

**ORDINANCE NO. 28 -A**  
**AN ORDINANCE PROVIDING FOR PLANNING AND ZONING**  
**May 20, 2009**  
**Amended November 17, 2015**  
**BE IT ORDAINED BY THE CITY COUNCIL OF**  
**THE CITY OF PLEASANT VALLEY:**

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**1000 - PLANNING AND ZONING COMMISSION**

This ordinance includes the provisions mandated by the City of Pleasant Valley under Ordinance 8, dated November 10, 1999 creating a Planning and Zoning Commission.

## **1001 - INTRODUCTION TO ZONING**

### **I. Effective Date**

This Ordinance shall become effective thirty (30) days after the date the City Council adopts it.

### **II. General**

This Ordinance establishes zoning regulations for the area illustrated on the “Zoning Map for Pleasant Valley,” which shall be established as a part of this Ordinance. This Ordinance provides for the administration, enforcement, and amendment thereof, in accordance with the provisions of Chapter 8a Land Use Planning of the Code of West Virginia.

### **III. Jurisdiction and Territorial Applicability**

These regulations shall apply to all properties within the City of Pleasant Valley, West Virginia.

### **IV. Application and Interpretation**

The terms of this Ordinance shall be applied to promote the purpose of this Ordinance and the Comprehensive Plan for Pleasant Valley (hereafter called Comprehensive Plan).

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 provision of this Ordinance shall prevail, except where specially stated herein.

- A. Where a provision of the Ordinance is in conflict with another provision of this Ordinance the stricter regulation shall apply.
- B. It is recognized that new types or forms of land use will develop within the City of Pleasant Valley that are not anticipated by this Zoning Ordinance. In order to provide for such changes and contingencies, the classification of any new or unlisted land use shall be made by the Planning Commission to determine if the use can reasonably be interpreted to fit into a similar use category described in the ordinance. The Planning Commission may make such a determination after conducting a public hearing. It is also recognized that certain allowed uses of land may pose significant impacts to adjacent properties, surrounding neighborhoods, and regional infrastructure. In order to provide for the appropriate review and approval of such uses, the Board of Zoning Appeals may issue a Conditional Use permit subject to the limitations and conditions specified in the zoning ordinance.

C. Unless a use is allowed as a "permitted use", "conditional use", "nonconforming use", or "temporary use", then such use is prohibited.

**V. 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 this Zoning Ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

**VI. Use of Technical Information**

Should any technical study, recognized by the City of Pleasant Valley, become available after the adoption of the Ordinance, the City Council shall authorize the Planning 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 that would further encourage the proper management and preservation of our natural and cultural resources.

**VII. City Liability**

The granting of an Improvement Location Permit, or acceptance of a Notification to Build, for the erection and/or use of a structure or lot shall not constitute a representation, guarantee, or warranty of any kind or nature by the City, or an official or employee thereof, of the safety of any structure, use, or proposed development from any cause whatsoever and shall create no liability upon, or cause of action against, the City or such public officials or employees for any damage, expenses, or loss that may result pursuant thereto.

## **1002 - ZONING DISTRICTS – GENERAL**

### **I. Establishment of Zoning District**

Areas illustrated on the “Zoning Map for Pleasant Valley” are hereby divided into the following zoning districts:

<b>Section 2000</b>	<b>Residential District R-1</b>
<b>Section 2001</b>	<b>Residential District R-2</b>
<b>Section 2002</b>	<b>Mixed Use District</b>

### **II. Zoning Maps**

- A. The boundaries for each zoning district established by this Ordinance are boundaries indicated on the map entitled “Zoning Map for Pleasant Valley,” said map being established as part of this Ordinance.
- B. This zoning map shall be dated with the effective date of this Ordinance.
- C. The boundary lines of the districts shall follow lot lines, centerline of roads, corporate limit lines, utility right-of-way, centerline of waterways, or described measured lines.

### **III. Interpretation of Zoning District Boundaries**

Wherever uncertainty exists as to the boundary of a district as delineated on the zoning map, the following rules shall govern:

- A. Where a zoning district boundary line is shown as following a road, alley, utility right-of-way, or watercourse, it shall be construed as following the centerline on the right-of-way or watercourse.
- B. Where a zoning district boundary line is shown as following or approximately coinciding with a lot line or property ownership line, it shall be shown to follow such line as it existed at the time of the adoption of this ordinance.
- C. Where a zoning district boundary line is not shown as following or approximately coinciding with a road, alley, utility right-of-way, watercourse, lot line, or property ownership line, the zoning district boundary line shall be determined by reference to the largest scale zoning map in which the boundary appears.

- D. Where a public street or alley is officially vacated, the zoning designation applicable to abutting property on each side of the centerline shall apply up to the centerline of such street or alley.
- E. All property lines and dimensions shown on the official zoning maps shall be construed to be those property lines and dimensions described in the proper deeds of record for the subject property or specifically described by measurements on maps, plats, or other descriptions as recorded in county records at the time of this ordinance adoption.

#### **IV. Changes in Zoning District Boundaries**

Changes in boundaries of zoning districts shall be pursuant to this Ordinance and amending the zoning maps and text or parts thereof.

## **2000 - RESIDENTIAL DISTRICT R-1**

### **I. Purpose and Intent**

The R-1 Residential District is created to provide for detached, single family residences that are compatible with the comprehensive plan's goal for residential development in Pleasant Valley. The intent is to preserve the quality of life for the citizens of Pleasant Valley and to protect the integrity of a residential area.

All residential development should be sensitive to land physiography. In addition, provisions should be made for adequate public infrastructure and the development of quality transportation improvements while achieving optimal siting of dwellings, recreation areas, community facilities, and open space.

### **II. Permitted Uses**

- A. A detached dwelling for one family or one housekeeping unit.
- B. Accessory structures, to include detached carport and garages, tool sheds, children's playhouses and doghouses.
- C. Churches and other places of worship.
- D. Public and parochial schools, colleges and universities including dormitories, public libraries, public museums and public art galleries.
- E. Daycare facilities operated by a church or school. The daycare facility must be located within the perimeter of the main structure and may not be a free standing structure.
- F. Municipal recreational buildings, playgrounds and parks.
- G. Railroad rights of way, not including switching, storage, freight yards or sidings.
- H. Branch telephone exchanges, static transformer stations and gas regulators, providing there is no yard or garage for service or storage, and only when authorized by the Board of Zoning Appeals.
- I. Group Residential Facility
- J. Group Residential Home
- K. Minor Home Occupations.

### **III. Conditional Uses**

- A. Major Home Occupations

### **IV. Yard Requirements-Minimum**

#### **A. Principal Structure Setbacks**

- 1.) Front Yard: 25 feet
- 2.) Rear Yard: 25 feet

3.) Side Yard: 8 feet

**B. Accessory Structure Setbacks**

- 1.) Side: 5 feet
- 2.) Rear: 5 feet
- 3.) Alley: 6 feet (Exception: Garages on alleys shall be setback a minimum of 20 feet from the alleys pavement edge).
- 4.) Accessory structures are permitted by right in the rear and side yard, placement in the front yard will require BZA approval.

**C. Heights**

- 1) Maximum Height Primary Structure: 40 feet or three stories
- 2) Accessory structures shall not exceed the height of the primary structure to a maximum of thirty feet.
- 3) Churches, schools or any other public building permitted to be constructed in the R-1 District, may be built to a height of fifty feet or four stories; provided any such building sets back from every street and lot line one additional foot on Primary Structure Setbacks requirement for each foot of height of the building in excess of forty feet.

**IV. Other Applicable Regulations**

- A. Site Standards, see Article 4000
- B. Sign Requirements, see Article 4001
- C. Parking Requirements, see Article 4002

## **2001 - RESIDENTIAL DISTRICT R-2**

### **I. Purpose and Intent**

The R-2 Residential District is created to provide for residences, at a variety of densities (not to exceed 12 units per acre) that are compatible with the comprehensive plan's goal for residential development in Pleasant Valley. It also permits acceptable associated uses within the boundaries of the City of Pleasant Valley.

Within any R-2 Residential District, no building, structure or land shall be used nor any building or structure shall be erected or altered which is intended or designed to be used in whole or in part for any purpose other than one or more of the following specified uses.

### **II. Permitted Uses**

- A. Any use permitted in the R-1 District.
- B. Bed and breakfast lodging.
- C. Cemeteries.
- D. Commercial association facilities.
- E. Commercial swimming pools and tennis courts.
- F. Community buildings, public and private.
- G. Day care centers, family.
- H. Day care centers, group.
- I. Dwellings, mixture of types, including condominium units.
- J. Attached dwellings, multiple families, including accessory service uses.
- K. Fire Stations.
- L. Government offices.
- M. Home Occupation – Minor and Major.
- N. Housing for the elderly.
- O. Institutional housing for care of needy or homeless children

- P. Museums, shrines, and historic markers.
- Q. Nursery schools.
- R. Nursing homes (licensed).
- S. Plant nurseries, with no sales of products permitted on premises.
- T. Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements.

### **III. Yard Requirements-Minimum**

#### **A. Principal Structure Setbacks**

- 1.) Front Yard: 25 feet
- 2.) Rear Yard: 25 feet, one and two story; 35 feet for three or more stories.
- 3.) Side Yard: 8 feet, one and two story; 12 feet for three or more

#### **B. Accessory Structure Setbacks**

- 1.) Side Yard: 5 feet
- 2.) Rear Yard: 5 feet
- 3.) Alley: 6 feet (Exception: Garages on alleys shall be setback a minimum of 20 feet from the alleys pavement edge).
- 4.) Accessory structures are permitted by right in the rear and side yard, placement in the front yard will require BZA approval.

#### **C. Heights**

- 1) Maximum Height Primary Structure: 40 feet or three stories. Buildings exceeding this height require a Conditional Use Permit.
- 2) Accessory structures shall not exceed the height of the primary structure to a maximum of thirty feet.
- 3) All permitted structures may be built to a height of fifty feet or four stories, provided that any such building sets back from every street and lot line one additional foot of the Primary Structure Setback requirement for each foot of building height in excess of forty feet in addition to other yard requirements that may apply.

### **IV. Other Applicable Regulations**

- A. Site Standards, see Article 4000
- B. Sign Requirements, see Article 4001
- C. Parking Requirements, see Article 4002

## **2002 - MIXED-USE DISTRICT**

### **I. Purpose and Intent**

The Mixed Use District regulations are established to provide locations for a full range of retail, commercial and service uses.

Within any Mixed Use District, no building, structure or land shall be used and no building or structure shall be erected or altered which is intended or designed to be used in whole or in part for any purpose other than one or more of the following specified uses.

### **II. Permitted Uses**

- A. Any use permitted in the R-1 or R-2 Zones are permitted uses in the Mixed-Use District.
- B. Alcoholic beverage stores.
- C. Antique shops.
- D. Bakery
- E. Bank and loan associations.
- F. Barber and beauty shops and tanning salons.
- G. Bowling Alleys.
- H. Camera, photo-supply, or film-processing shops or “pick-up stations” (including “drive-by” facilities).
- I. Candy Store
- J. Catering hall.
- K. Clothing accessory stores.
- L. Community buildings, swimming pools, or structural or land use devoted to civic, social, recreational, and educational activities.
- M. Convalescent home.
- N. Copy duplication (printer).
- O. Dairy product stores.

- P. Dancing schools, conservatories for music and the arts.
- Q. Department stores.
- R. Drug stores.
- S. Dry cleaning pick-up stations.
- T. Electrical contractors and appliance repair shops.
- U. Fast food, drive –thru only restaurants, carryout restaurants, fast food restaurants, and standard restaurants, tea rooms, convenience stores, and dairy bar (ice cream parlors), and drive-in restaurants.
- V. Florist.
- W. Food stores (supermarkets).
- X. Funeral establishments.
- Y. Furniture and upholstery shops.
- Z. Garden centers.
- AA. Gift shops.
- BB. Golf Course, country club, or other outdoor recreation clubs; also quasi-public camps, including day camps, but no such camp, course or club shall be located in less than five acres, and no building, parking lot, or out-of-water marine craft storage therein shall be located within sixty (60) feet of any residential property line.
- CC. Hardware store.
- DD. Household appliance store.
- EE. Jewelry store.
- FF. Laundromat or self-service laundry.
- GG. Machinery sales store.
- HH. Medical clinic.

- II. Office buildings containing offices, medical offices, or medical clinics.
- JJ. Parking lot as an accessory use.
- KK. Pawn shop.
- LL. Pet shop.
- MM. Photographic studio.
- NN. Printing, lithographing, or publishing plant.
- OO. Radio shop.
- PP. Second hand store.
- QQ. Shoe repair store.
- RR. Sporting goods store.
- SS. Stationary store.
- TT. Television shop.
- UU. Veterinarian's office, except that animal boarding places and kennels not associated with veterinarian medical care are prohibited.
- VV. Warehouses.

**III. Conditional Uses – Improvement Location Permit**

- A. Adult Entertainment - see Article 3012
- B. After-Hours Club, provided it is located at least 300 feet from any church, park, child care center, or school existing prior to the filing of the application for a special permit.
- C. Airport.
- D. Animal boarding place.
- E. Arcade, amusement parks, skating rinks.
- F. Automobile accessory shops.

- G. Automobile sales room and adjoining outdoor sales area, provided that dismantled or junked cars unfit for operation on highways shall not be stored outdoors.
- H. Automotive-service station.
- I. Billiard and pool rooms.
- J. Boat yard.
- K. Business and trade schools.
- L. Camping and Recreational Vehicle Park - see Article 3001
- M. Car Wash.
- N. Commercial beach; with provision of adequate parking area, and permitted dressing facilities, snack bar, picnic area, and boat rental.
- O. Community care center.
- P. Commercial uniform cleaning.
- Q. Transit facilities
- R. Dry cleaning plant.
- S. Fuel/Service stations.
- T. Garage, service.
- U. Group homes.
- V. Golf Driving range, miniature golf, and baseball batting range.
- W. Hospital.
- X. Hotel / Motel / Motor Court.
- Y. Laboratory.
- Z. Limited Video Lottery – see Article 3014.
- AA. Mobile Home Park – See Article 3000.
- BB. Parking lot as a primary use.

- CC. Public utility uses other than those noted.
- DD. Manufacturing /Light Assembly / Industrial.
- EE. Marina.
- FF. Picnic grove.
- GG. Private colleges, dormitories, and fraternity and sorority houses.
- HH. Residential uses (exceeding 12 units per acre).
- II. Signs, outdoor advertising.
- JJ. Social clubs and fraternal organizations.
- KK. Theatre.
- LL. Tavern.
- MM. Temporary Use – see Article 6000, IV.

**VII. Yard Requirements-Minimum**

**A. Principal Structure Setbacks**

- 1.) Front Yard: 25 feet
- 2.) Rear Yard: 25 feet, one and two story; 35 feet for three or more stories.
- 3.) Side Yard: 8 feet, one and two story; 12 feet for three or more

**B. Accessory Structure Setbacks**

- 1.) Side Yard: 5 feet
- 2.) Rear Yard: 5 feet
- 3.) Alley: 6 feet (Exception: Garages on alleys shall be setback a minimum of 20 feet from the alleys pavement edge).
- 4.) Accessory structures are permitted by right in the rear and side yard, placement in the front yard will require BZA approval.

**C.) Heights**

- 1) Maximum Height Primary Structure: 40 feet or three stories. Buildings exceeding this height require a Conditional Use Permit.
- 2) Accessory structures shall not exceed the height of the primary structure to a maximum of thirty feet.

- 3) All permitted structures may be built to a height of fifty feet or four stories, provided that any such building sets back from every street and lot line one additional foot of the Primary Structure Setback requirement for each foot of building height in excess of forty feet in addition to other yard requirements that may apply.

**V. Other Applicable Regulations**

- A. Site Standards, see Article 4000
- B. Sign Requirements, see Article 4001
- C. Parking Requirements, see Article 4002

## **3000 – MOBILE HOME PARKS**

### **I. Purpose and Intent**

Development of a Mobile Home Park is permitted in the Mixed-Use District subject to Conditional Use approval. The development of a Mobile Home Park must meet the minimum Required Standards.

### **II. Required Standards**

**Mobile Home Parks.** In granting a conditional use and operation of a mobile home park, the Commission shall be guided by the following:

- A. Every mobile home park shall contain at least eight (8) mobile home spaces.
- B. Each mobile home space shall be a minimum of 3,000 square feet in size.
- C. Mobile homes shall not be located:
  - 1. Within fifteen feet on one another
  - 2. Within fifteen feet of a private road/street within the park
  - 3. Within twenty feet of a park boundary line
  - 4. Within twenty feet of a public right of way.
- D. There shall be at least one paved parking space provided for each mobile home space.
- E. A buffer shall be provided between the Mobile Home Park and adjacent residential areas. The buffer may either be in the form of evergreens or a solid screen fence, not less than four feet or greater than six feet in height.
- F. Each mobile home must be tied down with the undercroft enclosed.
- G. Each space shall be provided connections to the utilities of the city water system, public district sewer system and electrical power from a regulated entity.
- H. The mobile home park owner shall construct and maintain all necessary roadways within the park. The roadway shall be constructed of concrete or asphalt.

- I. All roadways used for two way traffic shall be at least twenty feet in width. Roadways used for one way traffic shall be at least eleven feet in width.
- J. The mobile home park owner shall be responsible for all refuse collection.
- K. Illumination for internal streets shall be provided for those parks greater than ten units.
- L. Fifty square feet of recreation area per unit shall be provided for parks with more than ten units.
- M. It is the responsibility of the park owner to ensure that adequate Fire protection facilities and water supply for fire protection meet all applicable local, state and national fire codes as approved by the servicing fire department and State Fire Marshalls Office.

## **3001 – CAMPING AND RECREATIONAL VEHICLE PARK**

### **I. Purpose and Intent**

Development of a Camping and Recreational Vehicle Park is permitted in the Mixed-Use District subject to a Conditional Use Permit. The development of a Camping and Recreational Vehicle Park must meet the minimum Required Standards.

### **II. Required Standards**

**Camping and Recreational Vehicle Parks.** In granting a conditional use and operation of a Camping and Recreational Vehicle Park, the BZA shall be guided by the following:

- A. Each Camping and Recreational Vehicle Park shall be a minimum of 3 acres.
- B. Every Camping and Recreational Vehicle Park shall contain at least sixteen (16) spaces.
- C. Each space shall be a minimum of 3,000 square feet in size.
- D. Camping and Recreational spaces shall not be located:
  1. Within fifteen feet of one another
  2. Within fifteen feet of a private road/street within the park
  3. Within twenty feet of a park boundary line
  4. Within twenty feet of a public right of way.
- E. There shall be at least one paved parking space provided for each space.
- F. A buffer shall be provided between the Camping and Recreational Vehicle Park and adjacent residential areas. The buffer may either be in the form of evergreens or a solid screen fence, not less than four feet or greater than six feet in height.
- G. Each space shall be provided connections to the utilities of the city water system, public district sewer system and electrical power from a regulated entity.

- H. The park owner shall construct and maintain all necessary roadways within the park. The roadway shall be constructed of concrete or asphalt.
- I. All roadways used for two way traffic shall be at least twenty feet in width. Roadways used for one way traffic shall be at least eleven feet in width.
- J. The park owner shall be responsible for all refuse collection.
- K. Illumination for internal streets shall be provided
- L. A minimum of 4,800 square feet of recreation area shall be provided for all Camping and Recreation Vehicle Parks with more than ten units.
- M. It is the responsibility of the park owner to ensure that adequate Fire protection facilities and water supply for fire protection meet all applicable local, state and national fire codes as approved by the servicing fire department and State Fire Marshalls Office.

## **3010 – HOME OCCUPATIONS**

### **I. Conditions**

No home occupation shall be permitted that:

- A. Changes the outside appearance of the dwelling or is visible from the street.
- B. Creates a hazard to person or property, results in electrical interference, noxious fumes, excessive noise, or becomes a nuisance for the neighborhood.
- C. Results in outside storage or display of anything.
- D. Results in the employment of any persons not residing on the premises in the performance of the occupation.
- E. Makes use of any accessory building other than for limited storage not to exceed the amount of area used by the home occupation in the dwelling.

### **II. Minor Home Occupations**

Minor home occupations shall be permitted in all zoning districts where residential uses are permitted. These are occupations that by nature generate little traffic, require a minimum amount of parking and would not result in the increased use of water or sewerage in excess of what is normal in the residential neighborhood.

Minor home occupations may be but are not limited to:

- A. Dressmaking, sewing and tailoring, provided that no pressing or cleaning is done on the premises.
- B. Painting, sculpturing or writing.
- C. Telephone answering.
- D. Home crafts such as model making, rug weaving and lapidary work.
- E. Tutoring for not more than two students at a time.
- F. Computer programming.
- G. Architectural, engineering, drafting or graphic services.

- H. Musical or artistic instruction for not more than two students at a time.
- I. Accounting services.
- J. Offices for contractors including masonry, plumbing or painting provided that there is no on-site storage of materials and/or equipment.

### **III. Major Home Occupations**

Major home occupations are permitted in all zoning districts where residential uses are permitted except in the R-1 Zone. These are occupations that by nature generate traffic, require more parking or require additional use of water and sewerage than is normal in a residential area. These home occupations shall be subject to Board of Zoning Appeals approval.

Major home occupations may be but are not limited to:

- A. Law offices.
- B. Barber shops or beauty salons with a single chair.
- C. Instructions of arts, music or crafts for not more than six students.
- D. Small crafts for sale on the premises, including but not limited to crafts or wood, paper, cloth and ceramics (not to include cabinet making or furniture refinishing).
- E. Repair of watches, jewelry and small appliances.
- F. Insurance offices.
- G. Printing services.
- H. Photographic services.

### **IV. Prohibited Uses**

- A. Medical offices, dental offices or other recognized health related practice.
- B. Animal hospital, grooming facilities, pet breeding facilities, or kenneling facilities.
- C. Mortuaries.
- D. Private clubs.

- E. Restaurants.
- F. Automobile repair or painting.
- G. Welding services.
- H. Exercise studios, physical fitness facilities.
- I. Tanning Salon

**V. Permits and Fees**

In all cases, home occupations shall require a State Business License prior to seeking a permit from the City of Pleasant Valley City Enforcement Officer or designated City Official. The permit will be issued following an inspection of the property for compliance with these regulations. The permit shall be renewed after one year and then every two years. Inspection shall be conducted as part of the renewal application process to ensure continued compliance with the regulations. Permit fees will be established by the City of Pleasant Valley.

**VI. Violations**

In the event, during a renewal inspection, the City Enforcement Officer determines that the home occupation violates any provision of these regulations, the home occupation permit and business license shall be revoked for a period of one year. No new permit shall be issued until all aspects of these regulations are in compliance.

**VII. Area and Location**

Any home occupation may not consume more than 25% of the dwelling. Anyone wishing to locate an occupation in any area of the dwelling must meet the health and fire codes as applicable.

**VIII. Sales, Display and Advertisement**

No display of material is permitted which is visible from the street. The only internal display permitted is that of examples of work. No direct retail sales are permitted, however orders may be placed or picked up from the premises. The address of the subject property shall not be placed in any form of media, including online advertisement or promotional items. In no case shall the home occupation be open to the public before 9:00 a.m. nor later than 8:00 p.m.

## **3012 – ADULT ENTERTAINMENT**

### **I. Required Standards**

- A. No such adult establishment shall be located less than 1,000 feet from a school, place of worship, library, day care center, civic building, park, historic district, lot in residential use, lot with residential districting, or other adult establishment as measured from door to front door along the curb line of public streets providing access;
- B. All doors, windows, and other apertures shall be located and covered or screened in with opaque glazing to discourage and prevent visibility or viewing of the interior;
- C. The maximum floor area of each use shall be 1500 square feet; and
- D. No exterior signage, building element, advertisement, display or other promotional material shall be pornographic in nature or convey any such idea or element or relate to specified anatomical areas, as defined in DEFINITIONS and shall not be visible from a public right of way or pedestrian walk.

## **3014 – LIMITED VIDEO LOTTERY**

### **I. Required Standards**

- A. Establishments that offer or provide limited video lottery regulated under the provisions of the Limited Video Lottery Act, West Virginia Code §29-22B-101 et seq. are permitted as a conditional use in the Mixed Use district, provided that any such establishment that offers video lottery shall not be located within 1,500 feet of any residential zone, school, church or place of worship, park, community center or facility, recreation center or facility, public building or public arena, or any other similar structure or any other structure which houses an establishment that offers or provides limited video lottery as measured in a straight line from the nearest point of the wall of the establishment offering limited video lottery to the nearest property line of any residential zone, school, church or place of worship, park, community center or facility, recreation center or facility public building or public arena, or any other similar structure or any other structure which houses an establishment that offers or provides limited video lottery.
  
- B. All exterior signage and design of the establishment must be approved by the City of Pleasant Valley City Enforcement Officer or designated City Official.

**ARTICLE 4000 - SITE STANDARDS**

**I. APPLICABILITY.**

No building, structure, or land shall hereafter be used or occupied and no building or part thereof or other structure shall be erected razed, moved, reconstructed, extended, enlarged, or altered, except in conformity with the regulations specified for the district in which it is located.

**II. LOT STANDARDS.**

- A. Unless otherwise specified, the following provisions shall apply throughout the City of Pleasant Valley regardless of the underlying regulating district.
- B. No yard or lot existing upon adoption of this Zoning Ordinance shall be reduced in size or area below the minimum requirements of the regulating district. Yards or lots created after the effective date of this ordinance shall meet the minimum requirements established by this ordinance. No new lot shall contain less than 6,000 square feet. The minimum square feet for any lot to be developed in the City of Pleasant Valley shall be as follows:

<b>Number of Dwelling Units in Building</b>	<b>Area of Lot in Square feet</b>
Single Family Dwelling	6,000
Two Family Dwelling	7,000
Three Family Dwelling	8,000
Four Family Dwelling	9,000
Five or More Dwellings- Apartments	9,000 square feet plus 1,000 square feet for each unit over five. Not to exceed 12 units per acre.

- C. Every building erected, moved, or structurally altered shall be located on a lot conforming to the requirements of the regulating district.
- D. All structures on corner lots shall be considered to have 2 front yards and shall utilize the minimum front setback for each facade. Single and Two-Family Residential structures may reduce the required yard setback for one side of a corner lot to the minimum required front yard setback.

### **III. RESIDENTIAL BUILDINGS (ALL DISTRICTS)**

#### **A. General Requirements.**

1. Main roofs on residential buildings shall be symmetrical gable, mansard, gambrel, or hip with a minimum pitch of 3:12. Monopitch (shed) roofs are allowed only if they are attached to the wall of the main building. No monopitch roof shall be less than a 3:12. Flat roofs may be allowed upon approval by the City Enforcement Officer or designated City Official.
2. No horizontal dimension of the main body shall have a width of less than 24 feet and a length of 40 feet; and
3. The structure shall contain a minimum of 960 square feet of living space, excluding garages, attics and basements.
4. All primary structures shall be on a permanent foundation and the undercroft enclosed.

### **IV. ENCROACHMENTS.**

- A. Balconies, stoops, stairs, chimneys, open porches, bay windows, and raised doorways are permitted to encroach into the front setback a maximum of 8 feet. Open decks and patios are permitted to encroach into the rear setback to within 5 feet of the property line. Encroachments for existing structures, not meeting current setback standards, will require BZA approval.
- B. A ramp constructed to meet ADA requirements may be placed forward of the required setback.

### **V. FENCES AND VEGETATIVE SCREENING.**

- A. All Districts: Hedges shall be planted at least 3 feet from the property line. Garden walls shall not be more than 30 inches in height in the front yard area or 6 feet in height in the side and rear yard area. Garden walls shall be constructed at least 1 foot from the property line. Fences may be placed on the property line. Front yard fences shall not exceed 4 feet in height and shall be constructed of split rail, wooden picket, chain link, or other material as determined by the City Enforcement Officer or designated City Official which will not present or create a solid visual obstruction. Side and rear yard fences shall not exceed 6 feet in height. Fences shall be constructed such that the finished (sheathed) side is oriented towards adjoining lots, streets, or the public right-of-way.

- B. No person shall construct, maintain, or permit to remain any fence, garden wall, bushes, plants or other materials, on a lot within twenty feet of the street line or alleyway, which obstructs the view, at a height more than 30 inches above the level of the adjacent street pavement.
- C. Wherever and whenever a permitted commercial use abuts, adjoins, or is contiguous to an existing residential property, such properties shall be sufficiently and suitably buffered. Buffers are required to protect against noise, lighting and other disruptive effects, to protect the character of the residential areas, and to conserve property values. The site plan must include an approved buffer design and description for each perimeter abutting, adjoining, or contiguous to a residential use.

**VI. USE AND PARKING OF RECREATIONAL AND COMMERCIAL VEHICLES.**

**A. Recreational vehicles.**

A recreational vehicle shall not be considered a dwelling unit. The use of a recreation vehicle for living, sleeping or housekeeping and its connection to utility services (other than for periodic maintenance and/or repair purposes) shall be prohibited unless the vehicle is located in a Camping and Recreational Vehicle Park designed to accommodate recreation vehicles.

**B. Commercial vehicles**

Commercial vehicles used primarily for commercial purposes and with more than two axles are prohibited from parking in residential districts. This shall not be construed as to prevent the temporary parking of delivery trucks, moving vans, and similar vehicles, which deliver goods and services. No residential lot may be used for parking or storage of any commercial vehicle or commercial equipment that is not a permitted use within the district.

**VII. ACCESSORY BUILDINGS AND STRUCTURES.**

- A. Only one primary building and its customary accessory building(s) shall be located on any lot, except in districts that permit a lot to contain both residential and nonresidential uses in one or more primary structures or within the same structure.
- B. In the case of a corner lot, no wall of an accessory building shall be nearer to a side street than the side line of the main building.
- C. Accessory buildings attached to the primary building by an

approved breezeway or similar structure shall meet all yard requirements for the primary building.

- D. The aggregate floor area of all accessory structures shall not exceed ½ the total floor area of the primary structure.
- E. Satellite dishes may not exceed 2 feet in diameter.
- F. Doghouses and dog related structures shall be placed in rear yards only.

## **VIII. OCCUPANCY**

The maximum number of unrelated individuals permitted to reside in any single dwelling unit in the various districts, where a residential use is permitted as a permitted use, a use permitted with conditions, or a conditional use, shall be 3 persons

## **ARTICLE 4001 - SIGN REQUIREMENTS**

### **I. SIGNS – RESIDENTIAL DISTRICT R1**

- A. At no time will any commercial type signs or billboards be placed in any R-1 Residential district unless required by law in accordance with an approved home occupation. These signs shall be non-illuminated and restricted to a maximum of three (3) square feet in size.
- B. Exceptions would be on premise signs for civic, government, church groups or community facilities. These groups shall be required to submit a plan showing the dimensions and type of sign to be erected to the City of Pleasant Valley. The Board of Zoning Appeals will then make the determination to either approve or disapprove the request. The Board will have the power to make suggestions and approve any request upon noted modifications of the sign.
- C. This regulation does not prohibit “Temporary Signs” placed on the site by either the owner or an authorized agent of the owner for the sale or lease of real estate nor does it prevent the use of “Construction Signs” as defined in this ordinance.

### **II. SIGNS – RESIDENTIAL DISTRICT R2**

- A. A sign is not permitted in the R2 District for a home based business unless required by law in accordance with an approved home occupation. These signs shall be non-illuminated and restricted to a maximum of eight (8) square feet in size.
- B. A sign is permitted for display of any business in the R-2 Residential District.
  - i. At no time will any sign exceed four (4) feet from the grade which it is placed.
  - ii. At no time will the display area of any sign exceed 32 square feet.
- C. All signs must be constructed in a permanent fashion. No portable signs are permitted.
- D. In no instance may an illuminated or flashing sign be used in any R-2 Residential District. The sign may be illuminated by flood lighting with no more than one flood light per display area. The use of recessed, interior or neon illumination is prohibited.

### **III. SIGNS – MIXED USE DISTRICT**

- A. A sign is permitted for display of any business in the Mixed Use District.

- B. At no time shall signage be constructed at any entrance, drive, street or public access area that would restrict adequate visibility for the ingress or egress of vehicular traffic.
- C. When applicable, it is the responsibility of the property owner to obtain all necessary permits and approvals from all county, state or federal agencies before construction begins for any sign. It is the responsibility of the property owner to supply a copy of all required permits to the City Clerk of the City of Pleasant Valley prior to construction of said signs(s). It shall be unlawful for any person to erect, structurally alter or relocate any sign or structure supporting a sign until all necessary permits and approvals have been submitted to the City Clerk of the City of Pleasant Valley.
- D. All signs must be constructed in a permanent fashion. No portable signs are permitted including banner signs. Banner signs are exempt for grand openings or other such occurrences with permission from the City of Pleasant Valley. The City of Pleasant Valley will provide a permit to display such banner signs with a beginning and ending date for display. In this case a banner sign may be displayed for up to 2 weeks at which time it must be removed.
- E. Billboard advertising is permitted, as conditional use in the Mixed Use District.

## **4002 PARKING REQUIREMENTS**

### **I. GENERAL PARKING PRINCIPLES**

- A. Designated parking areas and driveways for all uses (except single- and two-family dwellings) shall meet the following requirements:
  - 1. Standard curbing, with a minimum height of 6 inches, shall be provided along the periphery of all driveways and designated parking areas.
  - 2. All parking areas shall be paved with a permanent surface material or contain a similar type material approved by the City of Pleasant Valley. Gravel and other stabilization material without a permanent wearing surface are not permitted.
  - 3. If lighting is provided, it shall be arranged to reflect away from any residential area and/or any public street or highway.
- B. All off-street parking spaces for multi-family buildings shall be in the rear yard only.
- C. All commercial parking areas shall be screened from view to any adjoining residential use.
- D. Off-street parking areas shall be designed to facilitate adequate movement and access by sanitation, emergency, and other public service vehicles without posing a danger to pedestrians or impeding the function of the parking area.
- E. Off-street parking areas for new commercial, industrial, or multi-family residential developments shall be designed to accommodate containment facilities for both garbage and recycling containers.
- F. Off-street parking areas shall be designed so that parked vehicles do not encroach upon or extend onto public right-of-ways, sidewalks or strike against or damage any wall, vegetation, utility, or other structure.
- G. The size of any single surface parking lot greater than two acres, unless divided by a street or building, shall only be developed upon review and approval of a Site Plan by the City of Pleasant Valley.
- H. Bicycle parking is encouraged for uses within the R-2 and Mixed Use Districts and all civic uses. Bicycle racks shall be located on the side or rear yards provided they do not block pedestrian access.
- I. All off-street parking facilities shall be designed with appropriate means of vehicular access and maneuvering area to public avenues, streets, roads, or

alleys, and shall comply with the West Virginia Division of Highways' Manual on Rules and Regulations for adopted, by reference, for the purpose of prescribing minimum standards of, and for, construction of driveways for parking facilities within the corporate limits.

- J. All off-street parking facilities, except for one and two family dwelling, shall be submitted to the City of Pleasant Valley for review and approval. Any curb cut or driveway access to any public street or alley shall be constructed in accordance with the plans approved by the City of Pleasant Valley.

## II. MINIMUM PARKING RATIOS

All square footage is in leasable square feet. Parking requirements may be satisfied using public lots with 300 feet of primary building entrances.

1. Assisted Living/ Nursing Homes, Sanitariums Convalescent and Personal Care Homes, Long Term Care Facility, Residential Board and Care Facility. 1 per 4 beds.
2. Auditoriums, Stadiums, Gymnasium, and other sports arenas. One parking space for each four seats plus additional spaces equal in number to at least 50% of employees rounded to the nearest whole number. Where individual seats are not provided, each twenty-four inches of benches or similar seating shall be considered as one seat.
3. Automobile Sales & Service Garages. For Automobile sales and service garages such parking spaces shall be required for vehicles offered for sale, repair, storage and servicing plus one space for each employee on the largest shift.
4. Bed & Breakfast Inns/ Hotels/ Motels/ Tourist Homes/ Lodging, Rooming and Boarding House. 1 per room or suite.
5. Churches. For churches one parking space for each four seats. Where individual seats are not provided, each twenty-four inches of pew or similar seating shall be considered as one seat, plus one additional space for each church official resident on premises, plus two spaces for each five employees.
6. Civic Uses. 1 space for each 3 persons by seating capacity in the largest assembly area.
7. Clinics. For medical and dental clinics five parking spaces for each doctor engaged at the clinic plus one parking space for each employee.
8. Commercial Uses. (i.e. Retail, Office, Banks), 1 per 400 square feet
9. Hospital. One parking space for each four patient beds, one additional space for each visiting doctor, one additional space for each four employees; loading and unloading space for hospital ambulances and similar motor vehicles not included in the space required herein.
10. Manufacturing/ Warehousing/ Light Assembly/ Industrial. 25 per 1000 square feet of non-office space.
11. Mortuaries and Funeral Homes. One parking space for each vehicle used directly or indirectly in the conduct of the business plus two parking spaces for

each three employees and ten spaces for each chapel used by visitors in connection with a funeral.

12. Public and Private Utilities. 1 parking space for each 4 employees, plus one space required for all vehicles used directly or indirectly in the conduct of the utilities business.
13. Residential – Apartment. 1 per bedroom.
14. Residential – Attached and Detached Homes. 2 per home.
15. Restaurant/ Lounge/ Private Club. 1 space per 100 square feet of dining area plus 1 space per employee.

### III. PARKING SPACE DIMENSIONS

- A. Parking space dimensions (other than those designed for the disabled) shall be a minimum of nineteen (19) feet long and nine (9) feet wide. Parking spaces shall be dimensioned in relation to curbs or aisles, so long as their configuration, area, and dimensions satisfy the requirements of this Section.
- B. Parallel parking space dimensions shall be a minimum of twenty (20) feet by eight (8) feet.

### IV. AISLE AND DRIVEWAY WIDTHS

- A. Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

Aisle and Driveway Widths					
Angle of Parking	0°	30°	45°	60°	90°
	Aisle Width in Feet				
One-way Traffic	13	13	18	20	24
Two-way Traffic	19	20	22	24	24

- B. Driveways shall be a maximum of twelve (12) feet in width for one way traffic and twenty-four (24) feet in width for two way traffic. In no case shall a driveway width exceed twenty-four (24) feet, except as otherwise approved by the West Virginia Division of Highways, Department of Transportation.

### V. SHARED PARKING

- A. The joint use of shared off-street parking between two uses may be made by contract between two or more adjacent property owners and upon approval of the City of Pleasant Valley.
- B. Developments that operate at different times may jointly use or share the same parking spaces with a maximum of one-half (1/2) of the parking spaces credited to both uses if one use is a church, theater, assembly hall or other use whose peak hours of attendance will be at night or on Sundays, and the other use or

uses are ones that will be closed at night or on Sundays or upon the normal hours of operation.

## **VI. DISABLED PARKING**

Disabled Parking shall conform to all requirements of the Americans with Disabilities Act.

## **4003 LIGHTING REQUIREMENTS**

Reserved

## **5000 - ADMINISTRATION AND ENFORCEMENT**

### **I. Responsibility for Administration and Enforcement**

- A. It shall be the duty of the City Enforcement Officer to administer and enforce the provisions of this Ordinance, except as otherwise expressly provided in this Ordinance.
- B. It shall be the duty of the City Enforcement Officer to:
  - 1. Perform reviews of permit applications and notifications as necessary to determine compliance with the provisions of this Ordinance.
  - 2. To interpret and recommend exceptions to district rules and regulations in the classes of cases or particular situations as may be specified in this ordinance in accordance with Chapter 8a, Land Use Planning, (Article 10 Enforcement Provisions) of the West Virginia Code amended.
  - 3. To interpret and recommend conditional uses to the terms of this ordinance upon which the City Enforcement Officer is required to act under the ordinance in accordance with Chapter 8a, Land Use Planning, (Article 10 Enforcement Provisions) of the West Virginia Code as amended.
  - 4. To interpret and recommend, in specific cases, variances from the terms of the ordinance
  - 5. Conduct investigations as necessary to determine compliance with or violation of this Ordinance.
  - 6. Participate in the abatement of violations of this Ordinance and aid in the prosecution of such violations.
  - 7. Provide information on planning and zoning upon request by citizens and public agencies.
  - 8. To perform such additional tasks and duties as may be prescribed by the Pleasant Valley City Council and by any other agent designated by the City Ordinances.
- C. The City Enforcement Officer (CEO) shall enforce this ordinance. The City of Pleasant Valley shall appoint the CEO. The City Enforcement Officer shall be authorized and empowered to do the following:

1. Review all plans of construction, plats, and development plans for the lands and buildings affected by this zoning ordinance.
2. To issue permits to persons or other entities making applications for the same if the applications demonstrate that such construction and buildings will be in compliance with this ordinance.
3. To inspect completed projects to determine whether or not the buildings, development projects, lands, and new businesses, or uses as undertaken upon such lands and/or in such buildings, are in compliance with the provisions of this zoning ordinance.
4. The City Enforcement Officer shall be appointed and employed by the Pleasant Valley City Council, as an at-will employee, to serve at the will and pleasure of the City Council.
5. Issue citations and fines to any person, persons, corporation or any other entity in violation of this ordinance.

## **II. City of Pleasant Valley**

- A. It shall be the duty of the City of Pleasant Valley to maintain records of any changes or modifications made to this ordinance by the Planning and Zoning Commission, The Board of Zoning Appeals, or the City Council of Pleasant Valley.
- B. To collect fees from applicants for permits.
- C. To keep and preserve all Notifications and applications for permits, and all requests for rezoning, special permits, conditional uses, and variances from this zoning ordinance; to keep and preserve all building plans, development plans, plats, maps and other documents submitted to the City Enforcement Officer in the course of his/her duties.
- D. Maintain, in current status, the official zoning maps.

## **III. General Provisions**

- A. No commission, board, agency, officer, or employee of the City shall issue, grant, approve, or accept any permit, license, certificate, notifications, or any other authorization for any construction, reconstruction, alteration, enlargement or relocation of any building or structure, or for any use of land or building, that would not be in compliance with the provisions of this Ordinance.

- B. In administering the provisions of this Ordinance, the standard rule of rounding numbers to the nearest whole shall apply. When the unit of measurement results in a fraction less than one-half (0.5), the fraction shall be disregarded. Fractions of one-half or more, or .5 or over, shall require an addition to the next whole number.

#### **IV. Zoning Review**

- A. No permit pertaining to the construction, enlargement, moving, and reconstruction of a structure or change of use shall be issued unless the City of Pleasant Valley has granted approval of the application. The City of Pleasant Valley shall approve applications and accept notifications only in conformance with the provisions of this Ordinance; except when it receives a written order from the Planning Commission, Board of Zoning Appeals, or a court of law in the form of an administrative review, special exception, variance, or judgment as provided in this Ordinance.
- B. The City Enforcement Officer's report on an application is intended to be submitted to the applicant by the end of approximately fourteen (14) calendar days following the day a completed application is received.
- C. Applications for the Mixed Use District, permits for non-residential, multi-family housing, and subdivisions of more than three lots shall be accompanied by the following:
  - 1. A site plan (1 original and 2 copies), drawn to scale, that includes the following (if applicable) for the use of the City of Pleasant Valley:
    - a. The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a licensed land surveyor or registered professional engineer licensed by the State of West Virginia. Said survey to be provided by the applicant;
    - b. The exact sizes and locations on the lot of existing structures, if any;
    - c. The location, square footage, and dimensions of the proposed structure or alteration;
    - d. The location of the lot with respect to adjacent rights-of-ways;
    - e. The existing and proposed uses of the structure and land;

- f. The number of employees, families, housekeeping units, bedrooms, or rental units the structure is designed to accommodate;
  - g. The location and dimensions of off-street parking and means of ingress and egress for such space;
  - h. Height of the structure;
  - i. Setbacks;
  - j. Buffer yards and screening, if applicable;
  - k. Location of garbage collection and screening;
  - l. Street typical for internal roadways;
  - m. Location and size of drainage structures;
  - n. Location of storm water detention system (if applicable);
  - o. Utility lines and easements; and
  - p. Signature of applicant;
2. Drainage plan and drainage calculations that bear the name, address, signature, and seal of a registered professional engineer with floodplain zones clearly noted.
  3. If applicable, design of stormwater detention system and drainage calculations that bear the name, address, and seal of a registered professional engineer and that meet the requirements and the design standards of the United States Natural Resources Conservation Service.
  4. Location of parking.
  5. Location, size, and type of landscaping.
  6. Location, size, description of signs.
  7. Approved WV Division of Highways Access Permits, if applicable.
  8. Approved State of West Virginia NPDES General Permit for Stormwater Associated with Industrial (Construction) Activity, if applicable.

9. Any other such information concerning the lot or neighboring lots as may be required by the City of Pleasant Valley to determine conformance with, and provide for the enforcement of this Ordinance. Where deemed necessary, the City of Pleasant Valley may require that in the case of accessory structures or minor additions, all dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be in an actual survey by a registered land surveyor or professional engineer licensed by the State of West Virginia, said survey to be provided by the applicant.
- D. Three copies (an original and two copies) of a Sketch Plan shall be required for permits.
  - E. No site plan shall be accepted unless it is complete and is verified as to the correctness of information given by the signature of the applicant attesting thereto.
  - F. The City of Pleasant Valley may require that the lot and location of the building thereon shall be staked out on the ground before construction of a dwelling unit or primary structure is begun. The City of Pleasant Valley, where deemed appropriate, may require the same for accessory structures or minor additions. In any case, it shall be the owner's responsibility to make sure that a structure is placed on his property according to his approved site plan or sketch plan and as required by any applicable City Ordinance.
  - G. Site plans and sketch plans approved by the City of Pleasant Valley authorize only the use, arrangement, and construction set forth in such approved site plans. Furthermore, the approval of a site plan or sketch plan shall not be construed to be approval of any violation of the provisions of this Ordinance. This issuance of a permit based upon site plans and sketch plans given approval by the City of Pleasant Valley, shall not prevent the City of Pleasant Valley from thereafter requiring correction of errors in said site plans and sketch plans or from preventing operations from being carried on thereunder in violation with this Ordinance.
  - H. One copy of the site plan or sketch plan submitted for a permit as required in the subsection above for the City of Pleasant Valley shall be returned to the applicant after the City of Pleasant Valley has marked such copy as either approved or disapproved as the provisions of this Ordinance and attested to same by signature or seal on such copy. The City of Pleasant Valley shall retain the original, similarly marked.

- I. Where the City of Pleasant Valley determines that any of these items (a) through (h) above is unnecessary, the City of Pleasant Valley may waive its requirements.

**V. Procedures for Violations**

- A. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint, such complaint stating fully the causes and basis thereof, and shall be filed with the City of Pleasant Valley. The City shall record properly such complaint, conduct appropriate investigations, and take action thereon as provided by this Ordinance.
- B. If the City of Pleasant Valley finds that any of the provisions of the Ordinance are being violated, whether reported by private citizen or by any commission, board, agency, officer, or employee of the City, the Code Enforcement Officer shall notify in writing the owner of the property for such violation. Service of written notice shall be deemed complete upon sending notice by certified mail to the last known address of such person. Such notice shall include the following:
  1. Street address or legal description of the property involved; and
  2. A statement indicating the nature of the violation; and
  3. A specification of the section of this Ordinance upon which the notice of violation is based;
  4. A description of the action required to correct violation;
  5. A statement indicating the time within which compliance with this Ordinance must be accomplished; and
  6. A statement advising that upon failure to comply with the requirements of the notice, the City shall take such enforcement procedures as may be required in this Ordinance.
- C. The City of Pleasant Valley may order discontinuance of an illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or may take any other action authorized by this Ordinance to ensure compliance with its provisions.
- D. In any case in which a building or structure is or is not proposed to be constructed, reconstructed, altered, maintained, or used, in violation of

the provisions of this Ordinance, the City may, in addition to other remedies provided by law institute injunction, abatement, or any appropriate action or proceedings to prevent, adjoin, abate, remove, or penalize by fine such unlawful construction, reconstruction, alteration, maintenance, or use.

## **VI. Penalties for Violation**

- A. It shall be the duty of the City Enforcement Officer to bring to the attention of the City of Pleasant Valley any violations or lack of compliance. Any person, firm, or corporation who fails to comply with, or violates, any of these regulations shall be subject to the laws of the State of West Virginia, Chapter 8a, Land Use Planning, (Article 10 Enforcement Provisions) of the West Virginia Code.
- B. Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building, structure, or premises, and these remedies shall be in addition to the penalties described above.
- C. Any structure constructed, reconstructed, enlarged, altered or relocated, in noncompliance with this Ordinance, may be declared by the City Enforcement Officer to be a public nuisance and abatable as such.
- D. Failure to obtain a permit prior to occupancy will result in noncompliance with the Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this Ordinance shall not excuse the violation of, or noncompliance with or permit it to continue; any and all such persons shall be required to correct or remedy such violations or non-compliance within a reasonable time as determined by the City Enforcement Officer. The daily fine will remain in place until (1) all conditions of the permit are achieved satisfactorily and (2) the City of Pleasant Valley verifies such through site inspection.
- E. Nothing contained herein shall prevent the City from taking other lawful action as necessary to prevent or remedy any violation.
- F. Violation of Ordinance: Furthermore, any such violation shall constitute a misdemeanor in accordance with the provisions of Chapter 8A, Article 10, Section 2 of the West Virginia Code, as amended; upon conviction, a violator shall be fined not less than \$50.00, nor more than \$500.00. Each day that a violation continues constitutes a separate offense. In addition to the foregoing, any building or structure, which is erected, raised, modified, or converted in violation of any provision of this

ordinance, shall constitute a common nuisance. The owner of such building, structure, land or premise shall be liable for maintaining a common nuisance.

- G. Injunctive Relief: The City of Pleasant Valley may seek an injunction in the Circuit Court of Marion County to restrain a person, legal entity, or unit of government from violating the provisions of this ordinance of any rule or regulation adopted pursuant thereto in accordance with the provisions of Chapter 8A, Article 10, Section 3 of the West Virginia Code as amended. Also, the City of Pleasant Valley may seek a mandatory injunction in such Circuit Court directing a person, legal entity, or unit of government to remove a structure erected in violation of the provisions of this ordinance or any rule or regulation adopted pursuant thereto in accordance with the provisions of Chapter 8A, Article 10, Sections 3 of the West Virginia Code as amended.

## **6000 - GENERAL PROVISIONS**

### **I. 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 number of permitted uses in all districts. Permitted uses are those that are not required to demonstrate their appropriateness within a district.

### **II. 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 planning district in which it is located, This provision shall not apply to general maintenance or repair or any addition deemed not a major addition as defined by this Ordinance.

### **III. 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 as subsequently amended, may continue to be used even though such building, structure, or premises does not conform to use, setback, or dimensional regulations of this Ordinance; subject, however to the following provisions:

- 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 the Ordinance. Repair includes the following: replacement of same size porches, awnings, decks, roofs, overhangs, patios, or any other similar construction as approved by the City of Pleasant Valley. Additional acreage shall not be added to enlarge any nonconforming use unless that use complies with this Ordinance.
- B. Whenever a nonconforming use has been non-functioning 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.
- C. A nonconforming use may not be substituted for any other nonconforming use without the Board of Zoning Appeals review and public hearing.

#### **IV. Temporary Permits**

##### **A. Issuance of Permits for Temporary Uses**

1. All Temporary Uses must receive approval from the City Enforcement Officer or designated City Official.
2. The approval may be conditioned upon such special requirements as the City Enforcement Officer or designated City Official determine are necessary to achieve the purposes of this Ordinance and protect the public health, safety and welfare.
3. Failure to meet the requirements of this Ordinance and conditions set forth will necessitate the revocation of the approval.
4. Christmas tree sales, fireworks, book buy back, sidewalks sales, and similar temporary retail sales are permitted as temporary uses within nonresidential districts and are limited to a maximum duration of forty-five (45) days within a calendar year. Truck trailers and flat beds are not permitted except for short-term delivery services.
5. Contractor's offices and real estate offices/ trailers and equipment sheds may be permitted for the period of active construction or selling of units. No sleeping or cooking accommodations are allowed.
6. Produce stands may be permitted for a maximum of six (6) months but may be re-permitted upon submission of a new application.
7. Temporary uses shall present proof of property owner approval prior to the issuance of a permit.

##### **B. Temporary Uses**

1. Night watchman.
2. Temporary site offices for owners of businesses whose offices have been destroyed by fire, flood, wind or other acts of God. The applicant for such a permit shall make written application. These temporary offices must be accessible to the general public for use during construction or remodeling.
3. Temporary building space for education, non-profit organizations, and government agencies.
4. Temporary site offices for sales offices for residential subdivisions.

5. Carnivals, circus, festivals, fairs, bingo, raffles, horse shows, dog shows, Steeplechase, music festivals, turkey shoots, the sale of Christmas trees.
  6. Construction material yards accessory to a construction project.
  7. Contractor's offices and equipment sheds to include trailers accessory and adjacent to an active construction project.
  8. Promotional activities for retail merchants.
  9. Temporary farmers markets.
- C. All properties that have been subjected to temporary uses must be restored to their original appearance and use after subject temporary uses are terminated.

## **7000 - PERMITTING PROCEDURE**

- I. It shall be unlawful for an owner, tenant, user, or operator of any lands, business, structure, or building within the City to construct or conduct those uses listed as “permitted uses” in the zoning district without first submitting and obtaining a Development Permit Application from the City of Pleasant Valley.
- II. It shall be unlawful for an owner, tenant, user, or operator of any lands, business, structure, or building within the City to construct any building, change any use of land or erect, alter or modify any structure without first submitting and obtaining a Development Permit Application from the City of Pleasant Valley.
- III. It shall be unlawful for an owner, tenant, user or operator of any lands, business, or building within the City to do or permit any act which is prohibited by any provision of this zoning ordinance or to fail to do any act which is required of him by any provision of this zoning ordinance or unless he has obtained a written general exception, special permit, variance, or rezoning in accordance with the provisions of this ordinance.

### **IV. THE DEVELOPMENT PERMIT APPLCATION**

- A. The application shall include documents as will fully apprise the City of Pleasant Valley of the intended use, plans, and projects of the applicant.
- B. If the work described in any permit has not begun within ninety days from the date of issuance thereof, said permit shall expire and it shall be cancelled by the City of Pleasant Valley; and written notice thereof shall be given to the applicant.
- C. If the work described in any permit has not been completed within two years of the date of issuance thereof, said permit shall expire and be cancelled by the City of Pleasant Valley, and written notice thereof shall be given to the applicant, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new Permit has been obtained.
- D. If the City of Pleasant Valley determines that such plans or intended uses do not conform to the provisions of this ordinance, the City of Pleasant Valley shall deny the application in writing, stating the reasons for such denial.
- E. The application for any such permit, or for modification or expansion thereof, shall be filed with an application fee.

## **8000 - AMENDMENT AND HEARING PROCEDURE**

### **I. Power of the City Council**

Whenever public necessity and the public health, safety, general welfare, and morals require, the City Council may amend, supplement, or modify, by Ordinance, the zoning district boundaries or the regulations set forth in this Ordinance.

### **II. Initiation of Amendment to the Ordinance.**

An amendment, supplement, or modification, in the zoning text or zoning map of this Ordinance may be initiated by:

- A. The City Planning Commission; or
- B. A property owner or his/her agent.

Any proposed amendment, supplement, or modification shall be submitted to the Planning Commission for their recommendation and then voted on by the City Council of Pleasant Valley.

### **III. Filing Procedures**

#### **A. Request for rezoning property**

1. A request for rezoning of property shall be filed on prescribed forms with the City office. The request, or application, shall include a list of the property owners' names and addresses located within 250 feet of the affected area, as of record in the office of the Marion County Assessor. The subject property, also, shall be included in the affected areas. The applicant must submit the tax map and parcel numbers for the list of properties along with a stamped and addressed envelope for each of the names and addresses of property owners in the affected area. If the list includes a lot within a subdivision the applicant must submit the name of the president for that subdivision's homeowners association along with a stamped and addressed envelope for that member.
2. The City of Pleasant Valley will conduct a formal review of the completed application. After review, the application will be presented to the Planning and Zoning Commission for consideration. If the Planning and Zoning Commission find that there would not be any cause to not set the request for a public hearing a majority vote of the Planning and Zoning Commission

will be called to set said request for a public hearing at the next scheduled public meeting.

3. The City of Pleasant Valley will publish a legal advertisement describing the request for rezoning in the local newspaper of general circulation thirty (30) days prior to the scheduled public hearing before the Planning and Zoning Commission.
4. The Planning and Zoning Commission will hold a duly scheduled public hearing on the rezoning request and make a recommendation to the City Council. The City of Pleasant Valley will prepare a written report of the decision.
5. Within fifteen (15) calendar days of the Planning and Zoning Commission's decision, the City Council will hold a public hearing to hear the Planning Commission's recommendations. Attendees at the City Council public hearing will be notified of the date and time of the public hearing. The City Council will endeavor to make a decision on the request and recommendation within (10) working days.
6. If the City Council approves the request for rezoning, the applicant will receive approval and will be formally notified by mail by the City of Pleasant Valley. The City of Pleasant Valley will amend the zoning ordinance map to reflect the approved amendment.
7. If the request for rezoning is denied by the City Council, the applicant will be formally notified in writing by the City of Pleasant Valley of the denial and the right to appeal the decision to Marion County Circuit Court within thirty (30) days of the City Council's decision.

**B. Request for Text Amendment to the Zoning Ordinance**

1. A request for an amendment, or change to the text of the Zoning Ordinance shall be filed on prescribed forms with the City office located at 2340 Kingmont Road in Pleasant Valley.
2. The City of Pleasant Valley will conduct a formal review of the completed application. The City of Pleasant Valley will endeavor to complete its review within ten (10) working days.
3. The City of Pleasant Valley will publish a new legal advertisement describing the request for the amendment in a local newspaper of general circulation within thirty (30) days

prior to the scheduled public hearing before the Planning Commission.

4. The Planning and Zoning Commission will hold a duly scheduled public hearing of the text amendment request and make a recommendation to the City Council. The City of Pleasant Valley will prepare a written report of the decision.
5. Within fifteen (15) calendar days of the Planning and Zoning Commission's decision, the City Council will hold a public hearing to hear the Planning Commission's recommendations. Attendees at the City Council public hearing will be notified of the date and time of the public hearing. The City Council will endeavor to make a decision on the request and recommendation within (10) working days.
6. If the City Council approves the request for the text amendment, the applicant will receive approval and will be formally notified by mail by the City of Pleasant Valley. The City of Pleasant Valley will amend the zoning ordinance text to reflect the approved amendment.
7. If the request of the text amendment is denied by the City Council, the applicant will be formally notified in writing by the City of Pleasant Valley of the denial and the right to appeal the decision to Marion County Circuit Court within thirty (30) days of the City Council's decision.

#### **IV. Fees**

- A. A filing fee shall accompany petitions and applications filed by property owners. The purpose of the fee shall be to defray, in part, the expense connected with each application. Such fee shall be waived in the case of a bill to rezone or to amend the text of this Ordinance when offered by the City Planning Commission.
- B. Fees for applications will be set and published by the City of Pleasant Valley.

#### **V. Public Hearing**

- A. The City Planning and Zoning Commission shall hold a public hearing before acting on a request for a rezoning or zoning text amendment. The Planning and Zoning Commission shall establish public hearing dates and time.

- B. Notice of a scheduled public hearing for a proposed rezoning or zoning text amendment shall consist of the following:
1. Publication of a legal advertisement in compliance with the provisions of Chapter 8A, Article 7-8, of the Code of West Virginia;
  2. The mailing of notices of the public hearing to the petitioner or applicant, to recorded owners of property within 250 feet of any part of the subject property, and to a homeowner's association board member and affected subdivisions. The list of owners may be established in the Marion County Assessor's office; and,
  3. Whenever public hearing involves property within 200 feet of an adjoining municipality written notice of the public hearing shall be sent by certified mail to the clerk of the municipality; and
  4. The notice required for amending the zoning ordinance to provide for overall updating and revision of the Zoning Ordinance text and map(s) shall be by: a) published in a newspaper of general circulation as provided in paragraph B.1. above; b) mailing postcard notices, first class mail, to applicable property owners only where rezoning of property is involved; and c) mailing of notices to a homeowners association board members of affected subdivision.
- C. Notice of a scheduled public hearing for a proposed text amendment shall meet the requirements as stated in B.1.
- D. All notices shall include the time and place of the hearing and the action to be considered. For an overall updating and revision of the Zoning Ordinance, the City of Pleasant Valley shall not have to specify the change(s) proposed for each parcel land; reference to the overall updating and revision shall be a sufficient description of the action to be considered.
- E. Notices meeting the above requirements in subsections B. through D. shall be deemed adequate notice.
- F. The Planning and Zoning Commission shall establish rules and policies governing the order and conduct of public hearings.

## **VI. Protest and Support by Citizens**

Written petitions or letters of protest to the City Council or City Planning and Zoning Commission should include the following:

- A. The case to which the petition or letter refers; and
- B. Signature and addresses of the petitioners; and
- C. Reasons for the protest; and
- D. The date of the petition, letter, or signatures.

Petitions or letters favoring a request also may be submitted and follow the same guidelines as stated in (A) through (D) above.

## **VII. Conflict of Interest**

- A. Officials shall be independent, impartial and responsible to the people; that government decisions and policies be made proper channels of government structure; and, that the public have confidence in the integrity of its government. In recognition of those goals, this section relating to conflict of interest sets forth those acts or actions that are incompatible with the best interest of the City and directs disclosures by such officials of such interest in matters which may affect the outcome of any decision related to this Ordinance made by the City Council, Board of Zoning Appeals, or City Planning and Zoning Commission.
- B. Any public official having a conflict of interest, as defined in subsection C. below, shall declare such conflict and refrain from discussion of, participation in, or voting on any decision relating to the matter in which the official has a conflict of interest.
- C. Interest shall be considered as direct or indirect pecuniary or material benefits accruing to a public official as a result of any decision relating to this Ordinance which is or may be the subject of an official act or action by the City Council, Board of Zoning Appeals, or City Planning and Zoning Commission. For the purpose of this Ordinance, a public official shall be deemed to have a conflict of interest if any of the following relationships are present:
  - 1. Any person related to him by blood or marriage in a degree closer than first cousins; a divorce or separation between spouses shall not be deemed to terminate any such relationship; or

2. Any person or business entity with whom a contractual relationship exists with the public official; it is not intended that this relationship be construed to be affected by minor contractual relationships, such as personal insurance policies, mortgages, bank accounts, or charge accounts; or
3. Any business entity in which the public official is an officer, director, member have a financial interest therein, or by which he/she is employed; or
4. Any business entity in which in excess of 15 percent of the total stock or total legal and beneficial interest is controlled or owned directly or indirectly by the public official.

## **9000 - BOARD OF ZONING APPEALS**

### **I. Establishment**

A Board of Zoning Appeals shall be established in accordance with Chapter 8a, Land Use Planning (Article 8, Board of Zoning Appeals) of the Code of West Virginia as amended. The word “Board” or “BZA” in this article shall mean the Board of Zoning Appeals.

### **II. Membership and Organization**

A. Board members shall be appointed pursuant to Article 8, Board of Zoning Appeals, §8A-8-3 Municipal board of zoning appeals of the Code of West Virginia as amended. The Board shall be composed of five members appointed by the City Council.

B. The members of a municipal board of zoning appeals must be:

1. Residents of the municipality for at least three years preceding his or her appointment;
2. Cannot be a member of the municipal planning commission; and
3. Cannot hold any other elective or appointive office in the municipal government.

C. Upon the creation of a board of zoning appeals, the members shall be appointed for the following terms: One for a term of one year; two for a term of two years; and two for a term of three years. The terms shall expire on the first day of January of the first, second and third year, respectively, following their appointment. Thereafter, members shall serve three-year terms. If a vacancy occurs, the governing body of the municipality shall appoint a member for the unexpired term.

D. The governing body of the municipality may appoint up to three additional members to serve as alternate members of the municipal board of zoning appeals. The alternate members must meet the same eligibility requirements as set out in subsection (b) of this section. The term for an alternate member is three years. The governing body of the municipality may appoint alternate members on a staggered term schedule.

E. An alternate member shall serve on the board when one of the regular members is unable to serve. The alternate member shall serve until a final determination is made in the matter to which the alternate member was initially called on to serve.

- F. The municipal board of zoning appeals shall establish rules and procedures for designating an alternate member. An alternate member shall have the same powers and duties of a regular board member.
- G. At its first meeting of each year, the Board shall elect a president, vice-president, and secretary from its membership. The vice-president shall have the power and authority to act as chairman during the absence or disability of the president.

### **III. Quorum and Official Action**

A majority of the members of the Board shall constitute a quorum. No action of the Board shall be official, however, unless authorized by a majority of all of the members of the Board.

### **IV. General Procedures**

- A. The Board shall adopt such rules as shall be necessary to carry out its duties under the terms of this Ordinance.
- B. The Board shall keep minutes of its proceeding, records of all official actions, and shall record the vote on all actions taken. All minutes and records shall be filed in the City Office of Pleasant Valley and shall be public record.

### **V. Powers and Duties**

The Board shall:

- A. Hear and determine appeals from and review any order, requirement, decision or determination made by the City Planning Commission or City of Pleasant Valley charged with the enforcement of this Ordinance.
- B. Authorize exceptions to the district rules and regulations only in the classes of cases or in particular situations, as specified in the zoning ordinance.
- C. Hear and decide such conditional uses according to the terms of this Ordinance upon which the Board is required to act under this Ordinance; and
- D. Authorize, upon appeal in specific cases, such variances from the terms of this Ordinance.
  - 1. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance.

2. Under no circumstances shall the Board grant a variance to allow a land use not permitted under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.
- E. Reverse or affirm in whole or in part, or may modify any order, requirement, decision, or determination appealed from, as in its opinion ought to be done in the premises, and to this end shall have all the powers and authority of the official or body from whom or which the appeal is taken.

## **VI. Variances**

The board of zoning appeals shall grant a variance to the zoning ordinance if it finds that the variance:

- A. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
- B. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
- C. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
- D. Will allow the intent of the zoning ordinance to be observed and substantial justice done.

## **VII. Stay of Work**

When an appeal has been taken and filed with the board, all proceedings and work on the premises in question shall be stayed, i.e., stopped (by written notice of the Planning Commission and sent to the property owner by certified mail) unless the official or City Planning Commission from whom or which the appeal 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. If such certificate is filed, proceedings or work on the premises shall not be stayed except by a restraining order which may be granted by the Circuit court of Marion County, upon application thereof, on notice to the official City of Pleasant Valley for whom or which the appeal was taken and the owners of the premises affect and on due cause shown.

## **VIII. Filing Procedures for an Appeal to the Board of Zoning Appeals**

- A. An Appeal taken from any order, requirement, decision, or determination, made by the City of Pleasant Valley charged with the enforcement of this Ordinance shall be filed with the Board on forms prescribed by the City of Pleasant Valley. The appeal shall specify the reasons for the appeal and shall be made within thirty (30) calendar days of the original action in question unless otherwise prescribed by the Board by general rule and regulation.
- B. The appeal, or application, shall include a list of property owners' names and addresses located within 100 feet of the affected area, as shown on the record in the office of the Marion County Assessor. The subject property also shall be included in the affected area. The applicant must also submit the tax map and parcel numbers for the list of properties along with a stamped and addressed envelope for each of the names and addresses of property owners in the affected area. If the list includes a lot within a subdivision, the applicant must submit the name of the president for the subdivision homeowners association along with a stamped and addressed envelope for that member.
- C. The City of Pleasant Valley will publish a Class I legal advertisement describing the request to appear in a local newspaper of general circulation fifteen (15) calendar days prior to the scheduled public hearing before the Board. The prepared envelopes submitted by the applicant notifying the property owners located within 100 feet of the affected property and the president of the homeowners association of an affected subdivision will be mailed at the same time the legal advertisement is submitted in the newspaper for publication.
- D. The Board shall hold a duly scheduled public hearing on the appeal.
- E. If the Board decided to uphold the administrative decision, the appeal stands as approved by the Board. The City of Pleasant Valley then formally notifies the petitioner in writing.

## **IX. Filing Procedure for a Conditional Use or Variance Request**

- A. A request for a Conditional Use or variance from the terms of this Ordinance shall be filed with the Board, after a recommendation has been forwarded from the City of Pleasant Valley, on forms prescribed by the City of Pleasant Valley. The Conditional Use or variance request shall specify the reason for the variance. The variance request, or application, shall include a list of the property owners' names and addresses abutting the affected area, as of record in the office of the Marion County Assessor, including across streets and alleys. The

subject property also shall be included in the affected area. The applicant must also submit the tax map and parcel numbers for the list of properties along with a stamped and addressed envelope for each of the names and addresses of property owners in the affected area. If the list includes a lot within a subdivision, the applicant must submit the name of the president of the homeowners association along with a stamped and addressed envelope for that member.

- B. The posting of a notice of the public hearing on the subject property for a Conditional Use or Variance request at least 15 days prior to the scheduled public hearing.
- C. The City of Pleasant Valley will conduct a formal review of the request. As for the formal review process, the City of Pleasant Valley will notify appropriate agencies and officials and request summaries of review. The City of Pleasant Valley will endeavor to complete its review within fifteen (15) business days.
- D. The City of Pleasant Valley will publish a Class I legal advertisement describing the Conditional Use or variance request to appear in a local newspaper of general circulation fifteen (15) days prior to the scheduled public hearing before the Board. The prepared envelopes submitted by the applicant notifying the property owners located within 100 feet of the affected property and the president of the homeowners association of an affected subdivision will be mailed at the same time the legal advertisement is submitted in the newspaper for publication.
- E. The Board shall hold a duly scheduled public hearing on the request.
- F. If the Board decides to deny the Conditional Use or variance request, the petitioner is formally notified by mail by the City of Pleasant Valley, of the right to appeal the decision to Marion County Circuit Court within thirty (30) days.

**X. Fees**

A filing fee shall accompany applications or appeals filed with the Board. The purpose of the fee shall be to defray, in part, the expenses connected with each application. Fees for applications or appeals as determined by the Board of Zoning Appeals within their adopted bylaws.

**XI. Appeal of a Decision of the Board**

Any decision or order of the Board shall be subject to review by certiorari as prescribed in Article 9, Chapter 8A of the Code of West Virginia.

## APPENDIX - DEFINITIONS

### **I. 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, business trust or the manager, agent, servant, officer or employee of any of them. The word “land” shall include water surface and land under water.

### **II. Terms Defined**

**Accessory Structure:** 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, or additions, which will cause the rerouting of traffic circulation, shall be considered “major additions”.

**Addition, Minor:** Any addition not considered a major addition.

**Adjacent/Confronting Affected Property Owner:** The owner of property adjoining, adjacent to, or fronting a proposed development (including the properties across any road, right of way, or easement) that 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 County Court House.

**Adult Entertainment** -Adult Establishments and Entertainment include the following and like uses:

- a. Adult Book Store - An establishment having substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or related to “specified sexual activities” or “specified anatomical areas”, as defined by this Code, or an establishment with a segment or section devoted to the sale or display of such material.
- b. Adult Business - An adult book store, adult video store, adult motion picture thereafter, or adult entertainment establishment.
- c. Adult Entertainment Establishments – An establishment which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.
- d. Adult Motion Picture Theater - An establishment used for presenting motion picture material distinguished or characterized by an emphasis on matter depicting describing or relating to “specified sexual activities” or “specified anatomical areas” as defined by this Code, for observation by patrons thereto.
- e. Adult Video Store - An establishment having as a substantial or significant portion of its stock in trade, videotapes which are characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined by this Code, or an establishment with a segment or section devoted to the sale or display of such material.

**Applicant:** Any person requesting action due this ordinance or commencing to develop land in the City of Pleasant Valley or requesting an appeal to this Ordinance.

**Billboard:** a sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered, or existing elsewhere than upon the same lot where the sign is displayed. The term off-premise sign shall include an outdoor advertising sign (billboard) on which space is leased or rented by the owner thereof to others for the purpose of conveying a commercial or non-commercial message.

**Buffer:** An area on a property defined by a distance from the property line or other specifically defined line such as flood plain, wetland limit, or stream bank. Said area is intended to absorb, lessen, or neutralize the impacts on one land use from another. The nature of the buffer will depend on the impact(s) being neutralized.

**Building:** Any structure that is permanently affixed to the land and has one or more floors and a roof. The term building shall include manufactured homes.

**Building, Height:** the vertical distance measured from the average elevation of the proposed finished grades at the front of the building to the highest point on 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; provided that chimneys, spires, towers, mechanical penthouses, tanks and similar projections of the building not intended for human occupancy, shall not be include in calculating the height. If there are two (2) or more separate roofs on a single building, the height of such building shall be calculated from the highest roof.

**Change of Use:** Any use, which is different than the previous use of a building or land or any change in the Standard Industrial Classification.

**Commercial:** Any wholesale, retail, or service business activity established to carry on trade whether or not for profit.

**Commission:** The City of Pleasant Valley Planning Commission.

**Community Facilities:** Community facilities are integral parts of the physical structure of a community. They influence the community's appearance and livability. Their availability and adequacy are also a definite measure of the quality and desirability of a community. Community facilities can generally be grouped into four categories:

- a. Parks and Recreation Facilities
- b. Museums and Cultural Facilities.
- c. Schools.
- d. Public Buildings.

**Comprehensive Plan:** A composite of mapped and written text, the purpose of which is to guide the systemic physical development of Pleasant Valley and is adopted by City Ordinance.

**Conditional Use:** A use of land or activity not explicitly allowed but may be permitted after fulfillment of all local regulations and upon approval by the Board of Zoning Appeals.

**Conditional Use Permit:** A permit authorized by the City of Pleasant Valley that allows for the proper integration of compatible uses into the community.

**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 the Ordinance. All such projects are subject to the West Virginian 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.

**Day Care Center, Family:** A person, agency, or institution offering or supplying group care for no more than six children, excluding children of the day care provider, who do not all have the same parentage, for a portion or all of the day and on a regular schedule more often than once a week.

**Day Care Center, Group:** A person, agency, or institution offering or supplying group care for no more than six persons, excluding relatives of the day care provider for a portion or all of the day and on a regular schedule more often than once a week.

**Development:** The 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.

**Dwelling Unit:** Open 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.

**Dwelling, Attached:** One of a series of two or more attached dwelling units and not occupied by more than one family.

**Dwelling, Detached:** One dwelling unit surrounded by yards or other open area in the same zoning lot.

**Dwelling, Single:** A building containing not more than one dwelling unit and not occupied by more than one family.

**Easement:** A lawfully acquired right or privilege to use a parcel of land, or a portion thereof, for a specified purpose. A person other than the owner of the land parcel retains an easement.

**Engineer:** A person registered by the State of West Virginia through the Board of Registration or Professional Engineers.

**Family:** One or more persons living together as a single housekeeping unit.  
**First Story:** The lowest story or the ground story of a building, the floor of which is not more than one foot (1') below the average ground level contact at the exterior building walls. The basement or cellar shall not be considered the first story.

**Frontage, Street:** All property on the side of a street between two intersecting streets (crossing or ending) or, if the street is dead-end, then all the property abutting on one side between an intersecting street and the dead-end of the street.

**Group Residential Facility:** A facility which is owned, leased or operated by a behavioral health service provider and which:  
(1) Provides residential services and supervision for individuals who are developmentally disabled or behaviorally disabled; (2) is occupied as a residence by not more than eight individuals who are developmentally disabled and not more than three supervisors or is occupied as a residence by not more than twelve individuals who are behaviorally disabled and not more than three supervisors; (3) is licensed by the Department of Health and Human Resources; and (4) complies with the State Fire Commission for residential facilities.

**Group Residential Home:** A building owned or leased by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence. A behavioral health service provider may not lease a building to such persons if the provider is providing services to the persons without a license as provided for in this article.

**Half-Story:** -a partial story situated under roof, the wall plates of which on at least two(2) opposite exterior walls are not more than four feet (4') above the floor of such story.

**Historic Site/Property:** Any lot, parcel, historic structure, or designated area that has been listed on the West Virginia or the National Register of Historic Places.

**Home Occupation:** An occupation or business activity which results in a product or service and is conducted in whole or in part in the dwelling unit, and is clearly subordinate to the residential use of the dwelling unit (see Article 3010).

**Improvement:** Modifications to land that 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 water courses, water supply facilities, sewage disposal facilities, and park and recreation equipment.

**Institutional Housing:** Institutional Uses should be focused on activities that directly or indirectly benefit the general public; including public facilities and uses that meet the public goals. While lands incorporated into this designation are primarily intended for governmental agency use or quasi-public use, some mixed-use (public/private) orientations may be appropriate under special permit regulations.

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

**Lot:** A tract of land area which is intended for development whether immediate or future.

**Lot Area:** The total horizontal area included within the rear, sides, and front lot lines or proposed street lines of the lot.

**Lot Line:** Any boundary line of a lot defined within a plat, sketch, or drawing filed in the appropriate county records. Where a lot line is curved, all dimensions related to said lot line shall be based on the chord of the arc.

**Lot Line, Front:** A street line which forms the boundary of a lot; or in the case where a lot does not abut a street other than by its driveway, or is a through lot, that lot line which faces the principal entrance of the main building. On a corner lot, the shorter the street line shall be deemed to be the front lot line, regardless of location of the principal entrance or approach to the main building.

**Lot Line, Rear:** The lot line that is most distant from, and is most nearly parallel with, the front lot line, If a rear lot line is less than ten (10) feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be the ten (10) foot parallel to the front lot line, lying wholly within the lot for purpose of establishing the required minimum rear yard.

**Lot Line, Side:** Any lot line other than a front or rear lot line.

**Lot or Record:** A written or graphic description of a lot that is on record filed at the county courthouse and represented in the office of the Clerk of the City of Pleasant Valley at the adoption of this Ordinance.

**Mobile Home:** A detached structure with the following characteristics: It is designed for long-term occupancy and contains 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 designated 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 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, size, or parcel of land used or intended to accommodate eight (8) or more mobile homes for residential purposes with adequate public or community water and sewage service meeting Health Department standards. A mobile home park does not include mobile home sales lots where unoccupied mobile homes are parked for inspection and sale. The term includes all buildings, structures, vehicles, accessories, and appurtenances used or intended as equipment in such a park.

**Multi-Family Use:** A deeded lot or parcel on which two or more dwelling units are located.

**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.

**Non-Conforming Use:** Any actual and active use lawfully being made of any land, building, or structure not otherwise abandoned, which exists on the effective date of this Ordinance or on the effective date of any amendment thereto, and renders such existing use illegal within a district, or which does not comply in any fashion with any of the rules, requirements and regulations of this ordinance or any amendments thereto.

**Nursing Homes:** This term includes rest homes, nursing homes, and convalescent homes for children and homes providing chronic and convalescent care.

**Open Space:** Any area which does not consist of streets, right of ways, parking, or easements, and serves as a passive or active recreational area, as conservation land for important vistas and topographic features, or as pervious cover for watershed requirements. This area provides, or has the potential to provide, environmental, social and/ or economic benefits to the community whether direct or indirect.

**Permitted Use:** The primary or predominant use of any site in relation to the specific zone.

**Plat:** A scaled, graphic drawing of a land area 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 subdivision or development.

**Primary Structure:** A building in which the primary use of the premises is conducted.

**Prohibited Use:** A use that is not permitted.

**Public Highway:** Any highway or road in Pleasant Valley which is part of the Federal or West Virginia public highway system and which is so identified and numbered on the most recent general Highways Map published by the West Virginia Department of Highways.

**Public Uses:** Government properties (County, State, and Federal) are considered Public Uses. Public Uses areas are separate and distinct from other planning area designations. The public use designation is applied as an individual parcel. Educational institutions (schools and colleges), churches and cemeteries, and utilities are also classified under this category.

**Residential:** Any detached or attached structure that is used for permanent living quarters and has kitchen facilities.

**Right-of-Way:** A right that 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 that is intended for vehicular use. Road does not include shoulders.

**Setback:** 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.

**Shopping Center:** A commercial facility on a single lot, with common parking facilities that use or lease separate areas of space to retail or service oriented business.

**Sign:** any identification, description, illustration advertisement, or device illuminated or non-illuminated which is visible to the general public and directs attention to a product, location or individual.

**Sign, Construction:** A sign identifying individuals or companies involved in design, construction, wrecking, financing, or development when placed upon the premises where work is under construction, but only for the duration of the construction or demolition.

**Sign, Illuminated or Flashing:** A sign in which an artificial source of light is used in connection with the display of such sign. This includes a “Flashing” sign by which the artificial source of light is not maintained stationary or constant in intensity and color at all times when such sign is illuminated. This would include any moving illuminated sign.

**Sign, On-Premise:** A sign which directs attention to a business, activity, commodity, service, or entertainment that is expressly conducted, sold, or offered upon the premises where such 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, Portable:** A sign not permanently affixed to the ground, a building, or other structure, which may be moved from place to place.

**Sign, Real Estate:** A sign that offers for sale, lease, or rent the premises in which the sign is placed.

**Sign, Temporary:** A non-permanent sign erected, affixed, or maintained on a premises for a short, usually fixed, period of time.

**Sign, Window:** A sign attached to, placed upon, or painted on the interior or exterior of a window or door of a building which is intended for viewing from the exterior of such building.

**Site Plan:** A required submission, prepared and approved in accordance with the provision of this Ordinance (if required), which contains detailed engineering drawings of the proposed uses and improvements required in the development of a given lot.

**Sketch Plan:** An informal drawing of a lot layout design and/or proposed improvements which is prepared according to the provisions of the Ordinance and which assists the Planning Commission and the owner in reviewing the general scope, feasibility, and impact of a proposed project.

**Specified Anatomical Areas:** Less than completely and opaquely covered: human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or human male genitals in a discernible turgid state, even if completely and opaquely covered.

**Specified Sexual Activities:** Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; or

fondling or other erotic touching of human genitals, pubic region, buttock or breast.

**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:** Those persons employed by the Planning Commission or Board, whether under direct employment or by contractual agreement.

**Story:** That portion of a building included in the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and ceiling next above it.

**Street:** Same as “Road” – A prepared surface within a right-of-way which is intended for vehicular use. Road does not include shoulders.

**Temporary Use:** A use of land, not otherwise permitted in this Ordinance, approved by the City Enforcement Officer or designated City Official for a fixed duration in accordance with Article 6000, IV.

**Variance:** A departure from the terms of these regulations. A variance may be granted under this ordinance only upon application to, and the approval of, the Board of Zoning Appeals and in accordance with the provisions of this ordinance.

**Vehicle Sign:** 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 that are moved regularly and used in normal, day-to-day, operation of the business.

**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 not support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophilic vegetation, the substrata are predominately hydric soil.

**Yard, Front:** A space extending the full width of the lot between the architectural front of a building and the front lot line or the fronting street right-of-way measured perpendicular to the building at the closest point to the front lot line.

**Yard, Rear:** A space extending across the full width of the lot between the architectural rear of the primary building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line. Rear yards extend from the back of a building to a property line.

**Yard, Side:** A space extending from the front yard to the rear yard between the primary building façade and the side lot line and measured perpendicular from the side lot line to the closest point of the primary building façade.

**Amended and passed by City Council \_\_\_\_\_ day of \_\_\_\_\_ 2015**

\_\_\_\_\_  
**Mayor**

**Attest:**

\_\_\_\_\_  
**City Clerk**