

CODIFIED ORDINANCES OF BOLIVAR, WV
Part 13 - Planning and Zoning

Part 13
Planning and Zoning

Article 1301	Administration and Enforcement
Article 1302	Definitions
Article 1303	Districts Established; Regulations; Lots

CROSS REFERENCES

Article 1301 Administration and Enforcement

1301.01 Purpose

- (a) The goal of the Bolivar Town Council (hereinafter Council) is to have a plan and a vision for the future, and an agency to oversee it;
- (b) Council has enacted a planning commission, to serve in an advisory capacity to the Council and to promote the orderly development of its community;
- (c) A comprehensive plan is the basis for land development and use, and is reviewed and updated on a regular basis;
- (d) A goal of Council is to reduce sprawl;
- (e) The Bolivar Planning Commission prepares a comprehensive plan and Council adopts the comprehensive plans;

1301.02 Planning Commission

- (a) Authorization
 - (1) The Bolivar Planning Commission (hereinafter Commission) is established in Part One - Article 131 of the Codified Ordinances of Bolivar, WV to promote the orderly development within the incorporated area of the Municipality of Bolivar. Article 131 describes Membership, Meetings, Quorum, Officers, Powers and Duties under the establishment clause of Part One. The Commission has only those powers, duties and jurisdiction as given to it in the ordinance creating it.
 - (2) A Commission established prior to the enactment of this Ordinance shall continue to operate as though established under the terms of this Ordinance. All actions lawfully taken under prior acts are hereby validated and continued in effect until amended or repealed by action taken under the authority of this Ordinance.

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1301.03 Board of Zoning Appeals

(a) Authorization

- (1) As part of the zoning ordinance, a Board of Zoning Appeals (herein referred to as "Board") is established in Part One - Article 133 of the Codified Ordinances of Bolivar, WV to hear appeals on zoning issues. Article 133 describes Membership, Meetings, Quorum, Officers, Powers and Duties under the establishment clause of Part One. The Board has only those powers, duties and jurisdiction as given to it in the ordinance creating it.
- (2) A Board established prior to the enactment of this Ordinance shall continue to operate as though established under the terms of this Ordinance. All actions lawfully taken under prior acts are hereby validated and continued in effect until amended or repealed by action taken under the authority of this Ordinance.

(b) Appeal to Board of Zoning Appeals

- (1) An appeal from any order, requirement, decision or determination made by an administrative official or board charged with the enforcement of a zoning ordinance, or rule and regulation adopted pursuant to a zoning ordinance, shall be filed with the Board.
- (2) The appeal shall:
 - (A) Specify the grounds of the appeal;
 - (B) Be filed within thirty (30) days of the original order, requirement, decision or determination made by an administrative official or board charged with the enforcement of a zoning ordinance; and
 - (C) Be on a form prescribed by the Board.
- (3) Upon request of the Board, the administrative official or board shall transmit all documents, plans and papers constituting the record of the action from which the appeal was taken.

(c) Notice and hearing of appeal

- (1) Within ten (10) days of receipt of the appeal by the Board, the Board shall set a time for the hearing of the appeal and give notice. The hearing on the appeal must be held within forty-five (45) days of receipt of the appeal by the Board.
- (2) At least fifteen (15) days prior to the date set for the hearing on the appeal, the Board shall publish a notice of the date, time and place of the hearing on the appeal as a

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Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of the West Virginia Code and written notice shall be given to the interested parties. The publication area shall be the area covered in the appeal.

- (3) The Board may require the party taking the appeal to pay for the cost of public notice and written notice to interested parties.
 - (4) At the hearing, any party may appear in person, by agent or by an attorney licensed to practice in the State of West Virginia.
 - (5) Every decision by the Board must be in writing and state findings of fact and conclusions of law on which the Board based its decision. If the Board fails to provide findings of fact and conclusions of law adequate for decision by the circuit court and as a result of the failure, the circuit court returns an appealed matter to the Board and dismisses jurisdiction over an applicant's appeal without deciding the matter, whether the court returns the matter with or without restrictions, the Board shall pay any additional costs for court filing fees, service of process and reasonable attorneys' fees required to permit the person appealing the Board's decision to return the matter to the circuit court for completion of the appeal.
 - (6) The written decision by the Board shall be rendered within thirty (30) days after the hearing. If the Board fails to render a written decision within thirty (30) days after the hearing, then any party may pursue additional legal remedies to obtain a decision, including, but not limited to, seeking a writ of mandamus.
- (d) Stays; exception.
- (1) When an appeal has been filed with the Board, all proceedings and work on the premises in question shall be stayed, except as provided in subsection (2) of this section.
 - (2) A stay may not be had:
 - (A) If the official or board from where the appeal was taken certifies in writing to the Board that a stay would cause imminent peril to life or property;
 - (B) Upon further administrative proceedings, including, but not limited to, submissions to and reviews by the staff or any administrative body; or
 - (C) Upon engineering or architectural work that does not disturb the real estate beyond what is necessary to complete engineering, survey work or other tests.

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- (3) If the written certification is filed pursuant to subdivision (2), subsection (B) of this section, then proceedings or work on the premises shall not be stayed.
- (4) Nothing in this section prevents a party from obtaining a restraining order.
- (e) In every aspect of its duties the Board shall be governed and act in accordance with applicable state law including WV Code 8A et. al. as amended.

1301.04 Amendments

- (a) The Town Council may, from time to time, amend, supplement or change the rules and regulations or districts established by this Ordinance. In undertaking such action, the Planning Commission and the Town Council shall act in conformity with applicable state law including WV Code 8A et. al. as amended. Upon enactment of zoning ordinances or amendments thereto, the Town Council shall file the ordinance or amendment with the county clerk in accordance with WV Code 8A-7-6 as amended.

1301.05 Severability

- (a) The sections of the Bolivar Planning and Zoning Ordinance are severable, and if any of its provisions are held unconstitutional by any court of competent jurisdiction the decision of such court shall not impair or effect any other provision of the Code.

1301.06 Penalty

- (a) Each violation of any provision of this Planning and Zoning Code shall be a misdemeanor and any person, persons, firm, partnership, or corporation found guilty thereof shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500.00).
- (b) Each day in which any property, building or structure is found to be in violation of this Code shall constitute a separate offense.
- (c) Any buildings erected, razed or converted, or land or premises used in violation of any provision of any ordinance or rule and regulation adopted under the authority of this chapter shall be a common nuisance and the owner of the building, land or premises shall be liable for maintaining a common nuisance.

Article 1302 Definitions

1302.01 General

- (a) For the purpose of this ordinance the following phrases, words, and their derivations shall have the meanings respectively ascribed to them herein.
 - (1) Words used in the present tense include the future.