance. All such projects are subject to the West Virginia Uniform Common Interest Ownership Act. In the event that a specific requirement within the Uniform Common Interest Ownership Act is inconsistent with a commercial or industrial project, that specific requirement shall not apply. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]
Contiguous	Lots, parcels, municipal boundaries or county boundaries that are next to, abutting and having a boundary, or portion thereof, that is coterminous. Streets, highways, roads or other traffic or utility easements, streams, rivers, and other natural topography are not to be used to determine lots, parcels, municipal boundaries or county boundaries as contiguous. [AMENDED BY THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
Cottage Industry	An occupation at a residential premises anywhere except the Residential Growth District and existing residential subdivisions; with a limited number of employees, accessory structures and with specific setbacks. See Article 4A for standards. [AMENDED BY ACT OF THE COUNTY COMMISSION EFFECTIVE MAY 18, 1996]
Development	The subdivision of land; construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure, installation of a sign; and any mining, landfill or land disturbance, such as grading, paving and excavation.
Development Review System	A numerical rating system designed to assess a particular site's development potential based on soils and amenity criteria cited within this ordinance.

- Dormitory** A building used for sleeping accommodations where such building is used accessory to a permitted use of land. A dormitory shall be located on the same property or campus as the use it is intended to serve. A dormitory shall not offer accommodations to the general public or to persons who are visiting the property or campus primarily for the purpose of being a spectator at a sporting event or other gathering held at the facility. A dormitory may include one common kitchen or dining facility and common gathering rooms for social purposes for use only by its temporary occupants.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JANUARY 10, 2002]
- Dwelling Unit** One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and containing independent cooking and sleeping facilities.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]
- Dwelling, Detached** A building containing only dwelling units surrounded by yards or other open area on the same zoning lot.
- Dwelling, Multi-Family** A building containing three or more dwelling units.
- Dwelling, Single** A building containing not more than one dwelling unit and not occupied by more than one family.
- Dwelling, Townhouse** One of a series of three or more attached dwelling units separated from one another by continuous vertical party walls without openings from basement floor to roof.
- Dwelling, Two-family** A building located on one zoning lot containing not more than two dwelling units, arranged one above the other or side by side, and not occupied by more than two families.
- Easement** A lawfully acquired right or privilege to use a parcel of land or a portion thereof for a specified purpose. An easement is retained by a person other than the owner of the land parcel.
- Engineer** A person registered by the State of West Virginia through the Board of Registration of Professional Engineers.

Essential Utility Equipment	<p>Underground or overhead electrical, gas, communications not regulated by the federal communications commission, water and sewage systems, including pole structures, towers, wires, lines, mains, drains, sewers, conduits, cable, fire alarm boxes, public telephone structures, police call boxes, traffic signals, hydrants, regulating and measuring devices and the structures in which they are housed, and other similar equipment accessories in connection therewith. Essential utility equipment is recognized in three categories:</p> <p>(1) Local serving;</p> <p>(2) Non-local or transmission through county or municipality; and</p> <p>(3) Water and sewer systems, the activities of which are regulated, in whole or in part, by one or more of the following state agencies:</p> <p style="padding-left: 40px;">(A) Public service commission</p> <p style="padding-left: 40px;">(B) Department of environmental protection; or</p> <p style="padding-left: 40px;">(C) The department of health and human resources.</p> <p>[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 18, 1996 AND APRIL 8, 2005 AT 5:00 P.M.]</p>
Expanded Use	The further development of a developed site.
Flood-prone Area	Areas subject to the one hundred (100) year flood as determined by the Flood Insurance Study prepared by the Federal Insurance Study prepared by the Federal Insurance Administration for Jefferson County, dated April 15, 1980, as may be amended.
Flood-prone Soils	Any area designated as flood-prone soils in the Soil Survey of Jefferson County, West Virginia prepared by the Department of Agriculture, Soil Conservation Service.
Frontage, Street	All property on the side of a street between two intersecting streets (crossing or ending), or if the street is a dead-end, then all property abutting on one side between an intersecting street and the dead-end of the street.
Glare	The effect produced by brightness sufficient to cause annoyance, discomfort, or lessen visual performance and visibility.
Group Residential Facility	A dwelling owned or leased by a governmental or non-profit organization and used to house a group of persons not necessarily related by blood. The parent agency or institution has the administrative, supervisory and service responsibility for the group home.
Historic Site/Property	Any lot, parcel, historic structure, or designated area which has been listed on the West Virginia or the National Register of Historic Places.

Home Occupation, Level 1 An occupation conducted in a residential premises in any district, but only by family members, wholly within the dwelling unit, with no visible evidence of its conduct. See Article 4A for standards.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 18, 1996]

Home Occupation, Level 2 An occupation conducted in a residential premises in any district, but not in subdivisions established since 1979, and with some nonresident employees, but wholly within the dwelling unit and with no visible evidence of its conduct except a small sign. See article 4A for standards.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 18, 1996]

Impervious Surface Any structure, material, or surface which reduces and prevents absorption of storm water into the earth.

Improvements Modifications to land which increase its value or utility. Improvements include, but are not limited to, buildings and structures, road grading, road surfacing, landscaping, curbs, gutters, storm sewers and drains, sidewalks, street signs, modifications to watercourses, water supply facilities, sewage disposal facilities, and park and recreation equipment.

Institutional Use A non profit, not for profit, public or quasi-public use, such as a religious facility, library, public or private school, hospital, or government owned, operated or supported facility or land use for public purpose.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]

Land Surveyor A person registered by the State of West Virginia through the Board of Examiners of Land Surveyors.

Lattice Tower A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]

- Light Industrial** Any industry that does not use a significant amount of water except for domestic purposes. Industrial uses that do not create noise, odors, smoke and objectionable nuisances or hazards. All other perceived light industrial uses shall be referred to the Jefferson County Development Authority for a recommendation. The final decision shall still be made by the Planning and Zoning Commission. Any uses listed in Section 5.6(b) (as amended) are not considered light industrial).
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 4, 1989]
- Lot** A tract of land area meeting local development standards which is intended for building development whether immediate or future.
- Lot Area** The total horizontal area included within the rear, side and front lot or proposed street lines of the lot.
- Lot Line, Front** The side or sides of an interior or through lot which abut a street; in a corner lot both sides abutting the streets forming the corner shall be considered front lots. Front lot lines shall be measured from the Road Improvement Easement where one exists.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]
- Lot Line, Side** Any lot line other than a front lot line or rear lot line. In a corner lot there must be at least one rear lot line.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]
- Lot of Record** A written or graphic description of a lot that is on record in the office of the Clerk of the County Commission of Jefferson County at the adoption of this Ordinance.
- Massage Parlor** An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, certified massage therapist, or similar professional person licensed by the State. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.
[AMENDED BY ACT OF THE COUNTY COMMISSION ON JULY 15, 1993]

Mobile Home

A detached structure with the following characteristics:

It is designed for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems, and it is designed for transportation after fabrication on streets or highways on its own wheels, or on flatbeds or other trailers, or detachable wheels, and it arrives at the site where it is to be occupied complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities and the like.

Mobile Home Park

A lot, site, or parcel of land used or intended to accommodate two (2) or more mobile homes for residential purposes with adequate public or community water and sewerage service meeting Health Department standards. A mobile home park does not include mobile home sales lots, which unoccupied mobile homes are parked for inspection and sale. This term includes all buildings, structures, vehicles, accessories and appurtenances used or intended as equipment in such a park.

Modular Unit

A factory-fabricated transportable building unit designed to be used by itself or to be incorporated with similar units at a building site into a modular structure for residential, commercial, educational, or industrial uses.

Monopole

A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]

Motor Vehicle

Any self-propelled vehicle designed primarily for transportation of persons or goods along public streets or other public ways.

[AMENDED BY THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]

Multi-Residential Use

A deeded lot or parcel on which two or more dwelling units are located.

Natural, Undisturbed Condition

This exists where the terrain has not been altered in form by human activities such as cutting, filling, blasting or leveling and where natural vegetation exists.

[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]

Natural Vegetation	This occurs when a property is allowed to revert to a wild condition with native plants. No cutting, trimming or cultivation takes place in areas of natural vegetation. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]
Neighborhood	An area generally confined to a one-mile radius from the perimeter of a proposed development.
Nonconforming Use	A use of a building or of land lawfully existing at the time this Ordinance becomes effective and which does not conform with the use regulations of the district in which it is located. Any new lines of division within a subdivision of a parcel that is a nonconforming use shall meet the regulations of this Ordinance.
Non-residential	A commercial, industrial or institutional use.
Nursing or Retirement Homes	This term includes rest homes, nursing homes, convalescent homes for children and homes providing chronic and convalescent care.
Open Space	Land within a proposed development site excluding areas devoted to buildings, structures, roadways and parking.
Plat	A scaled, graphic drawing of a land subdivision project prepared according to the provisions of this Ordinance. A plat depicts the design and layout of a project as well as the location of existing and proposed property boundaries and easements. A plat also includes all terms, conditions and performance requirements established prior to the approval of a subdivision.
Preliminary Plat	A professionally prepared drawing of a proposed subdivision which is not a record plat but which contains detailed information concerning the proposed development.
Principal Permitted Use	The primary or predominant use of any site.
Prohibited Use	A use that is not permitted.
Public Highway	Any highway or road in Jefferson County which is part of the Federal or West Virginia public highway system and which is so identified by and numbered on the most recent General Highway Map published by the West Virginia Department of Highways.

Research and Development

Research, development and testing laboratories that do not involve the mass manufacture, fabrication, processing or sale of products.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JANUARY 10, 2002]

Residential

Any detached or attached structure that is used for permanent living quarters and has kitchen facilities.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 4, 1989]

Right-of-way

A right which grants passage across or through a property. A right-of-way is also the (usually dimensioned) path along which the right of passage is granted).

Road

A prepared surface within a right-of-way which is intended for vehicular use. Road does not include shoulders.

Seasonal Use

A use that is carried on for not more than a single three day consecutive period in each of the four solar seasons.
[AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

Sensitive Natural Area

An area of wetlands, stream or river banks and forest which exists as a habitat supporting rare or endangered species or which has been dedicated perpetually to environmental preservation by easement, covenant or other legal instrument or which is otherwise protected for environmental purposes by State or Federal statute.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]

Setback Line

That line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed.

Sexual Paraphernalia Store

Any retail store specializing in the sale of paraphernalia, devices, or equipment distinguished or characterized by an emphasis on depicting or describing specific sexual activities or used in connection with specified sexual activities.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]

Shopping Center	A commercial facility on a single lot with common parking facilities that uses or leases separate areas of space to retail or service oriented businesses. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]
Shrub, Evergreen	A low growing, usually several stemmed, woody plant which has foliage that remains green and functional through more than one growing season.
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, designs, symbols, fixtures, colors, illumination or projected images.
Sign, Animated	A sign with action or motion, flashing lights, or color change requiring electrical energy, electronic, or manufactured sources of supply, but not including wind actuated elements such as flags, banners, or pennants.
Sign, Business	A sign which directs attention to a business or profession or to a commodity, service, or entertainment sold or offered upon the premises where the sign is located.
Sign, Freestanding	A sign supported by a permanent structure, other than a building, that is affixed to the earth and placed on the same parcel of land on which the business or service advertised by the sign is located.
Sign, Outdoor Advertising	A sign structure which directs attention to a business, commodity, service, or entertainment not necessarily conducted, sold, or offered upon the premises where such sign is located. This term shall include billboards.
Sign, Vehicle	(see Vehicle Signs)
Soil Value	A relative numeric value assigned to soil groups based on the group's potential for agricultural production.
Species, Rare or Endangered	Any species listed with the West Virginia Department of Natural Resources Heritage Program Species List or by the U.S. Department of the Interior, Department of Fish and Wildlife Management. [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

Specified Anatomical Area

As used herein specified anatomical areas means and includes any of the following: (1) less than completely and opaquely covered human genitals, public region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or (2) human male genitals in a discernibly turgid state, even if completely or opaquely covered.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]

Specified Sexual Activities

As herein, specific sexual activities means and includes any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions, when such activities are a part of or in connection with any of the activities set forth in the following definitions: Adult Use; Adult Arcade; Adult Bookstore; Adult Cabaret; Adult Mini Motion Picture; Adult Sauna; Adult Theater; Massage Parlor; Sexual Encounter Establishment; and, Sexual Paraphernalia Store
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]

Standard Industrial Classification

A multi-digit code utilized by the federal Executive Office of Management and Budget to classify establishments by type of activity in which they are engaged.

Staff

Personnel employed in the Department of Planning, Zoning and Engineering.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 800 A.M.]

Standard Details

These are minimum acceptable details approved by the County Engineer for use in preliminary plats, site plans, and related improvement plans. Said approval does not relieve the subdivider, the design consultant, or the builder of the responsibility for structural adequacy and sound construction.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]

Street

(Same as Road)

Telecommunication

The technology which enables information to be exchanged through the transmission of voice, video, or data signals by means electrical or electromagnetic systems.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]

- Use** An activity that constitutes a legal employment of a land parcel or lot exclusive of ancillary parking and drives.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]
- Variance** A variance is a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classification of a parcel of land.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
- Vehicle** A means of carrying or transporting something.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
- Vehicular Miles** Distance by motor vehicle between two points utilizing public highways.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
- Vehicle Signs** A sign or advertising device which is painted, mounted, affixed or otherwise attached to a vehicle or trailer, which is used for the purpose of providing advertisements of products and services or directing people to a business or service or other activity on or off the premises or public right-of-way where such vehicle sign is located. This does not include identification signs on vehicles which are moved regularly and used in the normal, day-to-day operation of the business.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]
- Wetland** An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. The substrata is predominantly hydric soil.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]

Wireless Telecommunications Antenna The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]

Wireless Telecommunications Equipment Shelter The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]

Wireless Telecommunications Facility A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]

Wireless Telecommunications Tower A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]

ARTICLE 3: ADMINISTRATION AND ENFORCEMENT

Section 3.1 Administration and Enforcement

- (a) The provisions of this Ordinance will be governed by the County Commission or the Zoning Administrator and Staff in accordance with §8A-1-1 et seq of the West Virginia State Code, as amended. With enactment of the Ordinance, the County Commission shall designate a Zoning Administrator for the day to day administration of the ordinance.
[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990 AND APRIL 8, 2005 AT 5:00 P.M.]
- (b) An appeal to this Ordinance, however, may be made to the Jefferson County Board of Zoning Appeals subject to the provisions of §8A-1-1 et seq of the West Virginia State Code, as amended.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
- (c) The Jefferson County Board of Zoning Appeals shall evaluate all Development Review applications and approve, approved with conditions, or deny issuance of a conditional use permit.
[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE AUGUST 31, 1989 AND APRIL 8, 2005 AT 5:00 P.M.]
- (d) All departments, officials, and public employees of Jefferson County which are vested with the duty or authority to issue permits or licenses shall issue no permit or license for any use, building, or purpose if the same would be in conflict with the provisions of this Ordinance.

Section 3.2 Zoning Administrator

- (a) The Zoning Administrator shall administer and enforce the Zoning Ordinance. This includes but is not limited to the following:
- (1) Make determinations that all applications required by the Ordinance are complete and that all fees are paid.
 - (2) Interpret the provisions of the Ordinance as required by law.
 - (3) Issue Zoning Certificates as permitted by the Ordinance.
 - (4) Calculate the LESA point scores and determine the adequacy of the Support Data for all applications for a Conditional Use Permit.
 - (5) Issue all Permits and Certificates as permitted by the Ordinance.
 - (6) Prepare and submit reports as required by the Ordinance or the Board of Zoning Appeals or Planning Commission.
 - (7) Conduct meetings and conferences pursuant to the Zoning Ordinance.
- [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
- (b) Any decision or action by the Zoning Administrator based on Section 3.2(a) above are subject to appeal to the Board of Zoning Appeals.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
- (c) It shall be unlawful to develop, construct, alter, or reconstruct any structure or to change the use of any structure or property without first obtaining a zoning certificate from the zoning administrator. This provision may not apply to the general maintenance or repair or any addition deemed not a major addition as defined in Section 2.2 of this Ordinance. Please call the Department of Planning, Zoning and Engineering for more information.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
- (d) Each application for a zoning certificate shall be accompanied by a copy of an approved site plan, if applicable, or by a legible drawing either drawn to scale or accurately indicating dimensions which show property boundaries and existing and proposed structures and other proposed changes or land development. The plans shall be retained in the office of the Department of Planning, Zoning and Engineering.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]

- (e) Use of any property, developmental arrangement, or construction on any property other than that authorized in the zoning certificate is a violation of this ordinance. All provisions of this Ordinance and amendments shall be maintained perpetually. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
- (f) The Zoning Administrator shall approve or disapprove issuance of a zoning certificate within sixty (60) days of the initial filing date providing the application is complete and fees are paid when filed and the request is in compliance of the provisions of this Ordinance. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
- (g) A zoning certificate and/or conditional use permit shall become void eighteen (18) months after the date of issuance if the construction or use for which the permit was issued has not commenced. A one-time extension of this time frame may be granted by the Board of Zoning Appeals after evaluation of the hardship involved with noncompliance of this regulation. The length of time extended shall be at the discretion of the Board of Zoning Appeals and shall not exceed eighteen (18) months. [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION ON JULY 15, 1993 AND EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
- (h) A filing fee, in accordance with the County fee structure, shall be charged for all zoning certification. [AMENDED BY ACT OF THE COUNTY COMMISSION EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]

Section 3.3 Enforcement

- (a) The Zoning Administrator or Staff shall promptly investigate any written complaint alleging a violation of this Ordinance and determine if a violation has occurred. [AMENDED BY ACT OF THE COUNTY COMMISSION EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
- (b) As provided in §8A-1-1 et seq of the West Virginia State Code, as amended, any person who violates any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00) per day. Each day during which any violation of this Ordinance continues shall constitute a separate offense. [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990 AND APRIL 8, 2005 AT 5:00 P.M.]

(c) When it appears to the Board of Zoning Appeals or the Zoning Administrator or Staff that a violation of this Ordinance has occurred, the County shall notify the responsible person by means of a written Violation Notice. The Violation Notice shall specify the nature of the violation and shall request that the violation be terminated within 15 days from the date appearing on the Notice. Failure to terminate the violation within the requested time shall be cause for the Board of Zoning Appeals or the Zoning Administrator or Staff pursuant to §8A-10-1, 2 and 3, of the West Virginia State Code, as amended, to:
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]

- (a) Seek an injunction in the Circuit Court of Jefferson County to restrain the responsible person from continuing the violation cited or seek an injunction requiring the removal of structures or land uses from the property involved, or
- (b) Issue a warrant for the arrest of the person responsible for the violation and seek a conviction in the Circuit Court of Jefferson County.

ARTICLE 4: GENERAL PROVISIONS

Section 4.1 Ordinance Deemed Minimum Regulations; Uniformity

The regulations set forth by this ordinance within each zoning district shall be minimum regulations and shall apply uniformly to each kind of structure or land except as hereinafter provided.

There will be listed in each zoning district a limited number of principal permitted uses and several prohibited uses for all districts listed in Section 4.4. Principal permitted uses are those which are not required to demonstrate their appropriateness within a district and would not be subject to approval by the Development Review System. All other uses, except prohibited uses, will be permitted after demonstrating that such use is compatible with surrounding parcels and will comply with the regulations of this ordinance. Demonstration of compatibility will depend on the numerical value a parcel receives after evaluation by the Development Review System which assesses the productivity of soils and the amenities for development on a particular site and the results of the Compatibility Assessment Meeting. A site will receive a conditional use permit upon demonstrating that the land use in a specific location will comply with the standards of the Development Review System, and this ordinance.

Section 4.2 Compliance with Ordinance

Except as hereinafter specified, no land, building, or premises shall hereafter be used, and no building or part thereof or other structure shall be located, erected reconstructed, extended, enlarged, converted or altered except in conformity with the regulations herein specified for the district in which it is located and the Development Review System. This provision shall not apply to general maintenance or repair or any addition deemed not a major addition as defined in Section 2.2 of this Ordinance.

Section 4.3 Nonconforming Uses

Any building, structure or premises lawfully existing at the time of the adoption of this ordinance, or lawfully existing at the time that this ordinance is subsequently amended, may continue to be used even though such building, structure, or premises does not conform to use, setbacks or dimensional regulations of the zoning district in which it is located or the regulations of the Development Review System; subject, however to the following provisions:

[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]

- (a) Nonconforming uses may upgrade, repair or make alterations to their facilities. However, expansion of any nonconforming use shall be limited to the lot that exists

at the time of adoption of this Ordinance.

[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]

Repair includes the following: replacement of same size (+ - 35%) porches, awnings, decks roofs, overhangs, patios, or any other similar construction as approved by the Zoning Administrator. Additional acreage shall not be added to enlarge any nonconforming use unless that use completes the Development Review System.

- (b) Whenever a nonconforming use has been abandoned for a period of twelve (12) months, such use shall not be reestablished and any future use shall be in conformance with the provisions of this Ordinance. However, a one time extension of up to twelve (12) months may be granted by the Board of Appeals.

[AMENDED THREE TIMES BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990; JULY 15, 1993 AND APRIL 8, 2005 AT 5:00 P.M.]

- (c) A nonconforming use may not be substituted for any other nonconforming use without the Board of Appeals review and public hearing, provided, however, to the following: upon notice to the Zoning Administrator with an application for and approval of a Zoning Certificate a nonconforming retail, service, or wholesale operation may be substituted with another retail, service or wholesale operation without such public hearing; provided again, however, the intended use does not include an adult use.

[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]

- (d) Effective October 14, 1999, whenever a nonconforming use expands over 35% of the existing square footage of its operation said use shall meet all the applicable requirements of this Ordinance unless otherwise allowed by the Board of Appeals. Any nonconforming use that expanded between October 5, 1988 and October 14, 1999 may expand under this provision as if they have never utilized this provision in the past.

[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993 AND OCTOBER 14, 1999]

- (1) When a nonconforming use can be computed by units such as apartment units, motel/hotel units, mobile home parks, and similar uses, the 35% expansion shall be limited to 35% of the number of existing units.

[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 18, 1996]

- (e) A nonconforming shopping center (including spaces that were not leased in the existing building at the time of the adoption of this ordinance) may substitute uses according to Section 4.3(c).
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]
- (f) Section 4.3 is subject to §8A-1-1 et seq of the West Virginia State Code, as amended.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
- (g) This Section (4.3) does not apply to industrial uses that existed at the adoption of the ordinance. Such industries may expand provided that they meet site plan standards.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 18, 1996]
- (h) Nonconforming commercial wireless telecommunications antenna, commercial wireless telecommunications equipment shelter(s), commercial wireless telecommunications facility(s) and commercial wireless telecommunications tower(s) cannot expand under this provision while Article 1, Section 1.6 is in effect.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]
- (i) A nonconforming use destroyed by a natural or unnatural calamity cannot be rebuilt without approval of the Board of Zoning Appeals upon application by the owner and pursuant to the variance and appeal procedures outlined in Article 8.
[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999 AND APRIL 8, 2005 AT 5:00 P.M.]
- (j) The nonconforming use automobile racing facility located on property specifically described as Tax Map 17, Parcels 2, 2.1 and 5 in the Kabletown District is permitted to expand as herein described:
1. The commercial/competitive racing circuit as measured on January 10, 2002, particularly 25,344 linear feet may add an additional 8,870 feet of commercial/competitive raceway surface, in accordance with (and not in addition to) the provisions of Section 4.3 of this Ordinance. The surface shall conform to a required 200 foot setback from all property lines.
 2. May add dormitory lodging with food service facilities that do not contain internally lit signs.
 3. May add automobile related research and development facilities.
 4. May add other automobile related facilities only for vehicles that are used on-site, including, but not limited to warehousing, parts, supplies and service.
- [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JANUARY 10, 2002 AND APRIL 8, 2005 AT 5:00 P.M.]

Section 4.4 Prohibited Uses

- (a) Any existing or proposed use which is determined to be in conflict with any existing ordinance or laws of Jefferson County or law or regulation of the State of West Virginia or other governmental agency shall be prohibited even though such use may be allowed under the terms of this ordinance.
- (b) No land use shall be conducted that creates any injurious, noxious, or otherwise objectionable fire, explosive heat, or other hazard; noise, or vibration; smoke, dust, odor, gases, or other form of air pollution; or emit dangerous radioactivity in such a manner that if permitted would adversely affect the uses of an adjacent property or contaminate the ground water or surface waterways of the County. All land uses generating such conditions shall comply with the appropriate State and Federal Codes. Such compliance with applicable State and Federal laws shall be deemed as compliance with this Ordinance.
- (c) Any development which would destroy the historical character of a property listed on the West Virginia or National register of Historic Places shall not be permitted.
- (d) No materials or waste should be stored on a property in a form that could be transported to adjacent property by wind or water or other natural causes or forces.
- (e) All methods of industrial waste or sewage treatment and disposal shall be in accordance with County, State and Federal Codes.
- (f) Jails, prisons and/or penal institutions shall be prohibited in all zones except the industrial/commercial zone. The Development Review System does not supercede this prohibition. [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]
- (g) No gambling or casino type games of chance (video or mechanical) that provides any type of payoff or remuneration shall be permitted anywhere in Jefferson County unless expressly and explicitly permitted and authorized by the West Virginia Code as amended. Provided, however, that such use shall only be permitted in the Heavy Industrial/Commercial Zone and shall be processed through the Development Review System (Article 6 and 7). [AMENDED BY ACT OF THE COUNTY COMMISSION ON OCTOBER 4, 1990]

This prohibition does not apply to betting on horses or parimutuel betting on horses. Furthermore, this prohibition does not apply to such uses that existed at the time of the adoption of this ordinance. The Development Review System shall not supercede this prohibition in the Residential Growth Zone, the Rural Agricultural Zone, or the Residential/Light Industrial/Commercial Zone.

- (h) For parcels located east of the Shenandoah River or which are in a natural, undisturbed condition within 1000 feet of the Potomac and Shenandoah Rivers and Opequon Creek, no use shall be permitted without adherence to the requirements for retention of land in a natural, undisturbed area as spelled out in Section 14.2 of the Subdivision Ordinance.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]
- (i) No sales of fireworks are permitted outside the commercial zones.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 18, 1996]
- (j) Commercial wireless telecommunications antenna, commercial wireless telecommunications equipment shelter, commercial wireless telecommunications facility and commercial wireless telecommunications tower while Article 1, Section 1.6 is in effect.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]
- (k) Vehicle signs left parked or standing on a public right-of-way, public property or private property.
[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999 AND APRIL 8, 2005 AT 5:00 P.M.]
- (l) Adult arcades, adult bookstores, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors and any sign advertising the operation thereof, shall not be permitted in the Rural, Village, Residential Growth and Residential Growth-Light Industrial-Commercial Districts. No conditional use permit shall be approved for any of these uses. This provision does not apply to any specific existing use that legally qualifies as a nonconforming use.
[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002 AND MAY 1, 2003]

Section 4.5 Agricultural Uses Permitted Generally

Except for compliance with distance requirements for a building set forth in Section 4.6, nothing in this ordinance shall prohibit the use of land for agricultural purposes or the construction or use of building or structures incidental to the use for agricultural purposes.

Section 4.6 Distance Requirements

- (a) Any uses or building subject to compliance with this section shall be located at least 200 feet from:
- (1) any lot in a residential district;
 - (2) a dwelling, school, church or institution for human care not located on the same lot as the said use or buildings
[AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 4, 1989]
 - (3) any lot which is part of a recorded subdivision, and
 - (4) any parcel or historic structure or designated historic district which has been listed on the West Virginia or National Register of Historic Places.
- (b) Adjacent uses or buildings subject to compliance with this section shall be located at least 75 feet from:
[AMENDED BY ACT OF THE COUNTY COMMISSION ON JULY 15, 1993]
1. Any lot in the Residential Growth District;
 2. Any lot with a dwelling, school, church, or institution for human care not located on the same lot as said use or building;
 3. Any parcel or historic structure or designated historic structure which has been listed on that West Virginia or National Register of Historic Places.

Section 4.7 Essential Utility Equipment

Essential utility equipment, as defined in Section 2.2, shall be permitted in any district, as authorized and regulated by law and ordinances of Jefferson County, it being the intention hereof to exempt such essential utility equipment from the application of this ordinance. Communication towers, however, shall conform to the setback requirements and be surrounded by a fence.

[AMENDED BY ACT OF THE COUNTY COMMISSION ON JULY 15, 1993]

Section 4.8 Buildable Lot

Any lot which was a buildable lot under the terms or regulations in effect at the time of the adoption of this ordinance and which was established or recorded at that time shall be deemed a buildable lot for the erection of a single-family dwelling, subject to the provisions of the appropriate district regulations of this ordinance.

Section 4.9 Traffic Visibility Across Corner Lots

On any corner in all districts, there shall be no obstruction to traffic visibility within thirty-five (35) feet of the intersection of the two (2) street property lines of the corner lot.

Section 4.10 Site Plan Requirements

A site plan shall be submitted for review by the Planning and Zoning Commission for all new commercial, townhouse and multi-family residential, industrial, and institutional land uses in any district and for all major additions or expansions of existing uses as defined in Article 2.

- (a) Site Plans shall be prepared by a registered professional engineer, or registered land surveyor licensed to practice in the State of West Virginia.
- (b) If the proposed use is not listed as a principal permitted use within the zoning district where it is located, the developer must have his proposal evaluated by the Development Review System before Site Plan submittal. Upon approval of a conditional use permit the applicant may proceed with Site Plan submittal.
- (c) In those cases where a Site Plan is required and the developer has received a conditional use permit, a minimum of six (6) copies of the site plan shall be submitted to the Department of Planning, Zoning and Engineering.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE APRIL 8, 2005 AT 5:00 P.M.]
- (d) Site Plan submittal is not required for single-family or two-family dwelling units unless planned as part of a multi-unit or mixed use development plan.
- (e) The Site Plan format and informational requirements that must be followed are referenced in the Jefferson County Subdivision Ordinance, and Articles 4,5, 10 and 11 of this Ordinance.
- (f) Additional Site Plan format requirements shall be the same as those for the Preliminary Subdivision Plat referenced in Article 8 of the Jefferson County Subdivision Ordinance.
- (g) The Planning Commission shall review and approve or disapprove a completed application within sixty (60) days of the acceptance of the Site Plan in the Department of Planning, Zoning and Engineering. The Planning Commission has the authority by variance to reduce any site plan standards as justified under Article 17 of the Subdivision Ordinance.
[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 1, 1998 AND APRIL 8, 2005 AT 5:00 P.M.]

Section 4.11 Landscaping, Screening and Buffer Yard Requirements

- (a) All commercial development adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have a fifty (50) foot or greater unscreened green space buffer or a fifteen (15) foot screened green space buffer along common property lines. The screening may be either vegetative or opaque fencing and may be placed anywhere within the buffer. No structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers. All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers.
[AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]
- (b) All industrial development adjacent to any Residential district, or a residence, school, church, or institution for human care shall have a buffer yard of no less than two hundred (200) feet. No structures, stored materials, or vehicular parking shall be permitted within the buffer yard. All industrial development shall have front yard buffers of no less than one-half ($\frac{1}{2}$) the front yard building setback.
[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990 AND JULY 15, 1993]
- (c) In all buffer yards, the exterior width beyond the vegetative screen shall be planted with grass, seed, sod, or ground cover.
- (d) All buffer yards shall include a fence or a dense screen planting of trees, shrubs, or other plant materials or both, to the full length of the lot line to serve as a barrier to visibility, air borne particles, glare or noise. Such screen planting shall meet the following requirements.
- (1) Vegetative screening shall comply with Standard Details M52, M53 or M54 depending on the buffer width. At the time of the planting the vegetation shall be at least four (4) feet in height.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]
 - (2) It will be the responsibility of the landowner to replace any trees that die and shall be so noted on the site plan.
 - (3) Screen planting shall be a minimum of ten (10) feet wide but shall be placed so that it is no closer than four (4) feet at maturity from a property line or from any street.

- (4) No structure, fence, planting, or other obstruction shall be permitted which would interfere with traffic visibility.
- (e) In any Commercial, Industrial, Institutional, or Residential development, all dumpsters shall be screened from any residences or from the public highway's view.
- (f) All buffer yards shall be maintained by the property owner.
- (g) All development adjacent to a Sensitive Natural Area shall have a buffer of natural vegetation. Environmental standards contained in Section 5.8(b),2 through 8, will apply. The buffer shall meet the current Federal standard except as required below:

Wetland Size in acres

<u>Greater Than</u>	<u>Less Than</u>	<u>Buffer width in feet</u>
0.05	0.10	30
0.10	0.16	35
0.15	0.21	40
0.20	0.26	50
0.25	0.31	55
0.30	0.36	60
0.35	0.41	65
0.40	0.46	70
0.45	0.51	75
0.50	0.66	80
0.65	0.81	85
0.80	0.96	90
0.95	1.21	95
1.20	--	100

[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990 AND MAY 18, 1996]

- (h) All required landscape plans shall contain the following elements:
[AMENDED BY ACT OF THE COUNTY COMMISSION ON JULY 15, 1993]
 1. Deciduous street trees for shade and aesthetics.
 2. Evergreen buffer planting, as required, for full screening.
 3. Parking lot and internal drive plantings (mix of evergreen and deciduous) for partial screening and limited shade.

4. Structure plants for aesthetics and limited shade.
5. Schedule of plants including common name, scientific name, minimum size (height, caliper, etc.) quantity and specific limitation notes.

- (I) All wireless telecommunications antennas, towers, and facilities shall have a buffer yard pursuant to Article 4, Section 4.11(d)1-4.
[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 1, 1998 AND APRIL 8, 2005 AT 5:00 P.M.]

Section 4.12 Outdoor Lighting

- (a) The location and height of all exterior lighting shall be shown on the Site Plan and will be reviewed by the Zoning Administrator to assure that lighting and glare does not adversely affect adjacent properties.

Section 4.13 Development in or Adjacent to the 100 Year Flood Plain

- (a) The 100 year Flood plain shall clearly be delineated on the site plan by the registered engineer or licensed land surveyor.
- (b) All land within the 100 year Flood plain will be subject to the Jefferson County Flood Plain Management Ordinance.

Section 4.14 Development Adjacent to the Potomac and Shenandoah Rivers

- (a) Any development, other than residential development, that takes place after the adoption of this Ordinance must maintain a five hundred (500) foot buffer strip from the existing banks of the Potomac and Shenandoah Rivers and is subject to Section 4.13.

Section 4.15 Location of Jails and Prisons

Due to the special conditions surrounding a jail, prison, or penal institution, all such projects shall only be allowed in the Industrial-Commercial Zone and shall be subject to the Development Review System as outlined in Article 6 of this Ordinance. Furthermore, these projects shall comply with Article 5, Section 5.6(L), and Article 6 of the Jefferson County Zoning and Development Review Ordinance.

[AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

This page reserved for Section 4.16 (Setback Chart)

SECTION 4.16

When this section is in conflict with another section of the Zoning & Development Review Ordinance, this section shall prevail.

ADJACENT USE	BUILDING SETBACKS		PARKING & ACCESS DRIVE SETBACKS					BUFFERS UNSCREENED/SCREENED					DISTANCE REQUIREMENTS					
	Any Use Except Industrial	Industrial Use	Residential Zone	Residential	Church/School/Institution for Human Care	Commercial	Industrial	Residential Zone	Residential	Church/School/Institution for Human Care	Commercial	Industrial	Residential Zone	Residential	Church/School/Institution for Human Care	Commercial	Industrial	Structure or Lot on Historic Registry
PROPOSED USE FRONT Barn/Feeding Pen	See District Requirements	See District Requirements	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	75
	25	25	15	15	15	15	15	50/15	50/15	50/15	50/15	50/15	50/15	75	75	75	75	75
	25	25	15	15	15	15	15	50/15	50/15	50/15	50/15	50/15	50/15	75	75	75	75	75
	50	25	25	25	25	25	25	200	200	200	25	N/A	N/A	200	200	N/A	N/A	200
	25	25	15	15	15	15	15	50/15	50/15	50/15	50/15	N/A	N/A	N/A	N/A	N/A	N/A	N/A
SIDE Barn/Feeding Pen	See District Requirements	See District Requirements	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	75
	25	25	4	4	4	4	4	50/15	50/15	50/15	50/15	10	10	75	75	75	75	75
	50	25	10	10	10	10	10	50/15	50/15	50/15	10	10	10	75	75	75	75	75
	50	25	25	25	25	25	20	200	200	200	20	20	20	200	200	N/A	N/A	200
	50	50	10	10	10	10	10	50/15	50/15	50/15	10	10	10	N/A	N/A	N/A	N/A	N/A
REAR Barn/Feeding Pen	See District Requirements	See District Requirements	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	75
	25	25	4	4	4	4	4	50/15	50/15	50/15	50/15	10	10	75	75	75	75	75
	50	25	10	10	10	10	10	50/15	50/15	50/15	10	10	10	75	75	75	75	75
	50	25	25	25	25	25	20	200	200	200	20	20	20	200	200	N/A	N/A	200
	50	50	10	10	10	10	10	50/15	50/15	50/15	10	10	10	N/A	N/A	N/A	N/A	N/A

