
PART THIRTEEN — PROJECT AND ZONING CODE

ARTICLE 1302 Words, Terms and Phrases

CROSS REFERENCES

Words, terms and phrases—see generally WV Code 8A-1-2 *et seq.*

For purposes of this Zoning Ordinance, the words, terms and phrases used in this Zoning Ordinance shall have the definitions or meanings ascribed to them in this Article or in other provisions of this Zoning Ordinance. If not defined in this Zoning Ordinance or any other ordinances of the Corporation of Harpers Ferry, any word, phrase or term shall have the meaning or meanings ascribed to them in any standard or widely published dictionary or American Planning Association publication. The following rules apply:

- (a) The particular controls the general.
- (b) In the event there is any conflict or inconsistency between the heading of an article, section, subsection, or paragraph of this Zoning Ordinance and the context thereof, the heading shall not be deemed to affect the scope, meaning, or intent of the context.
- (c) In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.
- (d) In case of conflict between provisions, the more restrictive applies.
- (e) Words used in the present tense include the future.
- (f) Words used in the singular number include the plural, and the plural the singular, unless the context indicates the contrary.
- (g) The masculine includes the feminine and neuter.
- (h) The word "shall" is always mandatory and not discretionary.
- (i) A defined word, term or phrase, whether capitalized or not, shall have the meaning ascribed to it.
- (j) Unless the context clearly indicates the contrary, where a provision involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
 - (1) "and" indicates that all the connected items, conditions, provisions, or events shall apply.
 - (2) "or" indicates that the connected items, conditions, provisions, or events shall apply singly or in any combination.
 - (3) "either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- (k) No word, term or phrase defined in this Article 1302 shall have operative effect unless it is used elsewhere in this Zoning Ordinance.

Abandonment. The relinquishment of property or a cessation of the use of the property by the owner or lessee without any intention of transferring rights to the property to another or resuming the Nonconforming Use of the property for a period of one year.

Abutting. See **Contiguous**.

HISTORY:

Ord. 2015-02 (passed 01-29-2015, effective 02-16-2015) superseded all previous zoning and related ordinances to bring the Town into compliance with current WV Code. Ord. 2015-02 was further refined by Ord. 2015-07 (passed 07-13-2015) and Ord. 2017-01 (passed 02-25-2017).

PART THIRTEEN — PROJECT AND ZONING CODE

Access. The way or means by which pedestrians or vehicles approach, enter or exit property.

Addition. Any increase in the Gross Floor Area of a Structure or Use, including those in which the Structure Footprint is not enlarged.

Adjoining. See **Contiguous**.

Alley. A Right-of-Way dedicated to Public Use, other than a Street, road, crosswalk, or Easement, designed to provide a secondary means of access for the special accommodation of the property it reaches.

Alteration, Incidental. A change or replacement in the parts of a Structure, such as:

- (a) Change or replacement of interior partitions to improve a nonconforming residential structure, provided no additional Dwelling Units are created thereby;
- (b) Change or replacement of interior partitions in all other types of structures;
- (c) A minor addition on the exterior of a residential structure to provide an uncovered Porch or Patio;
- (d) Making windows or doors in Exterior Walls;
- (e) Strengthening the load bearing capacity in not more than ten percent of the total floor area to permit the accommodation of a specialized unit of machinery or equipment; or
- (f) Replacement of, or minor changes in the capacity of, utility pipes, ducts or conduits.

Alteration, Structural. A change in the supporting members of a Structure, such as bearing walls or partitions, columns, beams, or girders, or any complete restructure of the roof or Exterior Walls. A Structural Alteration shall not include any alteration that could be considered an Incidental Alteration.

Apartment. One or more rooms in a Structure designed and intended for rental occupancy as an independent and separate Dwelling Unit in a Structure containing two or more Dwelling Units. See **Dwelling, Multi-Family**.

Architectural Decoration. An element, design or motif, other than an architectural feature, installed, attached, painted or applied to the exterior of a Structure for the purpose of ornamentation or artistic expression.

As-built. Drawing or certification of conditions as they were actually constructed.

Assembly Hall. A facility or part of a Structure used for the assembly of people for receptions, weddings, parties and similar uses.

Association Hall. A facility for administrative, meeting, or social purposes for a private or nonprofit organization, primarily for use by administrative personnel, members and guests. Examples include, but are not limited to: Lions Club, Veterans of Foreign Wars, etc.

Awning. Any non-rigid material, such as fabric or other approved flexible material, that extends from the Exterior Wall of a Structure and is supported by or attached to a frame.

Basement. The portion of a Structure having at least one-half its floor-to-ceiling height below the average level of the adjoining ground and with a floor-to-ceiling height of 6.5 feet or more.

PART THIRTEEN — PROJECT AND ZONING CODE

Bed and Breakfast Inn (B&B). A dwelling in which, for compensation, up to four (4) guest rooms are provided and, for no additional charge, breakfast is customarily provided to the guests but excluding a Rooming House or a Boarding House

Block. Land that is intended to be used for urban purposes, which is entirely surrounded by Public Streets, highways, public walks, parks, rural land or Drainage channels or a combination thereof.

Buildable Area. The remaining area of a Lot, or Lots if a Project encompasses more than one Lot in accordance with the terms of this Zoning Ordinance, after the setbacks are applied on all sides and any significant areas with a slope greater than one foot vertical change and three feet horizontally are subtracted.

Build-To Line. An alignment established a certain distance from the front property line to a line along which the Structure shall be built.

Bulk plane. An imaginary inclined plane rising over a Lot, or Lots if a Project encompasses more than one Lot in accordance with the terms of this Zoning Ordinance, drawn at a specified angle from the vertical and originating from some location (e.g., Lot line) or height (e.g., height above a Lot line) which together with other provisions of this Zoning Ordinance and Lot size requirements, delineates the maximum height or bulk of any improvement which may be constructed on the Lot or Lots.

Bulk Requirements. Standards that control the height, density and location of structures.

Business. Engagement or enterprise in the purchase, sale, barter or exchange of goods, wares, merchandise or services, the maintenance or operation of offices, or of recreational and amusement enterprises for profit, that is or should be licensed in the Town and that occupies any premises for the conduct of the enterprise, but excluding any Religious Institution.

Canopy. A permanently roofed shelter projecting over a sidewalk, Driveway, entry, window or similar area, which shelter may be wholly supported by a Structure or partially supported by columns, poles or braces extending from the ground. Any roof overhang extending more than three feet from the face of a Structure shall be considered a Canopy.

Capital Improvement. The following public facilities or assets that are owned, supported, or established by the Town:

- (a) Water treatment and distribution facilities;
- (b) Wastewater treatment and disposal facilities;
- (c) Sanitary sewers;
- (d) Stormwater, drainage, and flood control facilities;
- (e) Public road systems and rights-of-way;
- (f) Parks and recreational facilities; and
- (g) Police, emergency medical, rescue, and fire protection facilities.

“Capital Improvements” as defined herein are limited to those improvements that are treated as capitalized expenses according to generally accepted governmental accounting principles

PART THIRTEEN — PROJECT AND ZONING CODE

and that have an expected useful life of no less than three years. “Capital Improvement” does not include costs associated with the operation, repair, maintenance, or full replacement of capital improvements. “Capital Improvement” does include reasonable costs for planning, design, engineering, land acquisition, and other costs directly associated with the capital improvements described herein. (Ord. 2017-08, passed 12-11-2017.)

Cemetery. Property used for the permanent internment of human remains. It may be a burial Park for earth internments, a mausoleum for vault or crypt internments or a Columbarium for cinerary internments.

Columbarium. An Accessory Structure to a Religious Institution that is normally a wall, containing one, or more, recesses or cavities, for the depository of the cremated remains of humans.

Community Center. A public Structure used for activities that, through proximity to residents, benefit the surrounding neighborhood. Activities permitted include any combination of the following: meeting space for civic groups, clubs, or organizations; spaces for the provision of daycare services; group cultural and/or recreational activities, whether self-directed or organized; space for artisans, crafters, etc., including occasional (not more than one day each week) sale of such merchandise produced on-premises; and educational and/or instructional programs.

Comprehensive Plan. That certain Plan adopted by the Town Council on June 9, 2007, as amended from time to time under WV Code 8A-3.

Condominium. A common interest community in which portions of the real estate are designated for separate ownership and the remainder of the real estate is designated for common ownership solely by the owners of those portions. A common interest community is not a Condominium unless the undivided interest in the common elements are vested in the unit owners.

Contiguous. Lots, municipal boundaries or County boundaries that are next to, abutting and having a boundary, or portion thereof, that is coterminous. Lots, municipal boundaries or County boundaries that are separated from one another only by a Street, highway, road, other public Right-of-Way or a utility Easement shall be considered Contiguous.

Common Area. Any portion of a development designed for the common use and enjoyment of the unit owners. These areas include green open spaces and may include such other uses as parking lots and pedestrian walkways. Maintenance of such areas is not the responsibility of the Town and shall be set forth by the development association in the form of restrictive covenants, which shall guarantee the maintenance of these areas.

Cooperative. A Multiple-Family dwelling owned and maintained by the residents. The entire Structure and real property is under common ownership as contrasted to a Condominium dwelling where individual units are under separate individual occupant ownership.

Contributing Resource. A historic site, historic structure or object that adds to the historic architectural qualities, historic associations, or archeological values of the Town because (1) it was present during the period of significance, and possesses historic integrity reflecting its

PART THIRTEEN — PROJECT AND ZONING CODE

character at that time or is capable of yielding information about the period, or (2) it independently meets the National Register criteria.

County. The County of Jefferson, West Virginia, and, in context, its geographical limits or its territorial limits of jurisdiction.

Critical Root Zone (CRZ). A circular area centered on a Tree with a diameter of 1.5 times the canopy spread, and in no case, closer than five feet from the trunk of any Tree.

Deck. A Structure, without a roof, accessory to but not necessarily attached to a principal Structure, and which is elevated at least six inches above grade.

Drainage. (1) Surface water run-off; (2) the removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize Erosion and sedimentation during and after construction; or (3) the means for preserving the water supply and the prevention or alleviation of flooding.

Driveway. A private roadway providing access for vehicles to a Parking Space, Private Garage, Dwelling Unit or other Structure.

Driveway, Common. A Driveway shared by adjacent property owners and privately owned and maintained.

Dwelling, Duplex. A freestanding Structure containing two Dwelling Units.

Dwelling, Manufactured Home. A Structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on sight, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used for residential, commercial, Business or institutional purposes with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein which meets the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 885401 et seq.), effective on the fifteenth day of June, one thousand nine hundred seventy-six, and the federal Manufactured Home Dwelling construction and safety standards and regulations promulgated by the Secretary of the United States Department of Housing and Urban Development. The term "Manufactured Home Dwelling or Structure" does not include job site trailers.

Dwelling, Mixed Use. A Structure containing primarily residential uses with a subordinate amount of commercial and/or office uses on the ground floor in the front of the Structure facing the primary Street Frontage. Residential units can be on the ground floor, but cannot be accessed from any portion of the Structure that faces the primary Street.

Dwelling, Modular Home. Any Structure that is wholly, or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installed on a Lot and designed for long-term residential Use and is certified as meeting the standards contained in the West Virginia State Fire Code.

Dwelling, Multi-Family. A freestanding Structure containing three or more Dwelling Units, whether they have direct access to the outside, or access to a common Structure entrance.

PART THIRTEEN — PROJECT AND ZONING CODE

Multifamily dwellings can consist of rental apartment Structures, rental or owner occupied Townhouse Dwellings, and rental or owner occupied Condominium Structures, provided that all such freestanding Structures contain three or more Dwelling Units.

Dwelling, Single Family. A freestanding Structure designed solely for occupancy by one Family for residential purposes, as a single housekeeping unit.

Dwelling, Townhouse. Also known as a Rowhouse. A Single-Family Dwelling, with private entrance, which is part of a Structure whose Dwelling Units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for Access, light, and ventilation. Setbacks are measured from the perimeter of the overall Structure.

Dwelling Unit. A single unit providing complete, independent living facilities for a single housekeeping unit or Family intended for occupancy by its owner or under a lease with the owner. In no case shall a motor home, trailer, Hotel, Boarding House, automobile, tent, or portable Structure be considered a Dwelling Unit. Dwelling units are contained within single-Family dwellings (in which case the definition is synonymous), Private Garage and accessory apartments, duplex dwellings, Mixed-Use dwellings, and Multi-Family Dwellings.

Education Facility, Elementary School. A public, private or parochial School offering educational instruction in grades kindergarten through fifth, licensed by the West Virginia Department of Education.

Education Facility, High School. A public, private or parochial School offering educational instruction in grades nine through twelve, licensed by the West Virginia Department of Education.

Education Facility, Middle School. A public, private or parochial School offering educational instruction in grades six through eight, licensed by the West Virginia Department of Education.

Education Facility, Nursery School or Preschool. A public, private or parochial School primarily for children between the ages of three and five, providing preparation for elementary School; includes nursery school and kindergarten.

Elevation. (1) A vertical distance above or below a fixed reference level; or (2) a flat scale drawing of the front, rear or side of a Structure.

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

Enlargement. An addition to the floor area of a Structure, an increase in the size of any other Structure, or an increase in that portion of property occupied by an allowed Use.

Erosion. The process by which the ground surface is worn away by the action of wind, water, gravity, ice or a combination thereof, or the detachment and movement of soil or rock fragments.

Establishment. An economic unit, generally at a single physical location, where Business is conducted or services or industrial operations performed.

PART THIRTEEN — PROJECT AND ZONING CODE

Excavation. Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

Exterior Architectural Features. The architectural character and general composition of the exterior of a Structure, including, but not limited to, the kind, texture of the Structure material, and the type, design and character of all windows, doors, massing and rhythm, light fixtures, signs, other appurtenant elements and natural features when they are integral to the significance of the Site, all of which are subject to public view from a Public Street, way or place.

Exterior Display. The outdoor display of products, vehicles, equipment and machinery for sale or lease. Exterior display is an outdoor showroom for customers to examine and compare products.

Façade. That portion of any exterior Elevation on the Structure extending from grade to top of the Parapet, wall, or eaves and the entire width of the Structure Elevation.

Façade, Principal. Exterior walls of a Structure which are adjacent to or front on a Public Street, Park, or Plaza. There may be more than one Principal Façade on a Structure.

Façade Modulation. Variations in the plane of a Structure wall that break up the mass and bulk of a Structure.

Family. One or more persons occupying a single Dwelling Unit, provided that unless all members are related by blood, marriage, legal adoption, or legal guardianship, no such family contain more than five non-transient unrelated persons, except where disability requires that more than five unrelated persons reside together; in such cases there shall be no requirement for persons with disabilities to petition, apply or experience a process to obtain approval to live in any zoning district in the Town.

Fence. An artificially constructed barrier or wall of wood, masonry, stone, brick, wire, metal, or other manufactured material or combination of materials that is more than 18 inches in height, the purpose or effect of which is to provide enclosure, protection from intrusion (both physical and visual), to prevent escape, mark a boundary, enclose, screen, restrict access to, or decorate any Lot or Structure.

Fence Height. The vertical distance measured from the top of the Fence to the lowest point of grade on the exterior side of the Fence.

Fill. Sand, gravel, earth or other materials of any composition whatsoever placed or deposited by humans, for purposes of creating a new Elevation of the ground.

Flag. Any fabric or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision, corporation, lodge, fraternity or sorority, political party, nonprofit organization, charity, club, association or other entity.

Flag, Commercial. A Flag displaying the name, insignia, emblem, or Logo of a profit-making entity.

PART THIRTEEN — PROJECT AND ZONING CODE

Flag, Public. A Flag displaying the name, insignia, emblem, or Logo of any nation, state, municipality, or noncommercial organization.

Flood. A general and temporary inundation of normally dry land areas.

Flood-prone area. Any land area susceptible to repeated inundation by water from any source.

Floor Area, Gross. The sum of the gross horizontal areas of the floors of a Structure or Structures measured from the Exterior Walls of the Structure. This definition shall include attic space providing structural headroom of eight feet or more and basement space, unless such space is used primarily for storage.

Floor Area, Net. The gross area of a floor or several floors of a Structure, excluding those areas not directly devoted to the principal or Accessory Use of the Structure, such as storage areas or stairwells, measured from the exterior faces of Exterior Walls or interior walls. Examples of areas to subtract from the Gross Floor Area include stairways, storage rooms, mechanical equipment rooms and other areas generally not accessible to the public.

Footprint, Structure. The gross horizontal area of a Structure measured from the outside of Exterior Walls at Ground Level plus the projecting structures above, whichever is larger. This includes Porches, but excludes roof overhang, uncovered stairs, Patios, Driveways and walkways.

Frontage. (1) The boundary of a Lot fronting on a Public Street; (2) the front Lot line.

Gambling Establishment. An Establishment that offers any form of gambling or games of chance that is regulated under the provisions of the Limited Video Lottery Act codified in the Code of West Virginia, Chapter 29, Article 22B, Section 101.

Garage, Private. A detached Accessory Structure or portion of a main Structure housing the automobiles of the occupants of the premises.

Garage, Public. A Structure or part thereof for the parking or storage of motor vehicles and in which no other Use is conducted, which is available for Public Use.

Gardens. A planned space, set aside for the display, cultivation, and enjoyment of plants including vegetables, flowers, and fruits, which may include the keeping of chickens and/or bees, for private/personal use.

Government Facility. A Structure owned, operated or occupied by a governmental agency to provide a governmental service to the public. Such facilities are generally exempt from municipal zoning; except when they are sold or leased to a private firm or person for purposes of conducting a nongovernmental use therein.

Grade Level. A reference plane representing the average ground level about a Structure. Grade Level is the average of the finished ground level at the center of all walls of a Structure. In case walls are parallel to and within five feet of sidewalks, the above-ground level shall be measured at the sidewalks.

PART THIRTEEN — PROJECT AND ZONING CODE

Grade, Percentage of. The rise or fall of a slope in feet and tenths of a foot for each 100 feet of horizontal distance.

Ground Cover. Any evergreen or broadleaf evergreen plant that does not attain a mature height of more than one foot. Sod and seed shall also be considered as qualifying groundcover.

Harpers Ferry. See **Town.**

Historic Resources Plan. A document that identifies all Contributing Resources within the subject area, a description of the overall historic context of the Site.

Historic Structure. Any Structure that is (1) listed individually on the National Register of Historic Places or preliminarily determined by the United States Secretary of Interior as meeting the requirements for individual listing on the National Register; (2) certified or preliminarily determined by the United States Secretary of Interior as contributing to the historical significance of a registered Historic District; (3) individually listed on the West Virginia inventory of historic places; (4) individually listed on a Town, City, County, or other local inventory of historic places that has been certified by an approved State program as determined by the United States Secretary of Interior.

Historic Structure Report. A document that consists of (1) a narrative that documents the evolution of a Contributing Resource, its physical description, existing condition assessment and an evaluation of significance, (2) a discussion of historic preservation objectives, together with recommendations for an overall treatment approach and for specific work, (3) photos of existing conditions, and (4) measured drawings.

Home-Based Business. Any Business, occupation, or activity undertaken for gain where the principal office or place of Business is located within a residential Structure or a permitted Accessory Structure that is incidental and secondary to the use of that Structure. Such a Business is not open to the public except by appointment.

Hostel. A Single Family Dwelling that provides inexpensive shared lodging, breakfast, and sanitary accommodations for supervised short term stays, typically for hikers and bikers.

Hotel. A Structure in which lodging is provided and offered to the public for compensation, and that is open to transient guests and is not a Rooming House or Boarding House.

House, Boarding. A Single Family Dwelling that provides inexpensive shared lodging and sanitary accommodations for extended stays, typically serving meals. The Boarder is considered to be in residence at that location.

House, Rooming. A Single Family Dwelling that provides inexpensive shared lodging and sanitary accommodations for extended stays, typically without serving meals. The Roomer is considered to be in residence at that location.

House Trailer. Any vehicle, with or without motive power, with or without wheels at the time of being placed on such premises or real property, and designed, or modified to be used as a Dwelling Unit.

PART THIRTEEN — PROJECT AND ZONING CODE

Impervious Surface. A surface composed of any material that significantly impedes or prevents natural infiltration of water into soil, including but not limited to roofs, Structures, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

Improvement. Modifications to land that increases its value or utility, including but not limited to Structures, road grading, road surfacing, Fences, Retaining Walls, curbs, Street gutters, below- or above-grade utility lines and facilities, storm sewers and drains, sidewalks, signs, modifications to watercourses, water supply facilities, sewage disposal facilities, and Park and recreation equipment (excludes residentially-sized HVAC or similar equipment provided such equipment is compliant with screening and other requirements in this Zoning Ordinance).

Land Surveyor. A person so registered or licensed by the State of West Virginia by the Board of Examiners of Land Surveyors.

Landscaped Area. A portion of Site containing vegetation to exist after construction is completed. Landscaped areas include, but are not limited to, natural areas, buffers, streetscapes, lawns and plantings.

Landscaped Buffer. An area of Landscaping separating two distinct land uses, or a land Use and a public Right-of-Way, and acts to soften or mitigate the effects of one land Use on the other.

Landscaping. Open area devoted primarily to trees, grass, shrubs, or plants to soften Structure lines, provide shade and generally produce a pleasing visual effect of the premises. As complementary features, fountains, pools, screens, decorative lighting, sculpture, or outdoor furnishings may be placed within the area.

Library. A Structure containing printed, pictorial, and digital material for Public Use for purposes of study, reference and recreation.

Loading Space. An Off-Street space or berth on the same Site with a Structure, or Contiguous to a group of Structures, for the temporary parking of a vehicle while loading or unloading merchandise, materials or persons, and which has ingress and egress upon a Street, Alley, other appropriate means of Access.

Logo. The graphic or pictorial presentation of a message, including, but not limited to, the use of shapes, designs, decorations, emblems, trademarks, symbols or illustrations, or the superimposition of letters or numbers or any other use of graphics or images other than the sequential use of letters and numbers.

Long-term Rental. The Use of a Dwelling Unit offered for rent for occupancy by tenants for a tenancy of greater than 30 days, excluding a Hotel, Rooming House, Boarding House or Bed and Breakfast Inn.

Lot. See **Lot of Record**.

Lot Area. The total horizontal area contained within the Front, Rear and Side Lot lines of any Lot.

PART THIRTEEN — PROJECT AND ZONING CODE

Lot, Corner. A Lot located at the junction of two or more intersecting streets.

Lot Coverage. The total area covered, measured from the outside of the Exterior Walls, by all principal and Accessory Structures on a Lot. Driveways, parking areas, open porches, decks, balconies and similar features that are not covered by a roof shall not be counted.

Lot Depth. The distance measured from the Front Lot line to the Rear Lot Line. Where the Front and Rear Lot Lines are not parallel, the Lot depth shall be measured by drawing lines from the Front to Rear Lot Lines at right angles to the Front Lot Line, every ten feet and averaging the length of these lines.

Lot, Double Frontage. A Lot which runs through a Block from Street to Street and which has Frontage on two or more Streets, but not a Corner Lot.

Lot, Flag. A polygonal-shaped Lot with the appearance of a frying pan or flag and staff in which the handle is most often used as the point of Access. The handle, when less than the minimum width for a Lot in the zoning district in which it is located, is not to be used in computing the minimum required Lot area or delineating the minimum required Structure envelope.

Lot, Irregular. A Lot of such shape or configuration that technically meets the area, Frontage and width to depth requirements of the Zoning Ordinance but has unusual elongations, angles, and curvilinear lines.

Lot, Reverse Frontage. A Corner Lot of such size and shape that a Structure erected on it might logically be designed to face on either Adjoining Street, thus causing the Structure to rear on the sideline of any Abutting Lot.

Lot Line. The property line bounding a Lot.

Lot Line, Front. The Lot Line that abuts an existing or dedicated Public Street. In no case shall there be more than two Front Lot Lines applied to any Lot.

Lot Line, Rear. (1) The Lot Line that is opposite and most distant from the Front Lot Line; (2) in the instance of a Rear Lot Line is less than 10 feet in length, or if the Lot forms a point opposite the Front Lot Line, the Rear Lot Line shall be a line 10 feet in length within the Lot, parallel to and at the maximum distance from the Front Lot Line.

Lot Line, Side. Any Lot line which is not a Front Lot Line or a Rear Lot Line.

Lot of Record. In the Town, a Lot is land within the municipal boundaries that is described by metes and bounds, the description of which has been placed of record in the County, or platted and numbered by S. Howell Brown as shown on maps of the Town dated 16 April 1869, copies of which may be seen on the wall of the office of the Clerk of the Jefferson County Commission and on the wall of the offices of the Town along with subsequent modification to plat boundaries as recorded in the County Deed Books and on the Zoning Map.

PART THIRTEEN — PROJECT AND ZONING CODE

Lot, Through. A Lot other than a Corner Lot with Frontage on more than one Street. Through lots Abutting two streets may be referred to as Double Frontage Lots.

Lot Width. The distance between the Side Lot Lines of a Lot at the Structure line.

Marquee. A roof-like structure that cantilevers from the wall of a Structure over its principal entrance, that has no vertical supports other than the wall from which it cantilevers, and that provides a wall surface at least four feet high, generally constructed for purposes of containing a Sign.

Museum. A Structure having public significance by reason of its architecture or former Use or occupancy or a Structure serving as a repository for a collection of natural, scientific, or literary collections, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an Accessory Use the sale of goods to the public.

Nonprofit Organization. Any person(s), partnership, association, corporation or other group legally established under federal and state law whose activities are conducted for unselfish, civic, or humanitarian motives, or for the benefit of others, and not for the gain of any private individual or group and may include, but shall not be limited to, patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, charitable, scientific, historical, athletic, or medical activities.

Off-Site Improvements. Any utility, Structure, or modification of topography located other than on the Site it is intended to serve.

Office, Apartment Rental. An Accessory Structure or Structure, or part thereof, used primarily for the purpose of performing the administrative and clerical duties associated with renting or leasing the Apartment units in an apartment complex.

Office, Associated with Permitted Industrial Land Use. An Accessory Structure or Structure, or part thereof, used primarily for the purpose of performing the administrative and clerical duties associated with the principal permitted industrial land Use.

Office Structure. A Structure used primarily for offices that may include ancillary services for office workers, such as a Restaurant, coffee shop, newspaper, or snack stand.

Office, Business or Professional (Unlimited). A room or suite of rooms or portion of a Structure used for the practices of a profession or for the conduct of a Business that involves the accessory sale of goods from the premises. If the goods or merchandise are sold for delivery on or from the premises and constitute greater than 20 percent of the gross revenue from the office, then the premises shall be considered a store rather than an office.

Office Park. A development that contains a number of separate Office Structures, supporting uses and open space designed, planned, constructed, and managed on an integrated and coordinated basis, and located on one or more Lots.

Office, Professional. A Structure, or part thereof, used for conducting the affairs of a Business, profession, service industry, or government. Does not include the sale or display of materials or goods.

PART THIRTEEN — PROJECT AND ZONING CODE

Open Space. Any land or area, the preservation of which in its present use would: (1) conserve or enhance natural or scenic resources; or (2) promote streams or water supply; or (3) promote conservation of soils, or wetlands; or (4) enhance the value to the public of Abutting or neighboring parks, forests, wildlife preserves, nature reservations, or sanctuaries; or (5) enhance recreational opportunities.

Open Space, Improved. Parks, playgrounds, swimming pools, ball fields, plazas, landscaped green spaces, and other areas that are created or modified by man. Improved Open Space shall not include schools, Community centers or other similar areas in public ownership.

Open Space, Natural. Areas of natural vegetation, water bodies, or other landforms that are to be left undisturbed. Creation of a graded and surfaced walking trail through areas of Natural Open Space shall constitute disturbance of the area in the amount of the length of the walking trail multiplied by its approximate average width. Natural Open Space shall not include schools, community centers or other similar areas in public ownership.

Ordinance Compliance Officer. Any person or persons duly designated, appointed or employed by any commission, board or agency of the Town, or of any jurisdiction that the Town Council has duly designated to exercise any power or authority under any law, ordinance or rule or regulation under its or their jurisdiction.

Parapet. The portion of a wall which extends above the roofline.

Park. Any area that is predominately open space, available to the public and used principally for active or passive recreation, and not used for a profit-making purpose.

Parking, Off-Street. Space occupied by automobiles on premises rather than streets.

Parking, On-Street. The storage space for an automobile that is located within the Street Right-of-Way.

Parking, Shared. A public or private parking area used jointly by two or more users.

Parking Lot, Commercial. A private Parking Lot that is the stand alone Use of the property, and whose stalls are leased to individuals.

Parking Lot, Public. A publicly owned or operated open area other than a Street or Alley, designed to be used for the temporary parking of more than four motor vehicles, whether free or for compensation, and available for use by the public or as an accommodation for clients or customers.

Parking Lot, Restricted Accessory. A Parking Lot, whether free or for compensation, and available for private use or as an accommodation for clients or customers, that provides parking that is accessory to a Use on that Lot or a separate Contiguous Lot.

Parking Space. A space in a garage, parking lot, or marked parking area, not less than 8.5 feet wide clear dimension and 18 feet long clear dimension, reserved for the parking of only one automobile.

PART THIRTEEN — PROJECT AND ZONING CODE

Parking Space, Compact. A space in a garage, parking lot, or marked parking area, not less than 7.5 feet wide clear dimension and 15 feet long clear dimension, reserved for the parking of only one compact automobile.

Parking Space, Handicap. A space in a garage, parking lot, or marked parking area not less than 13 feet wide and 18 feet long in clear dimension, reserved exclusively for an automobile registered with the State with handicapped license plates or displaying an official State issued handicapped placard.

Parking Structure. A Structure designed to accommodate vehicular Parking Spaces that are fully or partially enclosed or located on the deck surface of a Structure. This definition includes Public Garages, deck parking and underground or under Structure parking areas.

Patio. A level surfaced area directly adjacent to a principal Structure, without walls or a roof. A Patio may be constructed of any material or combination of materials, and is typically constructed at Grade Level or slightly higher.

Paved Surface Area. Ground surface covered with cobblestones, clay fired bricks, concrete precast paver units, poured concrete with or without decorative surface materials, blacktop, or other asphalt or rubber mixture which may include sand or gravel as an ingredient and which creates a hard surface. A graded natural surface or one covered with rolled stone or overlaid with loose gravel is not considered a paved surface.

Pennant. Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, which is suspended from a rope, wire, string or pole, usually in series, and which is designed to move in the wind.

Performance Bond. Any security that may be accepted by the Town as a guarantee that improvements required as part of an application for a Project Permit are satisfactorily completed and that damage to public infrastructure is satisfactorily repaired.

Permit, Project. A document of approval for a Project issued by the Proper Authority upon the application of any person seeking an approval to undertake such Project within the Town for which approval is required.

Person. Any individual, association, company, corporation, entity, firm, organization or partnership, singular or plural, of any kind.

Personal Services Establishment. A Business which is associated with the grooming or health of persons or the maintenance or repair of personal wardrobe articles and accessories, and may include a barber shop, beauty parlor, shoe repair shop, self-service laundry, but not a tattoo parlor. The definition shall apply whether or not the individual engaged in the offering of said service is required to be licensed by the State of West Virginia.

Plaza. An open space that may be improved, landscaped, or paved usually surrounded by Structures or streets.

PART THIRTEEN — PROJECT AND ZONING CODE

Porch. A covered but unenclosed projection from the main wall of a Structure that may or may not use columns or other ground supports for structural purposes. If a Porch is uncovered it is considered to be a Deck.

Professional Services Establishment. An Establishment engaged in providing Professional Services such as consulting, legal, engineering, accounting, architectural and the like, but not including personal services.

Project. A Project includes: (1) construction, reconstruction, alteration or enlargement of any Exterior Architectural Features of a Structure; (2) demolition or relocation of a Structure; (3) construction, reconstruction, alteration, enlargement or relocation of a Sign; (4) the implementation of any Use of a Structure or Lot where such Use of such Structure or Lot did not begin until after the date on which this Zoning Ordinance was enacted or was subsequently amended if such Use of such Structure or Lot was lawful prior to such subsequent amendment; or (5) the intensification of any Nonconforming Use of a Structure or Lot where the Nonconforming Use of such Structure or Lot has not been abandoned and had begun prior to the enactment of this Zoning Ordinance or prior to a subsequent amendment of this Zoning Ordinance if such Use was lawful prior to such subsequent amendment.

Proper Authority. That individual, commission or committee to whom a certain authority has been delegated by Town Council resolution or by the Mayor's appointment.

Public Services (Police or Fire). Police and fire service establishments owned, operated and managed by the Town or County.

Recreational or Sports Facility, Group. A private athletic or sports facility designed to serve a large number of people as opposed to individuals or individual families. Such facilities include but shall not be limited to arenas, auditoriums, stadiums, play fields, tracks, and country clubs. Such facilities may contain rooms and other provisions for social functions and the serving of food or alcoholic beverages.

Recreational Facility, Small. A private facility designed to serve a small number of people for free time activities such as exercise, music, games, reading, arts and crafts, or dance. Such facilities may contain rooms for social functions and the serving of food or alcoholic beverages.

Recreational Vehicle (RV). A vehicle built on a single chassis, and designed to be self-propelled or towed by another vehicle. A Recreational Vehicle is not designed or intended for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use. This definition includes vehicles such as travel trailers, motor homes, boats, house-boats, and campers.

Religious Institution. A Structure where persons assemble for religious worship or expression of religious faith and which is maintained and controlled by a religious body organized to sustain worship or expression of religious faith, together with all Accessory Structures and Structures and uses associated with the primary purpose. Such Structures include churches, synagogues, temples, mosques, or other Structures for worship and religious activities, including schools, daycare centers.

PART THIRTEEN — PROJECT AND ZONING CODE

Religious Organization Bulletin Board. A Sign on the premises of a Religious Institution that gives information about that Religious Institution.

Repair or Maintenance. An activity that restores the character, scope, size, or design of a serviceable area, Structure, or land Use to its previously existing, authorized, and undamaged condition. Activities that change the character, size or scope of a project beyond the original design and drain, dredge, Fill, Flood, or otherwise alter additional regulated wetlands are not included in this definition.

Residential Care Facility. A residential dwelling used for long-term care of residents on a commercial basis.

Restaurant. A commercial Establishment where food and beverages are prepared, served, and consumed primarily within the principal Structure and where food sales constitute more than 60 percent of the gross sales receipts. Take-out and walk-away services are included.

Retail Sales Establishment. A Business having as its primary function the supply of merchandise or wares to the end consumer. Such sales constitute the primary function of the Business when such sales equal at least 80 percent of the gross sales of the Business.

Retaining Wall. A wall or terraced combination of walls used principally to retain more than 18 vertical inches of material and not used to support, provide a foundation for, or provide a wall for a Structure.

Rezoning. An amendment to the Zoning Map to effect a change of the designated land Use district.

Right-of-Way. A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a Street, trail, waterline, sanitary sewer or other public utilities or facilities.

Service Establishment. See Personal Services Establishment or Professional Services Establishment.

Setback, Front. The distance between the Street Right-of-Way line and the closest point of the foundation of a Structure or projection thereof.

Setback, Rear. The shortest distance between the Structure line and the Rear Lot Line.

Setback, Side. The shortest distance between the Structure line and the Side Lot Line.

Short -term Rental. The Use of a Dwelling Unit offered for rent for transient occupancy by tenants for a tenancy of 30 days or less, excluding a Motel, Hotel, Rooming House, Boarding House or Bed and Breakfast Inn.

Sidewalk Sale. A seasonal or occasional sale held on the sidewalk or other Structure along the front or side of the place of Business where goods are offered for sale to the public, typically at a discounted price.

PART THIRTEEN — PROJECT AND ZONING CODE

Sign. Any device including but not limited to writing, letter work, letters, words, numerals, figures, emblems, illustrations, decorations, pictorial representations, pictures, emblems, devices, symbols, word marks, service marks, trademarks, flags, banners, pennants, device figures, device characters or any part or combination of these used for visual communication intended to attract the attention of the public and be visible from the public Right-of-Way or other properties.

Sign, Abandoned. A Sign which no longer identifies a bona fide Business conducted or product sold on the premises, or the premises to which such Sign relates if such Sign is an Off-Premises Sign. A Sign shall be deemed abandoned when these conditions have been in existence for a period exceeding one year.

Sign, Animated. Any Sign that uses movement or change of lighting to depict action or create a special effect or scene.

Sign, Awning. A Sign located on an Awning. See **Canopy Sign**.

Sign, Back-to-Back. Two or more integrally connected Signs facing in opposite directions and separated by not more than five feet.

Sign, Banner. Any Sign with or without characters, letters, illustrations, or ornamentations applied to cloth, paper, flexible plastic, or fabric of any kind with only such material for backing. All banners are Temporary Business Signs.

Sign, Structure. Any Sign attached to any part of a Structure.

Sign, Structure Marker. Any Sign indicating the name of a Structure and date and incidental information about its construction. Such Sign typically is cut into a masonry surface or made of bronze or other permanent material.

Sign, Business Identification. Any Sign located within and upon the premises of a Business that pertains to the name, purposes and conduct of the Business.

Sign, Business Information. Any Sign that is not a Business Identification Sign but rather pertains to operations (such as "open" or "closed") or pertains to means for access (such as "entrance up stairs").

Sign, Business Merchandise. Any Sign that lists or describes the goods or articles for sale or types of services offered by the enterprise (such as menus).

Sign, Canopy. Any Sign that is a part of or attached to a structural protective cover over a door, entrance, window or outdoor service area. A Marquee Sign is not a Canopy Sign.

Sign, Changeable Copy. Any Sign designed so that letters or numbers attached to the Sign can be periodically changed to indicate a different message.

Sign, Commercial Message. Any sign, wording, Logo or other representation, except for the actual name of the Business, that, directly or indirectly, names, advertises or calls attention to a Business, product, service or other commercial activity.

PART THIRTEEN — PROJECT AND ZONING CODE

Sign, Building Construction. Any Sign bearing the names of contractors, architects, engineers and the like, or advertising, promotions, price ranges and similar information.

Sign Copy. Any word, letter, number or emblem affixed to the Sign surface either permanently or in removable form.

Sign, Directional. An On-Premise Sign that includes information assisting in the flow of pedestrian or vehicular traffic such as enter, exit, and one-way. A Directional Sign excludes commercial messages and logos but may include information, that has a purpose secondary to the Use of the Site on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone,” and similar information and directives. A Directional Sign may also include information stating the hours of operation of a Business, emergency telephone numbers, credit card usage, or other information of a similar nature.

Sign, Directory. A ground or Structure Sign that lists tenants or occupants of a Structure or project with unit numbers, arrows or other directional information.

Sign, Electronic Message Board. A Sign with a fixed or changing display/message that is electronically programmed and can be modified by electronic processes.

Sign, Externally Illuminated. A Sign illuminated primarily by light directed toward or across it or by backlighting from a source not within it. Sources of illumination for such signs may be in the form of gooseneck lamps, spotlights, or luminous tubing.

Sign, Flashing. A Sign, the illumination of which is not constant in intensity when in use, and which exhibits sudden or marked changes in lighting effects.

Sign Face. The area of a Sign on which the copy is placed.

Sign, Freestanding. A Sign that is attached to, erected on, or supported by some structure (such as a post, mast, frame, or other structure) that is not itself an integral part of or attached to a Structure whose principal function is something other than support.

Sign, Ground. Any Sign attached to the ground. See Freestanding Sign.

Sign, Internally Illuminated. A Sign whose light source is either located in the interior of the sign so that the rays go through the face of the sign, or which is attached to the face of the sign and is perceived as a design element of the sign.

Sign, Marquee. A Sign attached to or mounted on a Marquee.

Sign, Menu-Board. An accessory Sign providing items and prices associated with a drive-thru window.

Sign, Monument. A Freestanding Sign where the base of the sign structure is on the ground or a maximum of 12 inches above the adjacent grade. The width of the top of the sign structure can be no less than 90 and no more than 120 percent of the width of the base.

Sign, Neon. A Sign containing glass tube lighting in which a gas and phosphors are used in combination to create a colored light.

PART THIRTEEN — PROJECT AND ZONING CODE

Sign, Nonconforming. A Sign lawfully erected and maintained before the effective date of the Zoning Ordinance that does not conform with the requirements of the Zoning Ordinance.

Sign, Off-Premise. A Sign that directs attention to a Business, commodity, service, or entertainment not exclusively related to the premises where such a Sign is located or to which it is affixed.

Sign, On-Premise. Any Sign identifying or advertising a Business, person, activity, goods, services, or products, located on the premises where the sign is installed and maintained.

Sign, Permanent Business. Any Business Identification Sign, Business Information Sign or Business Merchandise Sign and not a Temporary Business Sign.

Sign, Pole. A Sign that is mounted on a freestanding pole(s) or other support so that the bottom edge of the sign face is six feet or more above the grade. Also called a pylon sign.

Sign, Political. A Sign attracting attention to political candidates or issues, expressing support for a candidate for public office or another position regarding a public figure or issue, but bearing no commercial message.

Sign, Portable. Any Sign not permanently attached to the ground or other permanent Structure or a Sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs made as A-frames or T-frames; and balloons used as signs.

Sign, Post and Panel. A Sign consisting of one or more panels which are supported between two posts and which is permanently placed in the ground.

Sign, Projecting. Any Sign attached to a Structure wall and extending laterally more than 18 inches from the face of such wall.

Sign, Public Information. Any Sign erected and maintained by public officials or public agencies, or approved and authorized for use by state or local government authorities.

Sign, Real Estate. A Sign advertising real property for sale or for lease.

Sign, Roof. A Sign erected, constructed, and maintained above the eaves of a Structure.

Sign, Sandwich Board. A Sign not permanently attached to the ground or some type of permanent Structure; a Sign connected to or located on A or T frames; a two-sided Sign attached to boards.

Sign, Shingle. A Sign suspended from and located entirely under a covered Porch, covered walkway or Awning.

Sign, Special Purpose. A Sign advertising or announcing a special community wide event or activity conducted by, or sponsored by, or on behalf of a unit of local government, a charitable organization, or a nonprofit corporation. For purposes of this term, a special

PART THIRTEEN — PROJECT AND ZONING CODE

community wide event or activity is one that occurs not more than twice in any 12-month period and seeks to attract donations, participants, or customers throughout the Town.

Sign, Suspended. A Sign that is suspended from the underside of a horizontal plane surface and supported by such surface.

Sign, Temporary Business. Any Business Identification Sign, Business Information Sign or Business Merchandise Sign not a Permanent Business Sign that is used only temporarily and is not permanently mounted for which a Sign Permit is required.

Sign, Traffic. A Sign indicating federal, state, or municipal regulations for automobile, truck, bicycle or pedestrian movement.

Sign, V-Type. For purposes of computing surface area, is two separate signs if the angle between the two outer surfaces is less than 60 degrees; otherwise the wings shall be considered one Sign.

Sign, Wall. Any Sign painted on or attached to and extending not more than six inches from an Exterior Wall in a parallel manner.

Sign, Window. Any Sign that is visible to the public Right-of-Way through the glassed areas of a Structure including numbering, lettering, or writing, pictorial representation, emblem, Flag, or any other figure of similar character. The window area covered by signage shall not exceed 25 percent of the total window square footage, but may be increased to 50 percent of the total window square footage if there are no Wall Signs on the premises.

Signplate, Structure. A Sign indicating the name and address of a Structure, or the name of an occupant thereof, and the practice of a permitted occupation therein.

Site. The property, including one or more Lots, on which a Project is to take place or is taking place. A Site includes property on which a Project has been completed but only if the commencement of such Project occurred on or after the date on which this Zoning Ordinance was enacted or was subsequently amended if such Project would not have been subject to this Zoning Ordinance prior to such subsequent amendment. Furthermore, any other property set forth in a Project Permit application shall be considered part of the Site for the corresponding Project so long as: (1) such Project Permit application states that such other property is to be part of such corresponding Project and (2) the inclusion of such other property is otherwise permitted by this Zoning Ordinance.

Standards and Guidelines. Any and all standards and guidelines for Projects that are set forth in this Zoning Ordinance, which includes the standards and guidelines set forth in Appendix A, Appendix B and Appendix C of this Zoning Ordinance.

Storage, Enclosed. Storage that is completely screened from view by walls and a roof.

Storage Facility, Indoor Self. A Structure containing separate, individual and private storage spaces of varying sizes that are leased or rented by individual lease for varying periods of time, with the Use contained within one Structure and the storage bays accessed primarily from the interior of the Structure.

PART THIRTEEN — PROJECT AND ZONING CODE

Storage, Facility. One or more structures containing separate, individual and private storage spaces of varying sizes leased or rented by individual leases for varying periods of time, with the Use contained in one or more Structures with the storage bays accessed primarily from the exterior of the Structure or Structures.

Story. That portion of a Structure above ground level at the Structure line that is between the floors, except that the top Story shall be that portion of a Structure included between the upper surface of the top floor and the ceiling or roof above.

Street. A way designated or intended for general Public Use, open to vehicular and pedestrian travel.

Street, Arterial. A Street designated for large volumes of traffic movement. Certain Arterial Streets may be classed as limited access highways to which entrances and exits are provided only at controlled intersections and access is denied to abutting properties.

Street, Collector. A Street which primarily collects traffic from Local Streets and feeds it to the arterial network. Collector streets provide circulation within neighborhood areas.

Street, Cul-de-sac. A Street with a single common ingress and egress and with a turnaround at the end.

Street, Dead-end. A Local Street open at one end only and without a special provision for vehicles turning around.

Street Frontage. The distance for which a Lot Line adjoins a Public or Private Street from one Lot Line intersecting said Street to the furthest Lot Line intersecting the same Street.

Street, Frontage Road. A minor Street, parallel to and adjacent to an Arterial Street, whose primary purpose is providing access to properties that abut it.

Street, Half. A Street where the full cross section, curb to curb, is constructed in more than one phase.

Street, Local. A minor Street which collects and distributes traffic between Lots and Collector or Arterial Streets, with the principal purpose to provide access to abutting property.

Street, Major. A primary or secondary arterial roadway as designated on the official community plan or as designated by the Town.

Street, Paper. A public Right-of-Way platted as a Street on the Howell Brown map of Harpers Ferry dated 26 April 1869 which has not been subsequently improved by the Town for vehicular access and which has not been ceded to the US Government as part of the National Park.

Street, Public. Any pre-existing County roadway heretofore annexed by the Town, and which forms a part of the Town by reason of such annexation, or any Street or road granted to and accepted by the Town Council of the Town.

PART THIRTEEN — PROJECT AND ZONING CODE

Street, Private. Any road or Street that is not publicly owned and maintained and used for access by the occupants of a development, their guests, and the general public.

Street, Residential. A Street used primarily for access to properties that abut it, usually residential.

Structure. Anything constructed or erected for Use, occupancy or ornamentation whether installed on, above or below the surface of land or water that requires the location on the ground or that is attached to something having location on the ground, excluding vehicles designed and used only for the transportation of people or goods, and excluding utility poles and towers constructed by a public utility and surface treatments such as parking lots, patios and driveways. A Structure does not include such things as garden ornaments or other non-permanent objects.

Structure Height. The vertical distance to the highest point of the roof for flat roofs; to the Deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs measured from the curb level if the Structure is not more than 10 feet in distance from the front Lot line, or from the Grade Level in all other cases. This height does not include a Parapet up to two feet when such a Parapet is intended to shield rooftop machinery from view. Note: The actual topmost height of a Structure roof segment or its elements (e.g., chimney, etc.) may exceed this calculation.

Structure, Accessory. A subordinate Structure, such as a garage, a shed, a storage Structure, a swimming pool or any other Structure detached from but located on the same Lot or Site as a Principal Structure and ordinarily used only by the owner or occupant of the Principal Structure and not as a residence. The Use of a subordinate Structure must be accessory or complimentary to the Use of the Principal Structure. An Accessory Structure having any part of a wall in common with a Dwelling Unit is considered part of the main Structure.

Structure, Detached. A Structure with no vertical common or party wall with another Structure.

Structure, Nonconforming. A Structure that lawfully existed prior to the enactment of the Zoning Ordinance or prior to a subsequent amendment of this Zoning Ordinance if such Structure would have been lawful prior to such subsequent amendment, but which is not in compliance with the requirements of the Zoning Ordinance for the district in which the Structure is located.

Structure, Principal. A Structure in which is conducted the Principal Use of the Lot or Site on which it is located.

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

Substantial Improvement. Any reconstruction, rehabilitation, Addition, or other Improvement of a Structure, the cost of which equals or exceeds 50 percent of the market value of the Structure before the start of construction of the Improvement. Includes Structures that have incurred "Substantial Damage" regardless of the actual repair work performed. The term does

PART THIRTEEN — PROJECT AND ZONING CODE

not, however, include any project for Improvement of a Structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the Ordinance Compliance Officer and that are the minimum necessary to assure safe living conditions.

Town. The municipal Corporation of Harpers Ferry.

Tree. A plant having at least one well-defined stem or trunk and normally attaining a mature height of at least 15 feet, with an average mature spread of 15 feet, and having a trunk that shall be kept clear of leaves and branches at least six feet above grade at maturity.

Tree, Public. Any Tree located on Town-owned or controlled property including parks, Street Right-of-Ways, parkways, etc.

Use. Any purpose for which a Structure is maintained or occupied; or any activity, occupation, Business, or operation carried on in a Structure.

Use, Accessory. A Use that is (1) customary and incidental to the Principal Use located on the same Lot or Site; (2) subordinate in area, extent and purpose to the Principal Use; (3) contributes to the comfort, convenience, or necessity of the Principal Use; and (4) is located on the same Lot or Site and in the same zoning district as the Principal Use.

Use, Conditional. A Use which because of special requirements or characteristics may be permitted in a particular zoning district only after review by the Board of Zoning Appeals and upon issuance of a Conditional Use Permit, and subject to the limitations and conditions specified in this Zoning Ordinance.

Use, Nonconforming. Any use of a Lot or Structure that does not conform with the Zoning Ordinance, but such use lawfully existed prior to the enactment of the Zoning Ordinance or prior to a subsequent amendment of this Zoning Ordinance if such Use would have been lawful prior to such subsequent amendment and the use has not been Abandoned.

Use, Permitted. A Use that is not a Conditional Use and is permitted in a district by right, upon satisfaction of the standards and requirements of the Zoning Ordinance.

Use, Principal. The primary Use of any Lot, Site or Structure under the Zoning Ordinance.

Use, Public. A use by an agency or department of the Town, County, state, or federal government. This shall also include public utilities or uses by any organization that receives funding either all or in part from any agency or department of the Town, County, state, or federal government. This shall also include Structures and premises used in the operation of the Public Use.

Variance. A deviation from the minimum standards of the Zoning Ordinance.

Viewshed. The area within view from a defined observation point.

Voluntary Proffer. A written offer by a landowner to the Planning Commission or Town Council whereby the landowner offers to satisfy certain reasonable conditions as a

PART THIRTEEN — PROJECT AND ZONING CODE

requirement of the final plat approval for a development project. (Ord. 2017-08, passed 12-11-2017.)

Wall, Exterior. A vertical, structural component of a Structure that encloses habitable or usable space; a Parapet extending not more than 12 inches above a flat roof shall be considered part of the Exterior Wall for purposes of determining signage.

Zoning Map. The map of the Town on which is depicted one or more classifications or zones under the Zoning Ordinance, including overlays, enacted 8 August 1977, as amended by the Town Council from time to time.

Zoning Ordinance. The zoning ordinance of the Town, enacted 8 August 1977, as amended by the Town Council from time to time. Where any reference is made to this Zoning Ordinance, such reference shall also include and incorporate any and all provisions set forth in Appendix A, Appendix B and Appendix C, which are attached hereto.