

PLANNING and ZONING ORDINANCE, FINAL, October
25, 2009

ARTICLE 1303
Districts Established; Regulation; Lots

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1303.01 DISTRICTS.

For the purpose of carrying out the provisions of this Zoning Ordinance the incorporated area of the Town of Bolivar is hereby divided into the following districts which can be located on the Land Use Map to the Comprehensive Plan, a copy of which is on file in the Town Office and the office of the Bolivar Planning Commission, and the Jefferson, County, WV, Tax Assessor's Map for the year 2000.

- (a) Business and Commercial. Such districts shall be designated as "B" Districts and shall consist of:
- (B1) Washington Street from Elm Street to Boundary Street, both sides, and Panama Street, both sides, shall be a combination of business and residential in which all buildings, not solely residential, shall be two story buildings with the lower area available at the pedestrian level for business and commerce and the upper level reserved for business, commerce, office space or residential or residential rental.
 - (B2) Polk Street, South side, from Washington Street to Taylor Street, shall be commercial only.
- (b) Residential. All of the remainder of the incorporated area of Bolivar is hereby declared to be included in the Residential District of Bolivar and designated as "R" District. These districts are variously identified by the color yellow on the aforesaid Land Use Map to the Comprehensive Plan.
- (1) R1 is designated as residential only and identified as the color yellow.
 - (2) R2 is designated as residential duplex and identified in yellow with a letter D.
 - (3) R3 is designated as residential multifamily and townhouses and identified in yellow with a divided line (/).
 - (4) R4 is designated as church or religious affiliated and identified in yellow with a cross (+).
 - (5) R5 is designated as mixed use and identified with a blue dot. A mixed use is classified as follows:
 - A. Property held or built for rental use where the whole house is rented. No sub-tenants are permitted;
 - B. The number of rentals are limited by the building ordinance requirements for number of dwellings per acre, square feet for each occupant and parking space. As nearly as possible the Bolivar Planning Commission will require that the square footage per occupant, density, parking and other requirements of the Building Ordinance are met, including,

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- but not limited to, play areas, topography, traffic and community corridors.
- C. No activities which would be considered nuisances under the Bolivar nuisance laws or offensive to the neighbors are permitted.
- (6) Nothing in this section shall prevent a homeowner from temporarily renting his/her house due to exigent circumstances.

1303.02 CLASSIFICATION OF USES.

For purposes of this Zoning Ordinance, a lot shall be defined as a parcel of land which has been designated as described in the Jefferson County Tax Assessor's Map and Parcel Book and Maps, of current date and Plat Maps and Deed Books to be found in the records of the Jefferson County Clerk of Court. See also the Comprehensive Plan for Land Use Maps. The uses of land, buildings and premises for the purpose of this Zoning Ordinance shall be regulated as follows:

- (a) "R" Residential District. The following uses and no others shall be deemed class "R".

(1) Permitted uses.

- A. Not more than one structure comprising one single family dwelling unit shall be permitted per presently constituted lot, or per half acre, plus three (3) permitted accessory structures thereto but excluding tents, cabins and trailers or mobile homes, except that one trailer or mobile home may be temporarily used as a residence on a lot while a dwelling is being constructed, within the term of the construction permit. This does not apply to motor homes or camping trailers exclusively used for the vacation or weekend pleasure of the resident or temporary tents used by children or temporary canopies for lawn parties.

- B. Bed and Breakfasts and Tourist Homes maintained by any person in his/her dwelling used by her/him as his/her private residence and accepting guests for not more than four guest rooms at any one time; and providing such use does not involve any outward evidence of such use other than one sign three square feet in size which otherwise complies with the definition of signs, which see below.

Any office or customary home occupation providing a service can be maintained by any person in a dwelling used by him/her as her/his private residence providing such use does not involve any extension or modification of the dwelling and providing such use does not involve any outward evidence of such use other than one sign three square feet in size which otherwise complies with the definition of signs as set forth in Section 1302.02 of this Ordinance.

Home occupation or home office is limited to two employees, no durable or combustible goods for sale, and shall occupy not more than twenty-five percent (25%) of

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one floor of the dwelling, one parking space for each occupant and employee shall be required.

- C. Nothing in the establishment of Zone "R" uses shall prohibit the rental of properties for accepted "R" uses.

- (2) Permitted Conditional Uses. Permitted conditional uses when authorized as a special exception by the Board of Appeals and under such conditions as it may determine will not be detrimental to other uses in the "R" District

- A. Churches, schools, public library, museum, community center, township hall, publicly owned park or community corridor or playground;
B. Hospital, medical facilities sanitarium or rest home for other than insane or mental cases.

The above uses or non-conforming use, as the case may be, shall be permitted only providing that such use or non-conforming use is not noxious, dangerous or offensive by reason of emission of dust, odor, chemicals, smoke, gas, noise, heat, fumes, flames or vibration or otherwise constitutes a nuisance to the occupants of nearby premises.

- (b) "B" District: Business and Commercial. The following uses and no others shall be deemed Class "B" uses permitted in all "B" Districts:

- (1) B1 Permitted Uses.

- A. Any "R" District permitted use;
B. Retail store or shop, funeral home, beauty shop, mercantile establishment, bank, studio, restaurant, real estate sales office or other professional service office;
C. Rooming house, lunchroom, living quarters over business establishments.

- (2) B1 Permitted Conditional Use. Permitted conditional uses when authorized as a special exception by the Board of Appeals and under such conditions as it may determine will not be detrimental to other uses in the "B" District or to uses in adjoining lots in an "R" District:

- A. Any "R" District permitted conditional use;
B. Apartment house, hotel, motel, office building, lodge hall, social or recreational building.

- (3) B2 Permitted Use.

- A. Apartment house, hotel, motel, office building, lodge hall, social or recreational building;
B. Veterinary hospital, social or recreational building.

- (4) B2 Permitted Conditional Use. Permitted conditional uses when authorized as a special exception by the Board of Appeals and under such conditions as it may determine will not be detrimental to other uses in the "B" District or to uses in adjoining lots in an "R" District:

Parking garage, automobile repair shop, gas station, salvage yard.

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1303.03 NON-CONFORMING USES.

(a) A non-conforming use existing as of the date of enactment of this ordinance and so indicated on the Land Use Map created as part of the Comprehensive Plan may be continued except that if it is discontinued for six months or more, it shall then be deemed abandoned and any further use must be in conformity with the uses permitted in such district.

(b) Any building or structure existing as a non-conforming use as of the date of enactment of this Ordinance and so indicated on the Land Use Map to the Comprehensive Plan which is destroyed by fire or the elements, may be reconstructed and restored providing the same is done within one year from the date of such destruction. The building or structure may not be altered or enlarged so as to extend such nonconforming use more than ten percent (10%) in area.

(c) The use of land or building or structure which does not conform to this Article shall not be changed to another non-conforming use.

(d) Present non-conforming uses are identified on the Land Use Map to the Comprehensive Plan with black dots.

1303.04 GENERAL LOT REQUIREMENTS

(a) Every building shall be located on an individual lot defined as no less than one half acre, or a lot in existence on the Jefferson County Tax Assessor's Map for the year 2000.

(b) Lots are considered buildable if setbacks of 15 feet front and back, and 10 feet on each side can be met. Buildings must be a minimum of 800 square feet.

(c) Lots in excess of one acre may be subdivided as provided in Article 1725 of this ordinance.

(d) Lots must be served or have the ability to be served, by the local water and sewer authority, or have the ability to become served, attested in writing by that authority.

(e) Outbuildings are limited to three permanent structures of 100 square feet or greater per lot. Structures under 100 square feet do not need a building permit, but are counted toward the lot limit of three outbuildings.

(f) Buildings and structures may be built on visible existing foundations, regardless of setback requirements, provided that the foundation was in existence prior to enactment of this ordinance.